RURAL AFFAIRS COMMITTEE PAPERS

10TH Meeting, 2000 (Session 1)

Tuesday 25 April 2000

Agenda

1. Inquiry into the impact of changing employment patterns in Rural Scotland:
   There are no papers for this item.


3. Sea Fisheries (Shellfish) Amendment (Scotland) Bill:

4. 2001/2002 Scottish Budget: There are no papers for this item.

5. Draft National Parks (Scotland) Bill: There are no papers for this item.
RURAL AFFAIRS COMMITTEE

AGENDA

10TH Meeting, 2000 (Session 1)

Tuesday 25 April 2000

The Committee will meet at 2.00 pm in Committee Room 1.

1. Inquiry into the impact of changing employment patterns in Rural Scotland:
   The Committee will take evidence from Mr Iain Robertson, Chief Executive, Mr Stewart Black, Head of Economics and Mr Sandy Cummings, Director Growing Businesses, Highlands and Islands Enterprise and Mr Jim MacFarlane, Chief Executive, Scottish Enterprise Borders.

2. Draft National Parks (Scotland) Bill: The Committee will consider the Financial Memorandum for this Bill.

3. Sea Fisheries (Shellfish) Amendment (Scotland) Bill: The Committee will consider the evidence received during the consultation process on this Bill.


5. Draft National Parks (Scotland) Bill: The Committee will consider timetabling of this Bill.

Richard Davies
Clerk to the Committee

The following papers are relevant to this meeting:

Item 1: Papers from HIE and SE

Item 2: Copy of Financial Memorandum attached

Item 3: Copies of responses attached

Item 4: No public papers attached

Item 5: No public papers attached
Dear Mr Davies

THE SEA FISHERIES (SHELLFISH) AMENDMENT (SCOTLAND) BILL

Thank you for inviting Scottish Natural Heritage to comment on the above proposal.

SNH is generally supportive of the use of Several Orders (for scallops). Provided the locations are well chosen and the collection of scallops is by hand, the act of farming scallops is usually environmentally benign, and can contribute to the sustainable exploitation of coastal resources. In some cases, Several Orders can have knock-on benefits for conservation of biodiversity by protecting areas from the effects of damaging fishing methods.

SNH recognises concerns that the wording of the Act as it stands does not allow the holder of a Several Order to permit anyone else to fish within the area covered by the Order, even if this will not affect the shellfish being cultured. The example of someone wishing to creel for crabs referred to in the bill is relevant and we agree that such fishing techniques would not cause any harm to the scallops, and might even be of benefit to the farmer by removing crabs which predate scallops. This technicality in the act has led to a source of opposition from some fishing interests, to Several Orders which is effectively unnecessary.

While this proposed amendment does not have a direct impact on conservation of biodiversity, it should serve to make Several Orders easier to obtain. Therefore, SNH is supportive of the proposed amendment as a means to remove an unnecessary obstacle to Several Orders in Scotland.

Yours sincerely

Jeff Watson
Director of Strategy and Operations (North)
Extract from the Minutes of the Finance Committee meeting on 4 April 2000

2001/02 Scottish Budget: The Committee considered how it wished equality issues to be handled as part of the annual budget process. It agreed that further guidance should be issued to subject committees reminding them of the need to take account of the different effects of the Executive’s spending plans on men and women.
FS1/1/5

4th April 2000

Richard Davies, Esq.,
Clerk to the Rural Affairs Committee,
The Scottish Parliament,
George IV Bridge,
EDINBURGH, EH99 1SP.

Dear Mr. Davies,

The Sea Fisheries (Shell Fish) Amendment (Scotland) Bill

I thank you for your letter of 22nd March and have considered the terms of the Bill.

This Association has no objection, in principle, to the purpose of the Bill. However I am a little unhappy with the wording in the proposed sub section (iii).

I do not consider it absolutely necessary that an implement requires to be specified in an Order. Any implement which does not cause damage or is used in such a way so as not to cause damage should be permitted. This would allow for implements not yet invented to be permitted without the necessity of producing a new Order.

I am also unhappy about the definition of use. The meaning of the words “not to” are unclear. In my view this part should read either “so used in a manner as do not” or “so used as shall be calculated not to”. The first test is absolute so that whatever the intention if the implement does cause damage an offence is committed. The second gives a defence that there was no intention to cause damage. In the interests of Justice the second definition seems better because the effect of the implement cannot be seen once it disappears towards the bottom of the sea. It may even cause damage by the effect that its landing on the bottom has!

I hope you find the foregoing helpful.

Yours sincerely,

Patrick L. M. Stewart
Dear Mr Davies

THE SEA FISHERIES (SHELLFISH) AMENDMENT (SCOTLAND) BILL

Thank you for the opportunity to comment on the above.

The West of Four Fisheries Management Group has made a number of representations in the past on the application of Several Fishery Orders. Without going into great detail, the following briefly represents the views previously expressed by members of the Group.

Several Fishery Orders have tended to be applied to shellfish aquaculture and the culture of scallops in particular. The Group has long held the opinion that the application of Several Orders, as they are basically Fishery Orders, should be considered more in the context of inshore fisheries management, as opposed to the development of aquaculture, as has been the case in the past. Applications should therefore be subject to consideration relative to agreed inshore fisheries management policy. The fishing industry should play an enhanced role in considering the suitability of Several Order proposals. A further point that has been made by the industry is that the granting of Several Orders should not advance ahead of granting the power to regulate a fishery, via Regulating Orders. The Group welcomed the establishment of the Inshore Fisheries Branch by the Scottish Office and sees an important role for the Scottish Inshore Fisheries Advisory Group in determining policy on the future application of Several and Regulating Fishery Orders.

In the final analysis, Several Orders are granted for their ability to create or enhance a fishery where one does not exist or where a fishery has previously existed. Orders can be granted for a period not exceeding 60 years. Ownership of the severed fishery may have no bearing on the ability it has to create or enhance fisheries in the area in covers. The Group has always recognised that the ability to transfer ownership of the severed fishery (within or outwith Scotland and the UK) during the running of the Order poses a threat, which remains to be addressed before the application of Several Orders can be more accepted by the fishing industry.
Members of the Group have previously expressed the view that the enabling legislation (the Sea Fisheries (Shellfish) Act) needs to be amended to build in a requirement that some type of financial bond or insurance cover be put in place by the grantee. This should be in order to ensure the safe removal of any equipment placed on the sea bed, should the owner of the severed fishery cease to operate, for whatever reason. This point and the one made above on the transfer of ownership should be the subject of further amendment to the enabling Act.

The potential for Several Orders to restrict access to traditional fishing grounds for a number of species, other than those specifically named in the Order, has long been recognised. This is why it is important that Several Orders are applied on the basis of an agreed inshore fisheries strategy and not simply as a means of developing shellfish aquaculture. I refer you to the role of the Scottish Inshore Fisheries Advisory Group once again. The Group supports the amendment for its value in removing potential conflicts of interest with static gear operators in the area for which the granting of a Several Order is proposed. However, it is important to recognise that, in addition to the problems briefly outlined above, each new Order application may pose conflicts of interest which are specific to the area it covers. For example, the operators of mobile gear will gain nothing from the amendment, if a Several Order is proposed for an area in which they traditionally operate. A co-ordinated approach to the development of an inshore fisheries strategy would go a long way to resolving the potential for future conflict between the aquaculture and fisheries sectors.

Of course, if you think it would be helpful and wish me to give additional evidence to the Rural Affairs Committee, I shall be happy to do so.

I hope I have been of some assistance. Please do not hesitate to get in touch if you require any further information.

Yours sincerely

George Hamilton

George Hamilton
Secretary
Tracey Hawe  
Assistant Clerk to the Rural Affairs Committee  
Room 2.01 Committee Chambers  
George IV Bridge  
EDINBURGH  
EH99 1SP

10 April, 2000

Dear Mr. Hawe

SEA FISHERIES (SHELLFISH) AMENDMENT (SCOTLAND) BILL

I refer to Richard Davies’ letter of 22 March inviting comment on the above bill introduced by Tavish Scott MSP. HIE welcomes the opportunity to comment on the proposal to amend the Sea Fisheries (Shellfish) legislation in the light of circumstances in Scotland.

We are aware of the lengthy background to this matter having sponsored with SeaFish in 1993 a seminar on the subject of Several Orders. This event identified amongst many issues the primary one of the restrictions on fishing in Several Order areas imposed as a result of the legislation and not through the wishes of the holder of a Several Order.

HIE fully supports this proposed amendment to the Several Order legislation.

As far as additional oral evidence by HIE to the Rural Affairs Committee is concerned I feel there is no need for HIE to do so on this occasion.

Yours sincerely

Iain A. Robertson

Highlands & Islands Enterprise
Bridge House 20 Bridge Street Inverness IV1 1QR Scotland
Telephone 01463 234171  Fax 01463 244469
If you think it would be helpful and wish me to give additional evidence to the Rural Affairs Committee, please do not hesitate to get in touch.

I hope that I have been of some assistance.

Yours sincerely

George Hamilton
Fisheries Development Manager
Mr Richard Davies  
Clerk to the Rural Affairs Committee  
Committee Chambers  
George IV Bridge  
EDINBURGH  
EH99 1SP

Please ask for: George Hamilton  
Direct dial: (01463) 702568  
Our Ref: 1.1.5.3.1/GH/YM  
Your Ref:  
Date: 4 April, 2000

Dear Mr Davies

RURAL AFFAIRS COMMITTEE  
THE SEA FISHERIES (SHELLFISH) AMENDMENT (SCOTLAND) BILL

Thank you for the opportunity to comment on the proposed amendment.

I must apologise for having been unable to give The Highland Council the chance to consider this most recent proposal. I therefore respond on the basis of the Council’s previous consideration of the application of Several Orders.

The Highland Council recognises the importance of Several Fishery Orders, especially as they have been applied in Scotland, to the culture of scallops. The Council has considered the application of Several Orders in the past and recognises that the key to the expansion of the Scottish scallop-farming sector, given the economics of suspended culture, lies in furthering their successful application. Several Orders may also provide the opportunity to expand the production of other shellfish species, mussels being the most obvious example, potential being demonstrated clearly south of the Border. The Council considers it unacceptable that, of thirty current applications, only eight have thus far been granted.

The proposed amendment seeks to remove one point of conflict that has traditionally resulted in the fishing industry objecting to the application of Several Orders. As such it will go some way towards reducing future conflict and should therefore help encourage the development of shellfish culture. Evidence taken by the Council suggests that most Several Order holders are happy to encourage the use of static gear within their site (predator impact can be reduced) but are frustrated that they are powerless to do so.

It is recognised that other difficulties arise through the proposed application of Several Orders. For instance, the lack of clarity surrounding the ability to transfer ownership of a granted Several Order and, in some cases, removal of the right of access to traditional fishing areas, need to be addressed. While recognising that other issues need to be resolved, the Highland Council would support the amendment proposed by Mr Tavish Scott MSP. There is no doubt that if passed it would remove some of the conflicts of interest, which currently exist between shellfish growers and inshore fishermen.
Dear Mr. Davies,

**THE SEA FISHERIES (SHELLFISH) AMENDMENT (SCOTLAND) BILL.**

This Association supports the amendment as above.

Yours sincerely,

[Signature]

J. Evans,
Secretary.

Mr. Richard Davies,
Clerk to the Rural / Fairs Committee,
The Scottish Parliament,
Committee Chambers,
George 1V Bridge,
EDINBURGH,
EH99 1SP.
4th April 2000

Tracey Hawe
Assistant Clerk to the Rural Affairs Committee
Committee Chambers
George I V Bridge
EDINBURGH EH99 1SP

Dear Ms Hawe,

THE SEA FISHERIES (SHELLFISH) AMENDMENT (SCOTLAND) BILL

In reply to your letter of 22nd March with ref to the above mentioned Members Bill, the Shetland Shellfish Management Organisation fully support the content of the Bill.

Yours sincerely,

Campbell Jamieson
Executive Officer
Shetland Shellfish Management Organisation
Our Ref: PCH/LJA/S247

Mr. Richard Davies,
Clerk of the Rural Affairs Committee,
The Scottish Parliament,
Committee Chambers,
George IV Bridge,
Edinburgh, EH99 1SP

Dear Mr. Davies,

THE SEA FISHERIES (SHELLFISH) AMENDMENT (SCOTLAND) BILL

I refer to your letter of 22\textsuperscript{nd} March 2000.

The Shellfish Association of Great Britain endorses the principles of the proposed Bill to avoid unnecessary and avoidable conflicts of interest between shellfish farmers and fishermen. It will protect the investment by farmers in those areas over which they are granted rights and so encourage optimum exploitation.

The Association does not wish to give additional evidence to the Committee.

Yours sincerely,

Dr. P.C. Hunt,
Director – designate

davi2703.2000
5 April 2000

Mr R Davies
Clerk to the Rural Affairs Committee
The Scottish Parliament
Committee Chambers
George IV Bridge
EDINBURGH
EH99 1SP

Dear Mr Davies

THE SEA FISHERIES (SHELLFISH) AMENDMENT (SCOTLAND) BILL

I support the amendment which will aid in the establishment of more environmentally sustainable scalloping ventures. My only reservation is that it will reduce the validity of fishermen’s objections, so possibly perpetuate a rapid expansion of orders, with the same eventual outcome that the salmon farming industry is in, with one or two multi-nationals controlling the industry.

Yours faithfully

[Signature]

David N Oakes