



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 3 December 2014



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**ECONOMY, ENERGY AND TOURISM COMMITTEE**

**29<sup>th</sup> Meeting 2014, Session 4**

**CONVENER**

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

**DEPUTY CONVENER**

\*Dennis Robertson (Aberdeenshire West) (SNP)

**COMMITTEE MEMBERS**

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

\*Chic Brodie (South Scotland) (SNP)

\*Patrick Harvie (Glasgow) (Green)

\*Richard Lyle (Central Scotland) (SNP)

\*Gordon MacDonald (Edinburgh Pentlands) (SNP)

\*Joan McAlpine (South Scotland) (SNP)

\*Margaret McDougall (West Scotland) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Fergus Ewing (Minister for Business, Energy and Tourism)

**CLERK TO THE COMMITTEE**

Douglas Wands

**LOCATION**

The James Clerk Maxwell Room (CR4)



# Scottish Parliament

## Economy, Energy and Tourism Committee

*Wednesday 3 December 2014*

*[The Convener opened the meeting in private at 10:00]*

11:00

*Meeting continued in public.*

### Interests

**The Convener (Murdo Fraser):** Good morning, ladies and gentlemen, and welcome to the 29th meeting in 2014 of the Economy, Energy and Tourism Committee. I welcome members, and the Minister for Business, Energy and Tourism and other witnesses, to whom I will come in a moment. I remind everyone to turn off or at least turn to silent mobile phones and other electronic devices, please.

We have some changes on the committee. I pay tribute to the members who have departed—on to higher things in some cases. I congratulate Marco Biagi on his appointment to Government and thank him, Alison Johnstone and Mike MacKenzie for their contribution to the committee over the past years.

There are three new members. I welcome back Patrick Harvie and welcome Gordon MacDonald and Richard Lyle to the committee. I look forward to working with you all.

Under agenda item 2, I ask the new members to declare any relevant interests.

**Patrick Harvie (Glasgow) (Green):** I have nothing additional to the interests that I declared at the beginning of the current session of Parliament, when I was previously a member of the committee. I am a member of several organisations that are likely to give evidence to the committee or have an interest in energy and economy policy. They include Friends of the Earth, Oxfam and the Poverty Alliance. I am also a director of Gala Scotland Ltd, which is a company with charitable status that runs the Glasgay arts festival. That is an unremunerated post, but the organisation applies for small—I would say pitifully small—grants that have a relationship to tourism policy.

**Gordon MacDonald (Edinburgh Pentlands) (SNP):** I have no declarable interests, but I am a

member of the National Trust for Scotland and Historic Scotland.

**Richard Lyle (Central Scotland) (SNP):** I refer members to my register of interests. I also record, although I believe that there is no need to do so, that my son holds a senior position in a major investment bank that is involved in the oil and gas sector in Aberdeen.

## Decision on Taking Business in Private

11:03

**The Convener:** Item 3 is a decision on taking business in private. Are members content to take item 7 in private?

**Members** *indicated agreement.*

## Subordinate Legislation

### Scottish Regulators' Strategic Code of Practice (SG 2014/236)

11:03

**The Convener:** Item 4 is subordinate legislation. We have to consider the Scottish Regulators' Strategic Code of Practice.

Fergus Ewing, who is now the Minister for Business, Energy and Tourism—new title, same face—is joined by Joe Brown, who is head of better regulation and industry engagement in the Scottish Government, and Sandra Reid, who is better regulation policy adviser in the Scottish Government. Welcome to you all.

Do you want to introduce the code of practice, minister?

**The Minister for Business, Energy and Tourism (Fergus Ewing):** Yes. Thank you, convener, for the opportunity to speak to the committee about the Scottish Regulators' Strategic Code of Practice.

As the committee is aware, provisions for the code come from the Regulatory Reform (Scotland) Act 2014, which seeks to deliver proportionate and consistent regulation and to promote in all regulators a broad and deep alignment with the Government's central purpose of increasing sustainable economic growth. A strong economy is essential to our success, and we must provide the environment that allows business to succeed.

The Scottish Regulators' Strategic Code of Practice, which has been laid before the Scottish Parliament, sets out a high-level strategic approach to encourage and support regulators in applying regulatory principles and building good practice in order to contribute to achieving sustainable economic growth while concurrently delivering other core functions. Underpinning the duty for regulators to contribute to achieving sustainable economic growth, the code will provide a clear line of sight between regulatory activity and the Scottish Government's purpose. It will also provide greater transparency, which is essential if we are to have consistent delivery across all regulators.

The code was developed with and by regulators and business, and I acknowledge and value the contribution from members of the short-term working group. The draft code was subject to open public consultation to seek to ensure that it meets the requirements and expectations of the regulator and the regulated. It builds on existing good practice and seeks to support an enabling approach to drive further performance

improvements. It is important to recognise that when considering the Delegated Powers and Law Reform Committee's comments on paragraph 9 of the introduction and overview to the code, which I will come to shortly, as I indicated informally to the committee this morning.

The code provides greater clarity to regulators as to what is expected of them and to businesses on what they can expect from regulators. In recognition of concerns raised during stage 1 scrutiny of the Regulatory Reform (Scotland) Bill, it includes the Scottish Government's definition of sustainable economic growth.

The approach that is set out in the code requires regulators to take a risk-based enabling approach, to communicate clearly and effectively and to understand who they regulate. Given the wide range of regulators and regulatory activity that it covers, the code is purposely set at a strategic level. It should be underpinned by regulator-specific guidance through which each regulator will provide the greater detail that its staff and stakeholders require to reflect their circumstances.

However, having noted the concerns that the DPLR Committee raised regarding the wording in paragraph 9, I am minded to take the Parliament's views fully into account. I will revisit that section of the code with the working group that helped to develop it. There is no need for a further formal consultation and I therefore expect to come back with a revised form of wording relatively early in the new year.

Delivering better regulation by carrying out regulatory functions in a transparent, proportionate, accountable, consistent and targeted way will, alongside the duty to contribute to achieving sustainable economic growth, play an important role in making Scotland a more successful country and providing a favourable business environment in which companies can grow and flourish.

The code builds on our existing better regulation toolkit to deliver better and effective regulation and to make Scotland a leading country in Europe for better regulation and an attractive destination for business.

I will not move the motion but am happy to answer any questions that the committee has.

**The Convener:** I do not know whether you have seen the Scottish Council for Development and Industry's submission to the committee. The SCDI raised some concerns about innovation and specifically about whether the code places

"enough emphasis on the need to work with individual businesses or organisations in order to help innovative and beneficial technologies and processes comply".

It is concerned that opportunities might be missed because of simple unfamiliarity with new and innovative products and procedures. Will you consider that when you take the code back?

**Fergus Ewing:** I am happy to do that at your request, convener. I have the submission in front of me now. It is fair to say that it is couched in high-level, general terms. It does not give specific examples of areas of innovation that have not hitherto been the subject of adequate and proper consideration.

To be fair to regulators, they generally behave in the way that we expect them to behave when the code comes into place. Therefore, the 2014 act is being respected at present. We work with regulators rather than in conflict with them. Many of them are working extremely closely with us on areas of innovation such as renewable energy to achieve the Government's objectives.

However, at your request, I will take that point away and revert to you when we bring back the revised code early in the new year.

**The Convener:** Thank you.

**Dennis Robertson (Aberdeenshire West) (SNP):** Good morning, minister. You said that there was no need for further consultation and I accept that. Are you content that, with the timeframe that you have, you will be able to go back to the working group and then come back to the committee in the early part of the new year?

**Fergus Ewing:** I am reasonably confident that that should be the case. Those on the working group include the Scottish Environment Protection Agency, Scottish Natural Heritage, local authorities, the Food Standards Agency, Healthcare Improvement Scotland, Social Care and Social Work Improvement Scotland, the Office of the Scottish Charity Regulator, the Scottish Fire and Rescue Service, the Scottish Housing Regulator, the Accountant in Bankruptcy and VisitScotland, so it is quite a comprehensive group of stakeholders.

We will see what those stakeholders have to say but, given that the DPLR Committee has focused on one specific aspect, I think that the focus will be narrow in scope and therefore we would hope to revert early in the new year on these matters.

**Chic Brodie (South Scotland) (SNP):** Good morning, minister. I was going to raise the concerns that the SCDI raised in relation to individual businesses as well, but that has been pre-empted. I will make an observation. This is a circumstance that shows that, despite what others may say, the committee system works, as does the relationship between committees and ministers. What has happened today is an

indicator of how the DPLR Committee has worked, how we work and how the minister works. With that willingness to make things work, the committee system, working with the appropriate ministers, is very effective and we should recognise that.

**The Convener:** I am not sure whether that is a question for you, minister, or just a statement.

**Chic Brodie:** It was an observation.

**Fergus Ewing:** I am happy to agree with Mr Brodie. We listen very carefully to committees. In this case, we listened very carefully to the DPLR Committee. As a direct result of the committee making that one, narrow, specific criticism in paragraphs 12 and 13 of its 67th report in 2014, I felt that the correct thing to do—rather than firing ahead regardless of what Parliament said—was to go away and give further careful thought to it with the relevant stakeholders, which encompass a very wide range of Scottish society, and then to come back to the committee after having thought it through. The amount of time involved is relatively modest, but the value of the committee contribution, as Mr Brodie says, is substantial.

**The Convener:** That concludes item 4. As the minister has indicated that he does not intend to move the motion in his name, we will move to item 6.

## Infrastructure Bill

11:12

**The Convener:** Item 6 is on a legislative consent memorandum—LCM (S4) 34.1—on the Infrastructure Bill, which is United Kingdom legislation. Joining the minister, we have Joyce Whytock, who is heat policy manager, and Suzanne Le Miere, who is head of heat policy, from the Scottish Government. Welcome to you both. Minister, do you want to introduce this item?

**Fergus Ewing:** I do not have a formal opening statement, but I can say, having prepared for the committee meeting today, that the amendments to the Infrastructure Bill were added to the UK bill in the House of Lords and were tabled on 29 October. The amendments will basically allow four things in relation to the renewable heat incentive, which I can briefly summarise for the committee. I will then answer questions, probably with the assistance of my officials. The amendments will enable:

- “appointment of an alternative administrator of the RHI, along with introduction of a new appeal mechanism;
- the assignment of payments made under the RHI to a third party nominated by the owner of the renewable heat plant;
- some elements of existing secondary legislation to be changed using the negative resolution procedure.
- other minor technical changes necessary for the administration and delivery of the requirements under the RHI scheme.”

The Scottish Government is satisfied that there is merit in each of those four measures and therefore we believe that the LCM is required and is appropriate.

**The Convener:** Thank you. Do members have any questions?

**Chic Brodie:** I have a question, although it will not necessarily affect the LCM. It is about the proposed appointment of an alternative administrator of the RHI, along with the introduction of a new appeals mechanism. The appeals mechanism is still to be controlled by the Office of Gas and Electricity Markets, yet we are likely to have an alternative administrator. In the consideration of this, has the possible conflict that might arise between the new administrator and Ofgem as the appeal forum been looked at?

**Fergus Ewing:** We do not think that there is a possible conflict. We believe that the new appeals mechanism will operate irrespective of any change that may be made to the administrator and will also allow the flexibility to modify those appeal processes that are currently managed by Ofgem.

**The Convener:** As members have no more questions, are members content to recommend that Parliament gives its consent to the relevant provisions of the Infrastructure Bill, as set out in the LCM?

**Members** *indicated agreement.*

**The Convener:** Are members content to delegate to the convener and clerk the production and publication of a short, factual report detailing the committee's considerations?

**Members** *indicated agreement.*

**The Convener:** I thank the minister and his officials for coming along to the meeting.

11:16

*Meeting continued in private until 11:18.*



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