

# **ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE**

Wednesday 9 March 2005

Session 2

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## ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

### 8<sup>th</sup> Meeting 2005, Session 2

#### CONVENER

\*Sarah Boyack (Edinburgh Central) (Lab)

#### DEPUTY CONVENER

\*Mr Mark Ruskell (Mid Scotland and Fife) (Green)

#### COMMITTEE MEMBERS

\*Rob Gibson (Highlands and Islands) (SNP)

\*Karen Gillon (Clydesdale) (Lab)

\*Alex Johnstone (North East Scotland) (Con)

\*Richard Lochhead (North East Scotland) (SNP)

\*Maureen Macmillan (Highlands and Islands) (Lab)

\*Mr Alasdair Morrison (Western Isles) (Lab)

\*Nora Radcliffe (Gordon) (LD)

#### COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)

Janis Hughes (Glasgow Rutherglen) (Lab)

Jim Mather (Highlands and Islands) (SNP)

Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD)

Eleanor Scott (Highlands and Islands) (Green)

\*attended

#### CLERK TO THE COMMITTEE

Mark Brough

#### SENIOR ASSISTANT CLERK

Katherine Wright

#### ASSISTANT CLERK

Christine Lambourne

#### LOCATION

Committee Room 4



## Scottish Parliament

### Environment and Rural Development Committee

*Wednesday 9 March 2005*

[THE CONVENER *opened the meeting at 10:35*]

#### Item in Private

**The Convener (Sarah Boyack):** I welcome colleagues and members of the press and the public to this meeting of the Environment and Rural Development Committee. I remind everyone to switch off their mobile phones. I have received apologies from Karen Gillon, who will arrive late—the other members of the committee are here and no visiting members will attend the meeting, as far as I know.

Under agenda item 1, the committee will consider whether to take item 4 in private. That item is consideration of our approach to the Environmental Assessment (Scotland) Bill. We will discuss the witnesses from whom we might want to hear and members might want to have that discussion in private, to give them the space to say what they want to say. Do members agree to take item 4 in private?

**Members** *indicated agreement.*

## Subordinate Legislation

**Water (Prevention of Pollution)  
(Code of Practice) (Scotland) Order 2005  
(SSI 2005/63)**

**Less Favoured Area Support Scheme  
(Scotland) Amendment Regulations 2005  
(SSI 2005/64)**

**Possession of Pesticides (Scotland) Order  
2005 (SSI 2005/66)**

**Sea Fish (Prohibited Methods of Fishing)  
(Firth of Clyde) Order 2005 (SSI 2005/67)**

**Potatoes Originating in the Netherlands  
(Notification) (Scotland) Order 2005  
(SSI 2005/73)**

**Potatoes Originating in the Netherlands  
(Scotland) Revocation Regulations 2005  
(SSI 2005/74)**

10:36

**The Convener:** Agenda item 2 is subordinate legislation. I hope that we will not spend as long on subordinate legislation as we did at last week's meeting, but who knows? There are six instruments to consider, which are all subject to the negative procedure—the final two in the list are new to me. The instruments were considered by the Subordinate Legislation Committee, which drew our attention in particular to the Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2005 (SSI 2005/64) and the Possession of Pesticides (Scotland) Order 2005 (SSI 2005/66). Members have a note of the correspondence that the Subordinate Legislation Committee had with the Executive to chase the issues, and a private extract from that committee's draft report on the instruments. The Subordinate Legislation Committee made no comment on the other four instruments.

Do members want to comment on any of the instruments?

**Rob Gibson (Highlands and Islands) (SNP):** I would like guidance from the convener in relation to the Less Favoured Area Support Scheme (Scotland) Amendment Regulations 2005 (SSI 2005/64). The committee should be told about the minister's rationale for the structure of the regulations. Norman Leask, the director of the Scottish Crofting Foundation in Shetland, wrote a letter to the committee, which says that other countries use criteria that appear not to be applied in Scotland.

For example, in Sweden and Finland, areas that suffer disadvantage as a result of short growing seasons are included in the mountain area category and awarded the highest priority. In Finland, latitude is taken into account. How does the overlap between less favoured areas and high nature value areas for farming affect the process?

According to Norman Leask, European Governments have agreed to develop

"positive management of High Nature Value farming areas by 2008."

Is the Scottish Executive Environment and Rural Affairs Department up to speed on the matter and how it affects the 2005 regulations? We should ask the minister about such matters, because the regulations raise not only technical questions that require answers, but fundamental questions, the answers to which would greatly help us to know whether we are just rubber-stamping an instrument that represents yesterday's approach to the matter.

**The Convener:** Do members have any more questions on that issue?

**Mr Alasdair Morrison (Western Isles) (Lab):** Yes. The Scottish Crofting Foundation does not limit its circulars to members of this committee. Quite rightly, it circulates its concerns about any instrument or proposal to ministers, too. Although I cannot speak for SEERAD, I think that it would be highly unlikely that the SCF, in its many formal and informal conversations, had not pointed out its areas of concern to the relevant ministers.

**Maureen Macmillan (Highlands and Islands) (Lab):** We have discussed the less favoured area support scheme with ministers off and on for the past five years or so. There are continuing concerns in the more remote areas of the Highlands and Islands about the way in which the scheme operates. Norman Leask's letter is the latest in a series of letters that we have received on the matter. We have talked to ministers about the issues, but have not made much progress.

**Alex Johnstone (North East Scotland) (Con):** I remind members that Scotland's less favoured areas extend to 85 per cent of the total land area of Scotland. As a consequence, the scheme's significance is far greater than simply its application to crofting areas. I have followed the situation from before the establishment of the less favoured area support scheme, in the days of the previous hill livestock compensatory allowance.

The minister has been made to jump through hoops to achieve what we have now, therefore we have to be careful what we do with the regulations. We have to accept that the LFA support scheme is the best that the minister could achieve and preserve it as long as possible. Notwithstanding

the fact that certain issues need to be dealt with on the margins of Scotland, we should not tinker with the scheme. As it appears that the changes are designed simply to ensure that the scheme conforms to the European regulations that govern it, I am content that we should make the changes at this time.

**The Convener:** To pick up on Rob Gibson's point, we could ask the minister for more information. The statistic that leapt out at me was that 100 per cent of Luxembourg is a less favoured area. Rather than delay the progress of the statutory instrument—Alex Johnstone is right to say that it needs to be passed—it would be useful for us to get background from the minister on how he sees the scheme going forward.

Mark Brough is saying to me quietly that there will be a review of less favoured areas in 2007. It might be worth putting the issue on the agenda for the minister now, and asking for more background on how other European countries are handling the scheme. We have been lobbied by the crofters, which has been constant. Various issues came up during our inquiry on the reform of the common agricultural policy. We should capture the issues, put them to the minister, and ask him to get back to us. Are there any other concerns that members want to put on the list?

**Rob Gibson:** The instrument was laid before Parliament on 8 February, and the discussions in Europe to which Norman Leask referred took place on 9 February. It is important to recognise that this is a new stage in the discussions and not a criticism of the way in which ministers operate. I accept the point that we need to raise the matters in detail in the future. I was not suggesting that we interrupt the progress of the regulations.

**The Convener:** That is helpful clarification. In letting regulations go through, there is nothing to stop us asking questions about them, which might be helpful in the future. Are members happy that we have captured their concerns and the issues that they want to put on the agenda?

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** The Subordinate Legislation Committee had concerns about defective drafting. Can we follow up those concerns?

**The Convener:** I am less concerned about them, because the Subordinate Legislation Committee has done its work and pursued matters with the Executive. Our job is to examine policy, unless defective drafting would tip a statutory instrument over the edge so that it did not work. Our job is to scrutinise what subordinate legislation does.

**Mr Ruskell:** Have those drafting issues been addressed by the Executive? I am not clear where the Subordinate Legislation Committee has got to.

**The Convener:** If you read the paperwork, you will see that the Subordinate Legislation Committee has chased the issue back and forward, and is now broadly satisfied. It is the Subordinate Legislation Committee's job to go through the technical issues. Our job is to examine the policy overview. As long as the technical issues do not obviate our doing that, we can go ahead.

10:45

**Nora Radcliffe (Gordon) (LD):** We knocked back one instrument on the basis of what the Subordinate Legislation Committee said. I think that it related to laying hens.

**The Convener:** Yes. We required that instrument to be relaid, as it were.

I thank members for their contributions; I am glad that they are reading the statutory instruments in depth. Are there any comments on the other instruments?

**Rob Gibson:** I refer colleagues to the Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2005. I recognise that, on the map attached to the instrument, particular lines are drawn in set areas. Can we ask the minister why the northern boundary excludes Lamlash bay or even an area slightly further north on the Kintyre peninsula? Other issues relating to this kind of fishing in Lamlash bay have been raised in the Parliament, through the Public Petitions Committee.

**The Convener:** I take it that you are content for the order to proceed, but that you would like more background information on Lamlash bay.

**Rob Gibson:** Yes.

**The Convener:** Can you be more specific?

**Rob Gibson:** I will show the minister on the map.

**Mr Ruskell:** I am content for the instrument to proceed, but I would like more information about how the areas are worked out, which would bring in the issue of Lamlash bay. The lines appear to be fairly arbitrary.

**The Convener:** I presume that the analysis and Executive note describe in a little more depth how the geography was worked out.

**Mr Ruskell:** I would like more detail than appears in the analysis that we have.

**The Convener:** Members have no comments on the Potatoes Originating in the Netherlands (Notification) (Scotland) Order 2005 (SSI 2005/73) and the Potatoes Originating in the Netherlands (Scotland) Revocation Regulations 2005 (SSI 2005/74). Subject to the questions that we have agreed to put to the minister, is the committee

happy for the instruments to proceed with no recommendation to the Parliament?

**Members indicated agreement.**

## Work Programme

10:47

**The Convener:** Agenda item 3 is consideration of our future work programme. A paper from me has been circulated and I suggest that members comment on issues as we go through it. The paper sets out a likely work programme and gives an indication of what we are likely to do between March and June this year. It provides an extensive account of the work that we have to do. Do members have any general comments on the paper, before we agree recommendations?

**Richard Lochhead (North East Scotland) (SNP):** I would like to raise a general issue, following on from our inquiry into climate change. The committee could agree in principle further to consider renewable energy in Scotland. We touched on the issue briefly during our inquiry into climate change, but it is important to the committee's environment and rural development remits. Given that a big debate is raging outside the Parliament in many communities throughout Scotland on the role of the different forms of alternative energy—especially wind energy—it would be good for the committee to consider the issue in the near future. We could launch an inquiry into the role of each of those forms of energy and tag it on to our inquiry into climate change, in which we did not have the opportunity to delve in detail into renewable energy.

If we were to put such an inquiry on our agenda in the near future, that would be welcomed by many communities around Scotland. We would be able to address some of the issues that have been flagged up in the inquiry into climate change and the general debate that is taking place throughout Scotland. I use the wind energy debate as an example. There are many conflicting views on that matter around Scotland. If we were to hold a parliamentary inquiry, we could address some of the issues that are being raised.

**Mr Morrison:** I am not clear about what Richard Lochhead is saying. Is he saying that there should be an inquiry into renewable energy? We know that the one proven method of producing renewable energy is by wind. There seems to be a scatter-gun approach to the debate that is raging in communities. There are lots of initiatives. Where would our inquiry begin, where would it end, what would it be about and what would we be looking at? Would it cover the issues that are exercising communities or consider the viability of specific methods of producing energy from renewable sources? What is the member talking about?

**The Convener:** Our climate change report, which we have not got to yet, will have a lot of

conclusions in it. When we get to the climate change report, we should reflect on future work programme issues that arise from it. The Enterprise and Culture Committee has already held an inquiry into renewable energy, so we must ensure that anything we do does not cut across or duplicate what that committee did. However, our climate change report will identify new issues, which will need to be examined.

In the light of the exchange between Alasdair Morrison and Richard Lochhead, I suggest that we pick up the issue once we have done our climate change report, so that we can identify a future work programme for ourselves. We might want to pursue work on renewables or other issues; we can come back and capture that and have a proper discussion about what we might do as a result of our climate change report.

Would that be satisfactory, Richard? It would capture your desire to do something, but it would do so in a more structured way in the light of our climate change report.

**Richard Lochhead:** Yes. If we have a commitment to return to the issue at some point, I am perfectly happy with that.

With regard to Alasdair Morrison's very helpful comments, I should say that the Enterprise and Culture Committee's report considered electricity in terms of renewables. There is a wider debate about alternative energies, because electricity accounts for only 20 per cent of Scotland's energy use. Various debates are taking place outside the Parliament, and this committee is ideally placed to conduct a parliamentary inquiry into some of the issues.

I agree with the convener that when we reflect on our climate change inquiry, which is reaching a conclusion, that might be a good opportunity to look into the issue further. However, it is not my role to dictate the terms of the inquiry to the committee. It is up to the committee to discuss that in detail on some future occasion.

**Mr Morrison:** I am glad that Richard Lochhead appreciates that he is not in a position to dictate to this committee, or indeed to any individual in this place, what we do or do not do. I do not quite follow what he is getting at. There are on-going debates in communities. Are we to sit in judgment and look at the merits of one side of the argument in relation to planning decisions? Is that what the member is proposing? What he is saying is far from clear.

**The Convener:** Nevertheless, the member has accepted that we can come back to the issue, have a more structured approach and make decisions on how to move forward as a committee.



**Mr Morrison:** A structured proposal would be greatly welcomed.

**The Convener:** I am suggesting that, rather than inviting Richard Lochhead to give us a proposal, the committee as a whole should take forward the issue in the light of our report on climate change.

**Mr Morrison:** Absolutely right.

**The Convener:** Richard Lochhead has logged with us his view that he is particularly keen for us to do that. There is agreement round the table that we would like to follow up our climate change report; part of that may involve looking at different aspects of renewables or energy policy. The matter has been raised with everybody. If we all put a bit of thought into it when we finalise our climate change report, we can pick that up and do something useful and structured.

If there are no other general comments, I shall take members through the recommendations to ensure that everyone is happy with them. First, we should note the likely timeframes for undertaking work in relation to future bills. We have Executive bills coming to us, and we could also have non-Executive legislation, which will give us something to do in terms of consultation and scrutiny. We also have our on-going likely time commitments in relation to subordinate legislation, and we can expect a raft of that to come towards us.

Members will see that there is a fairly lengthy comment on petitions PE517 and PE645; the paper recommends that we formally close our activities on those petitions, which relate to odour nuisance. We have been dealing with the petitions for more than two years and the committee has done a huge amount of work. We have had a result, in that we have managed to change primary legislation, we have secured a commitment on a statutory code of nuisance and resources have been identified with which the issue can be tackled. This is an occasion on which the petitioners' persistence has been rewarded.

Do members have any comments?

**Maureen Macmillan:** We have had a good result. I congratulate the petitioners and MSPs such as Susan Deacon who have pursued the matter.

**The Convener:** I have circulated at least one letter that we received from a community council in the light of the parliamentary debate.

Do members give their assent to the proposal that we write to the petitioners to tell them that we have closed the petitions?

**Members indicated agreement.**

**The Convener:** On how we monitor European matters, the paper invites the committee to agree

to take oral evidence from the Minister for Environment and Rural Development in September on the Executive's priorities during the United Kingdom presidency of the European Union. I suggest that we still take the quarterly update from the minister in May but that we also have a discussion with him in early September, as the UK kicks off its presidency. Are colleagues happy with that?

**Members indicated agreement.**

**The Convener:** I ask members to note the arrangements for budget scrutiny. The question is whether we want to follow up the issues that we raised at stage 2 of the 2005-06 budget process. Our report asked questions about targets and outputs and the lack of connection between the two. We also highlighted the fact that some targets had changed over the years. We asked the minister for an update towards the end of the year. Are colleagues happy that we pursue that further?

Colleagues should note that we will not produce a formal budget report this year because there will be no annual evaluation report this year.

**Maureen Macmillan:** I think that we can all breathe a sigh of relief about that.

**The Convener:** I agree, but we will want to return to the issue of effective budget scrutiny, which has been of concern in the past.

**Nora Radcliffe:** Instead of looking at future spending proposals, more effective budget scrutiny might be provided by our looking retrospectively at what happened in a chosen spending area. We could compare the budget plans in the previous year with the actual spend and outcomes during that year and ask why any differences occurred. That might be a more robust way of scrutinising the budget. It can be difficult to do anything meaningful with the high-level totals that we receive.

**The Convener:** We have all experienced that frustration. In the past, different committees have looked at specific topics. As I remember, the then Transport and the Environment Committee went through the whole budget programme to see how it affected Highlands and Islands Airports Limited.

**Nora Radcliffe:** The process is much more meaningful if we can drill down into the details.

**The Convener:** In principle, following a particular topic would be a good approach instead of trying to cover the entire environment and rural development budget. However, we will need to spend some time thinking about which would be the most useful budget line to scrutinise. Over the next few months, we will consider rural development in our inquiry. Let us hold back just now and think about the issue before the next time that we consider the budget. If members can think

about that in the meantime, we will be able to have a focused discussion.

The next issue to consider is whether to bid for time in the chamber to debate our committee reports, such as the report on climate change that we will discuss later. As members will recall, we were unsuccessful in our bid for debating time for our sustainable development report because the Conveners Group prioritised other topics. Shall we bid for time for our climate change report? If we keep going with our report, we should be able to secure debating time for it before the summer recess.

**Nora Radcliffe:** We should press for debating time for our climate change report, because the debate will flag up all the things that people out there will need to do to make climate change not happen or slow down. Every opportunity to give people information about what can be done to mitigate, slow down or reverse climate change is important. Part of the feedback that we receive from people is that they say that we need to tell them what to do. The debate would be a way of highlighting the sorts of things that people can do.

**Richard Lochhead:** I support the proposal that we should choose climate change as the topic for our next debate in the chamber. The chamber would be a good place in which to fulfil our role of holding the Government to account on its policies, about which we heard many criticisms throughout our inquiry.

**The Convener:** Are we agreed that we should seek debating time for our climate change report?

*Members indicated agreement.*

**The Convener:** The next issue is the annual report that the Executive is required to lay before Parliament under the Water Environment and Water Services (Scotland) Act 2003. Ours is the committee that tends to scrutinise that annual report, so we need to think about how we will do that. One obvious way of scrutinising the report would be to receive a briefing from Executive officials on what they have been doing and to take oral evidence from the Minister for Environment and Rural Development. That would let us have a good chew over the issue. Are members happy if that evidence session is programmed in for May?

*Members indicated agreement.*

**The Convener:** The final issue to consider is the principle of whether to hold an away day this summer, for which we would need to seek budget approval. We did not have an away day last year, but we have had a couple of changes in committee membership since then. As we will be halfway through the parliamentary session, an away day might be a good opportunity for us to escape from the day-to-day agenda. It would allow us to stand back and reflect on how we have done in the past couple of years and to set out a future work programme. Now that we have agreed the other items on today's work programme, I am quite confident that we will be busy until September. At the away day, we could consider how we will use the next couple of years. Obviously, there are some ideas floating around about what issue should be the subject of our next report.

Do members agree in principle to seek permission for an away day?

*Members indicated agreement.*

**The Convener:** In due course, Mark Brough will produce a paper that will outline potential venues. If members have thoughts about what they would like to discuss, they can feel free to talk to me about them.

**Richard Lochhead:** I reiterate my view that we should use such opportunities to meet the public. Wherever we go, we could have a public meeting to give the public an opportunity to meet the committee.

**The Convener:** There will be time constraints, as an away day would usually include an evening, a morning and an afternoon. We will look at that suggestion.

Thank you, colleagues. We have a lot of work ahead of us. I hope that our discussion of our work programme will give people outside a sense of what the committee will do over the next few months. Interested parties and others who scrutinise the work that we do will be able to read the *Official Report* of today's meeting.

11:01

*Meeting continued in private until 12:43.*

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