

# **ENTERPRISE AND CULTURE COMMITTEE**

Wednesday 7 March 2007

Session 2

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## ENTERPRISE AND CULTURE COMMITTEE

### 5<sup>th</sup> Meeting 2007, Session 2

#### CONVENER

\*Alex Neil (Central Scotland) (SNP)

#### DEPUTY CONVENER

\*Christine May (Central Fife) (Lab)

#### COMMITTEE MEMBERS

\*Shiona Baird (North East Scotland) (Green)

\*Richard Baker (North East Scotland) (Lab)

\*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

\*Murdo Fraser (Mid Scotland and Fife) (Con)

Karen Gillon (Clydesdale) (Lab)

\*Mr Stewart Maxwell (West of Scotland) (SNP)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

#### COMMITTEE SUBSTITUTES

Mark Ballard (Lothians) (Green)

Donald Gorrie (Central Scotland) (LD)

Fiona Hyslop (Lothians) (SNP)

Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

David McLetchie (Edinburgh Pentlands) (Con)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Allan Wilson (Deputy Minister for Enterprise and Lifelong Learning)

#### CLERK TO THE COMMITTEE

Stephen Imrie

#### SENIOR ASSISTANT CLERK

Douglas Thornton

#### ASSISTANT CLERK

Nick Hawthorne

#### LOCATION

Committee Room 4



# Scottish Parliament

## Enterprise and Culture Committee

*Wednesday 7 March 2007*

[THE CONVENER *opened the meeting at 13:00*]

### Subordinate Legislation

**The Convener (Alex Neil):** It is 1 o'clock and we have a quorum, so we will start. Welcome to the fifth meeting of the Enterprise and Culture Committee in 2007—and, we hope, our penultimate meeting before the election. We have received apologies from Jamie Stone. Susan Deacon has indicated that she will be late, but she hopes to be here.

We will consider three affirmative instruments this afternoon. I welcome Allan Wilson and his civil service advisers. I will begin by asking the minister to introduce the instrument. Members may then ask questions or make points to the minister. Finally, I will ask the minister to move the motion that the instrument be approved. If members do not agree, there will be a division. Unfortunately, I cannot allow any of the civil servants to speak to the committee; they will have to do so through the minister.

#### Fundable Bodies (Scotland) Order 2007 (draft)

**The Convener:** I invite the minister to speak to the order.

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** You have taken me by surprise, convener, as I thought we were going to start with the draft Renewables Obligation (Scotland) Order 2007. It does not matter.

I am here to move S2M-5559, which seeks the committee's approval for the draft Fundable Bodies (Scotland) Order 2007. The draft order is to be made in exercise of the powers conferred by section 7(1) of the Further and Higher Education (Scotland) Act 2005. As is required by that act, the changes that the draft order makes have been approved or proposed by the Scottish Further and Higher Education Funding Council.

The funding council may fund only the institutions that are listed in schedule 2 to the 2005 act. The purpose of the order is to reflect a number of changes, which members have no doubt noticed, that have taken place since the 2005 act came into effect. The order provides for

two name changes and enables the funding council to continue funding the institutions concerned under their new names.

First, it takes account of the award of university title to Queen Margaret University College, which has now formally adopted the new title of Queen Margaret University, Edinburgh. I am sure that the committee will join me in congratulating Queen Margaret University on its achievement of university status, which I know is the result of considerable effort by its staff and students.

The order also reflects a minor change to the name of Oatridge Agricultural College, with which members will be familiar. The college considers that the new name of Oatridge College better reflects the wide range of land-based industries that it supports, including horticulture, green-keeping, horse management and countryside management. The college has consulted its stakeholders on the new name and ministers have agreed to its adoption.

Finally, the order presents an opportunity to remove the names of former colleges that no longer operate, following college mergers. I hope that the committee will approve the order.

**The Convener:** This is largely a technical measure that does not deal with policy issues. Members have indicated that they have no questions. I take it that there are no objections to the order.

*Motion moved,*

That the Enterprise and Culture Committee recommends that the draft Fundable Bodies (Scotland) Order 2007 be approved.—[*Allan Wilson.*]

*Motion agreed to.*

#### Debt Arrangement Scheme (Scotland) Amendment Regulations 2007 (draft)

**The Convener:** I invite the minister to speak to the regulations.

**Allan Wilson:** When I commended the Bankruptcy and Diligence etc (Scotland) Bill to Parliament on 24 May 2006, I made a commitment to introduce at stage 2 an element of debt relief into the debt arrangement scheme. An amendment to enable that was discussed by the committee on 7 November 2006. At that time I said that I planned to come back to the committee in 2007 to ask it to approve regulations to freeze interest and charges in debt payment programmes. The regulations before the committee introduce that reform.

The regulations are made under powers in section 7A of the Debt Arrangement and Attachment (Scotland) Act 2002, which is inserted in the 2002 act by section 211 of the Bankruptcy

and Diligence etc (Scotland) Act 2007. The first commencement order under the act brings that power into force from 8 March this year. The commencement order will introduce a small amendment to section 48 of the Bankruptcy (Scotland) Act 1985, which clarifies the rules for prescription of debts in sequestration. It also introduces powers that enable a negative instrument, which I intend to lay before Parliament on Friday. The reforms of the debt arrangement scheme will commence on 30 June this year. That meets the commitment that I made to the committee to introduce improvements to the scheme at the earliest opportunity.

A new regulation 49A in the Debt Arrangement Scheme (Scotland) Regulations 2004 will provide that any debt included in a debt payment programme will be frozen when that programme is approved. That means that creditors will be prevented from adding any further interest, fees, charges or other penalties to the debt from that date. That has purposely been defined as generally as possible to prevent a creditor from reintroducing interest by the back door in the form of charges.

The intention is that what the debtor owes on the date the debt payment programme is approved will be the full and final amount that they have to repay to clear their debt. We think that that will make things much clearer for the debtor and will remove an undesirable element of uncertainty from the process. That should encourage more people into the debt arrangement scheme.

The reform of the scheme addresses concerns raised by the money advice sector. I therefore expect the change to encourage take-up of the debt arrangement scheme. However, it may be necessary to widen the money advice gateway, so I intend to consider the matter as part of a review of the impact of interest freezing. I also said that if the freezing of interest is successful, we will consider further provision to cancel debts. I intend that the scheme should operate with interest freezing for a year before a decision is made on debt write-off by composition.

The committee may wish to note some of the other changes that will be introduced by the regulations that I will introduce at the end of the week. The second set of regulations will simplify the process by which applications for approval of debt payment programmes are determined. They will also remove the constraint on fee-charging advisers that requires them to advise debtors of free alternatives. That is simply because there are too few free advisers in place to justify such a provision.

The regulations will also provide that the debt arrangement scheme administrator will determine whether a debt payment programme is fair and

reasonable in all cases when there is not full creditor consent. Under current rules, cases in which consent falls below a specified threshold are decided by the sheriff. We now consider that that unnecessarily delays the process.

The regulations also introduce rules to prevent creditors from taking diligence against debtors after a debt payment programme is proposed but before it is approved. That will prevent a dissenting creditor from undermining a viable proposal. To prevent abuse by debtors, the moratorium on diligence will take effect for a maximum of one six-week period in any year.

The second set of regulations will support the regulations that are before the committee. Together, they deliver reforms that are needed to ensure that the debt arrangement scheme effectively delivers debt relief and protection to debtors who need more time to repay multiple debts without forcing them into bankruptcy or a protected trust deed. Members will recall that we had that debate in this committee. I will ensure that the impact of the reforms is monitored and will introduce any further reforms that are needed under the powers enabled by the Bankruptcy and Diligence etc (Scotland) Act 2007.

I commend the Debt Arrangement Scheme (Scotland) Amendment Regulations 2007 to the committee.

**The Convener:** Thank you. I know that Christine May has some questions.

**Christine May (Central Fife) (Lab):** The minister will be aware that Citizens Advice Scotland has given committee members a briefing. For the purposes of clarification, I will briefly go through the three points and one request that it makes and ask whether you can confirm that you have dealt with them all—I think you have—in your remarks.

Citizens Advice Scotland seeks reassurance

“that monitoring of DAS will include information on the age, tenure, income and debt level of clients accessing the scheme ... that research is carried out to determine the scale and nature of those unable to access DAS as amended”

and—I recall you saying this—

“that composition of debts will be introduced in later regulations”,

should research prove that to be necessary.

Can you also confirm that you will issue non-statutory guidance on the availability of a free service to those who access the scheme?

**The Convener:** I will take all members' questions now, so that the minister can answer them together.

**Shiona Baird (North East Scotland) (Green):**

Christine May has covered the main issue that I wanted to raise—the removal of the requirement to provide free advice. That would be counterproductive. If the service is not continued, it will be much harder to increase the availability of free money advisers.

**Allan Wilson:** The short answer to all three of Christine May's questions is yes. The caveat to my answer is that a new Administration will be in place after 3 May.

**The Convener:** Is that a forecast?

**Allan Wilson:** No—I think you will find that it is a certainty.

**Christine May:** Is anyone betting on it?

**Allan Wilson:** Whatever happens, there will be a new Executive in place, and nothing I say can commit it to a decision. Theoretically, the new Executive could abandon the commitment that I have given to introduce debt relief, as well as the freezing of interest charges in the debt arrangement scheme, because those measures are introduced by regulation. In the 2002 act, we took powers only to enable ministers to do that.

Free advice has been raised. We have to work in the marketplace that exists. In the absence of free money advisers, it is difficult to impose duties on people to make available information that does not exist. The regulations are not intended in any way to restrict the supply of free money advisers in the marketplace. We need to increase the number of advisers to get people into the DAS. It is a virtuous circle—if we increase the number of advisers, we should increase the number of people who access the DAS.

Citizens Advice Scotland's submission seems to mix up two things. As members know, we will introduce low income, low asset regulations that will give people in that category the opportunity, for the first time, to access debt relief. They are likely to be clients with £50 a month of disposable income rather than people whom we would encourage to enter debt arrangement schemes so that they have the option of getting out of debt without having recourse to bankruptcy or another more punitive form of diligence. The example that Citizens Advice Scotland chose was not the best it could have chosen of the type of client whom we would expect to benefit from debt interest relief.

There is a sliding scale of debtors with disposable income. We need to consider where debt relief, as well as debt interest freezing, will kick in. I hope that that will be done over the next year.

**The Convener:** The minister has covered all the issues that have been raised.

*Motion moved,*

That the Enterprise and Culture Committee recommends that the draft Debt Arrangement Scheme (Scotland) Amendment Regulations 2007 be approved.—[*Allan Wilson.*]

*Motion agreed to.*

## **Renewables Obligation (Scotland) Order 2007 (draft)**

**The Convener:** I invite the minister to speak to the third and final order.

**Allan Wilson:** I hope that I will not keep the committee too long. Members will recall that we last discussed changes to the renewables obligation exactly a year ago. At that time, we mentioned the vital role that the obligation had played in what most people regard as the welcome growth of new renewable generating capacity in Scotland. That is probably the most important factor in our reaching our target earlier than we planned.

13:15

As everybody knows, the bulk of our renewable generating capacity has come from onshore wind farms, which reflects how the obligation has operated until now. The methodology is technology neutral, which supports technologies that are nearest to the market, such as onshore wind and landfill gas. The draft order makes a fundamental change to that approach.

In the past year, we have consulted widely on the introduction of a marine supply obligation. The mechanism, which is unique to Scotland, will oblige suppliers to produce some of their renewable obligation certificates from wave or tidal generating stations that are located in Scottish waters.

When suppliers cannot produce such ROCs, they will be obliged to pay a higher buy-out price than applies to the rest of their obligation. The levels have been set to reflect the higher cost of generating power from such sources and are therefore sufficient to trigger new investment in the technologies.

We believe that the measures in the draft order will create a vital long-term market for wave and tidal power in Scotland—or at least for the time in which we intend to operate the obligation. We hope that the measures will play a major role in establishing this country as a global capital for marine renewables.

The draft order will support diversity and security of supply, which are key priorities for the Executive. The marine supply obligation is in tune with the recommendations in the committee's report on renewable energy, which was published in 2004.

I will explain briefly the further changes in the draft order that are mirrored in all three UK obligations. The changes are aimed at making it easier for very small generators to benefit from the support that is available under the obligation. From April, we propose that small generators of under 50kW should be able to amalgamate their output to make qualifying for ROCs easier—we discussed that previously when I was before the committee.

We acknowledge that some small generators can be put off by the administrative requirements under the obligation. That is why we propose that small generators should be able to appoint agents to act on their behalf in such matters as accrediting their projects and claiming ROCs from the Office of Gas and Electricity Markets.

One further change applies to power stations that co-fire using energy crops. At the moment, suppliers can use co-fired ROCs to meet only up to 10 per cent of their obligation. Our proposed change will mean that ROCs from stations that co-fire using energy crops alone are no longer subject to that cap. Along with an expanded and clarified definition, that change will help to support the market for purpose-grown energy crops.

Our amendments to the obligation will support the continued growth of renewable generation and I hope that they will help to diversify its growth into marine and tidal power, for example. Our proposals for wave and tidal power will set the foundations for Scotland to have a leading industry.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I am interested in the proposed marine supply obligation. As the minister said, it was a key recommendation of the committee's renewable energy report in 2004. It is a little disappointing that it has taken so long to get here, but we should not be too churlish; it is good that the obligation has been proposed.

Will the incentive be sufficient to drive forward the development of technology in the offshore marketplace? The obligation will create an unlevel playing field and try to provide greater incentives for offshore technologies, but the concern is that it will be insufficient in itself, given the disparity in cost between onshore wind power and the new technologies. On the basis of the discussions that you have had with developers in the power sector, will you give us a flavour of how they view the new marine supply obligation and how it might encourage them to develop their ideas?

**The Convener:** I will take all the questions together.

**Shiona Baird:** My question is quite complicated. I hear what you say about co-firing from energy crops, but I refer you to page 11, on which article

8, "Eligible renewable sources: other fuels", says:

"A generating station shall be an excluded generating station in any month during which it is fuelled wholly or partly by waste".

We need your definition of waste. The draft order lists three exclusions. Depending on your definition of waste, I am particularly concerned that a generating station will be excluded unless

"the generating station is a qualifying combined heat and power generating station."

I would like more explanation of that paragraph, please.

**The Convener:** That was not too technical. Even I understood it.

**Shiona Baird:** Good. I read it through several times.

**Christine May:** Like Murdo Fraser, I welcome the draft order, not least because my constituency has a significant interest in marine energy, technology and fabrication. I am pleased about the amalgamation of smaller suppliers' output. That is very welcome.

What discussions have you had with the producers of purpose-grown energy crops about whether the proposed measures will be sufficient to guarantee not just supply for generating purposes but for biodiesel and other fuel uses?

**Allan Wilson:** I will answer Murdo Fraser's questions first. The delay in lodging the order to introduce the obligation was in part a consequence of an extensive consultation process with the suppliers. It is true that differing views were expressed about altering what had been a tried and trusted mechanism for stimulating growth in the sector and there was concern that it might damage investor confidence in that process. Ultimately, there has been widespread buy-in to what we propose in Scotland, which is in advance of what will be agreed following the United Kingdom energy review and the banding of ROCs that is proposed in that review.

We should provide an incentive to suppliers. Paying a higher buy-out price of £175 for wave power and £105 for tidal power is sufficient incentive to developers to invest in the new technology. However, it also imposes an obligation on those who purchase that supply, the cost of which is then passed on to the consumer. A balance has to be struck.

If we create 75MW of generating capacity from wave and tidal power in phase 1 of the marine supply obligation, we expect it to add roughly 1.46 to 2.23 per cent to electricity prices for Scottish consumers. That equates roughly to £5 or £10 a year. We have to strike a balance between promoting the development of new marine and tidal technologies and the cost to the consumer.



We must also consider the state of preparedness of the market. As members know, we recently announced a £13 million stimulus for capital development and research via the European Marine Energy Centre in Orkney. That got a good response from potential developers, but technologies still have to be developed at very high operational and start-up costs and the cost per unit of generation is substantial.

Although the measures in the order provide an incentive, they have to be balanced with the cost to the consumer—and we have to be extremely careful about taking over the Scottish electricity consumer base.

We think that providing a wider definition—and, following discussions with the industry, a clearer definition—of energy crops reduces the burden on crop growers. We have had a positive reaction from growers, but we understand that the dialogue needs to continue. We are aware that support for biofuels is being pursued under the renewable fuels obligations. It is hoped that that mechanism will stimulate that industry as the renewables obligations have stimulated suppliers.

The exclusion for combined heat and power was introduced last year. CHP is an efficient way of producing heat and power, and ROCs will be awarded to biomass as a fraction of the fuel mix. We redefined the waste element last year, and we are not changing it. All we are doing now is giving an incentive for co-firing biomass, which is obviously beneficial from an environmental perspective given the fact that, in the foreseeable future—I would argue, although others here may not—we will need a diverse mix of energy supply. That mix will include fossil fuels. The greater the biomass element in the fuel mix, the better it will be for the environment. There is no attempt here to substitute waste for biomass, as might have been suggested. The waste element was redefined last year.

**The Convener:** Thank you. I take it that the committee is minded to support the motion.

**Shiona Baird:** I have real concerns about the paragraph I mentioned, but there is no way I can vote against an order that will have such a positive impact on marine renewables and smaller generators.

**The Convener:** Your concerns are now on the record. I take it that you are not moving against the order.

**Shiona Baird:** No, I could not possibly do that.

**The Convener:** I draw attention to the Subordinate Legislation Committee's comments about the drafting of the order. The Executive will want to look at those comments and see whether it needs to do some rectifying drafting at a later

stage. I take it that, with that qualification, the committee is happy to approve the order unanimously. I ask the minister to move motion S2M-5624.

*Motion moved,*

That the Enterprise and Culture Committee recommends that the draft Renewables Obligation (Scotland) Order 2007 be approved.—[*Allan Wilson.*]

*Motion agreed to.*

**The Convener:** Thank you very much. We will see you next Tuesday for the final meeting of the Enterprise and Culture Committee in this session.

*Meeting closed at 13:28.*



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