TRANSPORT AND THE ENVIRONMENT COMMITTEE

AGENDA

23rd Meeting, 2001 (Session 1)

Wednesday 26 September 2001

The Committee will meet at 10.00 am in Committee Room 2, to consider the following agenda items:

1. **Item in Private**: The Committee will consider whether to take item 7 in private.

2. **Subordinate Legislation**: The Committee will consider the following draft affirmative instrument—

   Special Grant Report (No.4) and Guidance for Local Authorities (SE 2001/132)

*Not before 10.30 am*

3. **Subordinate Legislation**: The Committee will debate the following motion—

   S1M-2246 Fiona McLeod: That the Transport and the Environment Committee recommends that nothing further be done under the Town and Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001, (SSI 2001/266)

4. **Subordinate Legislation**: The Committee will consider the following negative instrument—

   The Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2001 (SSI 2001/251)

5. **European Document**: The Committee will consider the following European Document—

   Promoting Non-Governmental Organisations Active in Environmental Protection

6. **Highlands and Islands Ferry Services**: The Committee will consider a paper by the reporters.
7. **Water Industry (Scotland) Bill**: The Committee will consider arrangements for its consideration of the Bill at Stage 1.

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Callum Thomson  
Clerk to the Transport and Environment Committee

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TRANSPORT AND THE ENVIRONMENT COMMITTEE

AGENDA ITEM
TE/01/23/1

Subject: Special Grant Report (No.4) and Guidance for Local Authorities (SE 2001/132)

Meeting No: 23rd Meeting, 2001

Meeting Date: 26 September 2001

Author: Note by the Assistant Clerk

Introduction – Special Grant Report No.4 and Guidance for Local Authorities

1. Special Grant Report (No.4) and Guidance for Local Authorities (SE 2001/132) was laid on 31 August 2001 and has been assigned to the Transport and the Environment Committee for consideration. This report replaces the original report laid on 25 June 2001 which has been withdrawn.

2. The Report is laid under an affirmative procedure which means that Parliament must approve the report before its provisions may come into force. The sponsoring Minister (Ross Finnie MSP, Minister for Environment and Rural Development) has accordingly lodged a motion that the Transport and the Environment Committee recommend approval of the report to Parliament (S1M-2192)

3. Parliament has until 22 October 2001 to deal with the instrument and the Transport and the Environment Committee is required to report on the instrument by 1 October 2001.

Details of the Instrument

4. As a result of The Domestic Water and Sewerage Charges (Reduction) (Scotland) Regulations 2001, (SSI 2001/114) the amount of charges demanded back by local authorities through the charges schemes must be recalculated in some cases. The grants made under the terms of this report are to reimburse local authorities for reasonable costs incurred as a result of these recalculations.

Subordinate Legislation Committee

5. The Subordinate Legislation Committee considered the instrument at its meeting on 11 September 2001 and agreed that no points arose on the instrument. The Committee’s 31st Report 2001 indicated that the Committee did not wish to draw the attention of the Parliament to the instrument.
TRANSPORT AND THE ENVIRONMENT COMMITTEE

Format of the Debate

6. The Minister for Environment and Rural Development and supporting Officials will be attending the meeting of the Transport and the Environment Committee on 26 September to answer any questions members may have on the instrument. The Minister will then move the motion S1M-2192 and the Committee may formally debate the motion.

7. Under Rule 10.6 the Committee is required to report to the Parliament with its recommendation on whether to approve the instrument.

Alastair Macfie  
Assistant Clerk to the Transport and the Environment Committee  
September 2001
TRANSPORT AND THE ENVIRONMENT COMMITTEE

Subject: The Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2001 (SSI 2001/251)

Meeting No: 23rd Meeting

Date: 26 September 2001

Author: Note by the Assistant Clerk

Introduction

1. The Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2001 (SSI 2001/251) were laid on 29 June 2001. The regulations came into force on 1 July. The Transport and the Environment Committee has been designated as the lead committee for the consideration of this instrument. An Executive note accompanies the Order, as well as a letter to the Presiding Officer explaining the reasons for the breach of the “21 day rule”.

2. The order was laid under a "negative procedure" which means that the Parliament has the power to annul the order by resolution within 40 days, excluding recess. The time limit for Parliamentary action expires on 7 October 2001.

3. Any MSP may lodge a motion to propose to the lead committee that the order be annulled. The Committee is required to report on the instrument by 1 October 2001. This means that the Committee meeting of 26 September is the last scheduled opportunity for a motion for annulment to be considered by the Committee. Should a motion for annulment be lodged, under Rule 10.4, the Transport and the Environment Committee must debate the issue and then report to the Parliament with its decision.

Principal Regulations – SSI 2001/219

4. The Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2001 (SSI 2001/251) correct an error in the principal regulations – SSI 2001/219 – which have previously been considered by the Transport and the Environment Committee on 5 September 2001. The Committee had nothing to report on SSI 2001/219. A copy of SSI 2001/219 is attached to this cover note, for information.

5. SSI 2001/219 provided a consolidated set of Scottish regulations relating to public service vehicle registration matters. The instrument introduced a requirement for operators to inform the relevant authority or authorities 14 days before making an application for registration.
6. In its 29th report the Subordinate Legislation Committee noted in relation to SSI 2001/219 that regulation 14(1)(a)(ii) of the Regulations refers to "paragraph 9 of the Schedule" to the Regulations whereas there are two Schedules to the Regulations. The Committee assumed that the intention was to refer to Schedule 1 but thought paragraph 9 the wrong reference. It seemed to the Committee that paragraph 10 was the more appropriate provision. The Committee therefore asked for an explanation of the provision.

7. In their response the Executive agreed that the reference in regulation 14(1)(a)(ii) should indeed have been to paragraph 10 of Schedule 1. On 29 June 2001 the Executive laid an amending Instrument (SSI 2001/251) to correct the error.

Subordinate Legislation Committee

8. The Subordinate Legislation Committee considered SSI 2001/251 on 4 September 2001, and agreed that no points arose on the instrument. In its 30th Report, 2001, the Subordinate Legislation Committee agreed that the attention of the Parliament need not be drawn to the instrument.

Recommendation

9. The Committee is invited to agree its report on the instrument SSI 2001/251.

Alastair Macfie
Assistant Clerk to the Transport and the Environment Committee
September 2001
Transport and the Environment Committee

Lewis Macdonald MSP
Deputy Minister for Transport and Planning
Victoria Quay
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EH6 6QQ

Room 2.1
Committee Chambers
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Edinburgh
EH99 1SP

19 September 2001

Dear

As you will be aware, the Committee considered The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001 (SSI 2001/266) at its meeting today. The Committee is required to report to the Parliament on this instrument by 1 October.

The Committee agreed to defer consideration of this instrument until its next meeting on 26 September in order that it could receive clarification on one aspect of the Order.

Article 3(2) introduces transitional arrangements whereby the previously permitted development rights (which the Order otherwise seeks to vary) will continue to apply in respect of “any development commenced before 23 July 2001 and completed within fourteen days of that date”.

I understand that difficulties may be being encountered in some local authority areas with regard to the application of this article to certain telecommunication installation sites.

I should be grateful, therefore, if you would explain the interpretation that Scottish Ministers consider that the phrase in italics should have.
As you will appreciate, the timescale for consideration of this instrument is now extremely tight. Accordingly, I should be grateful for a response by 3 pm on Friday, 21 September and would request that you copy your response to Callum Thomson, Clerk to the Transport and Environment Committee.

Yours sincerely

Andy Kerr MSP
Convener
THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) (SCOTLAND) AMENDMENT (NO. 2) ORDER 2001 (SSI 2001/266)

Thank you for your letter of 19 September advising me of the Transport and the Environment Committee's consideration of the above Order. I note that the Committee agreed to defer its consideration until the meeting on 26 September pending clarification of the intention of the transitional arrangements introduced by Article 3(2) of the Order.

You will appreciate that the question is one of statutory interpretation, which is ultimately a matter for the courts. The following can not therefore be taken to be an authoritative view on the matter but outlines the Executive's intention behind the provision.

The transitional arrangements were introduced at a late stage partly in response to the perceived uncertainty as to the status in planning terms of permitted development that was under way on 23 July, and partly to alleviate the practical problems that operators would face as a result of over-night, albeit long heralded, withdrawal of permitted development rights. These arrangements were introduced for clarity and fairness.

You ask specifically for the Executive's interpretation of "any development commenced before 23 July 2001 and completed within fourteen days of that date". It must be recognised that "development", in addition to having a common meaning to do with engineering and building operations leading to the making of a building or other structure or, simply, the building or structure itself, has a statutory meaning set out in section 26 of the Town and Country Planning (Scotland) Act 1997:
"development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.

The creation of a new mobile phone base station will involve a number of operations that constitute development. For example, it might be reasonable to assume that the erection of a mast, the installation of equipment housing and the erection of a fence would all be considered to constitute development. But the installation of a single antenna or the attachment of a cable to the leg of a mast may not constitute development in all cases. The demarcation between what would constitute development and what would not is a matter of fact and degree depending on the circumstances of each particular case, and will ultimately be a matter for the courts. It is the Executive's view that if those operations that constitute development (in terms of its statutory meaning) were not carried out within 14 days of 23 July, then the new control regime would apply.

It should also be noted that the taking of enforcement action is a matter for the relevant planning authority and that their powers in this respect are permissive rather than mandatory.

LEWIS MACDONALD
Subject: Referral of European Document – Promoting NGOs active in Environmental Protection

Meeting No: 23rd Meeting

Meeting Date: 26 September 2001

Author: Senior Assistant Clerk

Background

The attached document has been referred to the Transport and the Environment Committee by the European Committee. The European Committee intends to consult a number of environmental non-governmental organisations (NGOs) regarding the proposed changes to the current action programme. The European Committee therefore seeks the views of this Committee on the proposed action programme and any action this Committee might take in relation to this document.

A copy of the Report on the current action programme, the proposal for a revised action programme and an explanatory memorandum from the Department for Environment, Food and Rural Affairs are attached for members' information.

Issues

Council Decision 97/872/EC established the current action programme which aims to promote NGOs primarily active in the field of environmental protection. This programme will expire at the end of 2001. The attached Commission report on the programme revealed strong support for a continuation of the programme, and makes recommendations for its improvement. The recommendations are taken into account in the Proposal for a decision which is intended to replace the previous programme and run until 31 December 2006, with a budget of 32 million euros.

The programme aims to support and promote NGOs who contribute to development and implementation of community environment policy and promotes their involvement by supporting their representation in consultation and public meetings. NGOs may apply for grants provided that they are independent, not-for-profit, have been constituted for more than two years and are active at a European level in at least three countries. They must also have activities in line with the principles underlying the 6th Environmental Action Programme. The proposal outlines the process for selection and award of grants.

A number of concerns had been expressed regarding the current scheme, particularly in relation to clarification of the selection process, late payment of grants, and the simplification of checking processes. The revised Commission proposal contains revisions which aim to promote NGO involvement, simplify the selection,
monitoring and evaluation of grants (including simplified selection criteria), ensure a more transparent funding scheme and introduce a fixed auditing system designed to ensure sound management.

Action Required

The Committee is asked to consider the attached documents and provide the European Committee with any comments it wishes to be taken into account when that Committee consults Scottish NGOs.

Tracey Hawe
Senior Assistant Clerk
20 September 2001
Subject: Tendering of Highlands and Islands Ferry Services – Paper from Reporters

Meeting No: 23rd Meeting

Meeting Date: 26 September 2001

Author: Committee Reporters

Background

On 23 January 2001 the Minister for Transport announced the Scottish Executive’s proposals for the tendering of Highlands and Islands Ferry Services. The proposals have subsequently been put to the European Commission for consideration as required under the Regulations on State Aid to Maritime Transport.

The Committee considered these proposals on 28 February and agreed to appoint Des McNulty and Maureen MacMillan as reporters. It was agreed that the reporters would consider this issue further and report back to the Committee with proposed terms of reference for an inquiry into this issue.

On 12 June the Committee approved terms of reference for the reporters as follows:

Reporters will investigate

- the justification for and implications of the decision to tender lifeline ferry services in order to comply with EC guidelines on State aid in maritime transport.
- the development of the service specification for these services
- the need for an independent regulator, and an appropriate operator of last resort
- the structural, organisational and service delivery implications of this decision (including employment, pensions and TUPE issues relating to Caledonian MacBrayne staff and the need for the service to be integrated with other modes of transport)

In addition to appointing reporters, the Committee also took evidence on the proposals from the Highlands and Islands Strategic Transport Partnership, local authorities, trade unions, and representatives of Caledonian MacBrayne on 18 June, and the Minister for Transport and officials on 26 June.

Reporters Work

Reporters met informally with the Minister for Transport on 3 April, and received background briefing on the issues from Executive officials on 28 April.

On 11 July Reporters travelled to Brussels. They attended a meeting at Scotland Europa where CalMac representatives delivered a presentation followed by a
question and answer session with participants from local authorities, Scotland Europa, the Scottish Executive and MEPs. Reporters also met with officials of the European Commission later that day to discuss issues surrounding the tendering process.

During the summer recess Reporters have travelled to the Highlands and Islands and Argyll and Bute, and engaged in discussions with local communities regarding the current proposals. Reporters have also received additional written submissions from Professor Neil Kay of Strathclyde University.

The Executive has now appointed two sets of consultants to take forward matters relating to the tendering process. Burness Corlett and Partners (Maritime Consultants) have been appointed to take forward the development of the service specification, and reporters met with representatives of this firm on Tuesday 11 September. Reporters also plan to meet with representatives of Shepherd & Wedderburn WS and PriceWaterhouseCooper who are taking forward the development of the Vessel Owning Company (VesCo).

Key issues emerging from these meetings that the Committee may wish to take a view on include:
- the justification for competitive tendering
- consultation
- regulation of service delivery
- security of service and the need for an operator of last resort
- bundling of services
- local employment issues.

These issues are explored further below.

As a preface to the discussion of these issues, reporters note that the provision of ferry services to remote and island communities is not an issue that should be considered in isolation. The provision of these services should be considered in the context of an overall economic development strategy for these areas and it should be recognised that remote and island areas may have differing transport needs to other areas of Scotland. The specific transport needs of these areas should be taken into account when formulating economic development policies to support the needs of local communities.

The Justification for Competitive Tendering

Groups such as the trade unions have raised doubts as to whether the Executive is required to put the lifeline ferry services operated by CalMac out to competitive tender\(^1\).

The Executive has said that in order to comply with State Aid rules\(^2\) and Regulation 3577/92/EEC on Maritime Cabotage they are required to put the services out to

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\(^1\) Official Report, 18 June, col 1896
\(^2\) see Article 87 (1) of the EC Treaty
The Regulations provide for freedom to provide such services within the Community. However, they also recognise that account should be taken of the nature of certain specific services and of differences in economic development between Community members.

Specifically, the Regulation takes into account the transport needs of island regions and establishes in its Article 4 the conditions under which Member States may conclude public service contracts or impose public service obligations (PSO) as a condition for the provision of cabotage services on shipping. PSO are defined as obligations which the shipowners, if they were considering their own commercial interest, would not assume or would not assume to the same extent or under the same conditions.

PSO may only be imposed where there is no distinction drawn on the grounds of nationality or residence of the ship-owner (i.e., on a non-discriminatory basis). PSO may only impose conditions concerning ports to be served, regularity, continuity, frequency, capacity to provide the service, rates to be charged, and manning of the vessel. The Regulation also provides for the possibility of compensation, on a non-discriminatory basis, for the discharge of the PSO imposed. This is in recognition of the fact that these services might not otherwise be provided as a commercial venture.

The guidelines on State Aid to Maritime Transport provide guidance on the ways in which the Commission will assess the lawfulness of these subsidies. In particular the Guidelines provide that subsidies will not need to be notified under the State Aids regime if the contracts are:

- open to public tenders, are transparent and allow for the development of competition;
- set out in a clear and transparent service specification specifying the level, frequency, capacity, prices, standards etc required of the service which must be given adequate publicity so that all Community carriers with a right of access to the route have an equal chance to bid;
- awarded to the successful bidder (except in exceptional and duly justified cases the lowest financial bidder), for a period normally in the order of five years.

Trade Union officials have questioned whether the Executive should be proceeding with the tendering process prior to the planned review of these guidelines. In an answer to an oral question in the European Parliament (H-0151/01), the Commission has made it clear that although the guidelines on State Aids for Maritime Transport will be reviewed in 2002, there are no plans to alter Article 4 of Regulation 3577/92/EEC which sets out the principle of non-discrimination.

Regulation 3577/92/EEC also provides for a number of temporary derogations and reporters have explored the question of whether the Executive should be seeking derogation to the requirements of the Regulation. However, Commission officials have made clear their view that while derogations have previously been granted

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3 Ministerial Statement on CalMac and State Aids
4 Official Report, 18 June, col 1896
5 Meeting between European Commission officials and Reporters, Brussels, 11 July 2001
these derogations are now expiring and all member states will be required to comply with the provisions detailed earlier\(^6\). There would therefore seem to be little advantage in the Executive seeking derogation to these rules.

Reporters have therefore come to the view that the competitive tendering of the current network of lifeline ferry services is necessary in order to allow for payments to be made in relation to PSO contracts in line with Community law.

**Consultation**

The Executive has previously consulted on draft proposals for tendering these services in the document ‘Delivering Lifeline Ferry Services’.

It is clear that a key component of the process will be the development of the service specification for these services. The Minister has stated that she intends to conduct a wide-ranging consultation before this is finalised, with the objective of achieving innovation and improving service delivery\(^7\).

It has been emphasised to reporters that the development of the service specification should not take place in isolation, given the links between transport services and economic development in the islands. Reporters support the objectives of the Executive and urge them to consult as widely as possible. In particular the Executive is urged to consult with the consultative committees\(^8\), local authorities, trade unions, economic interests, and as many users of the services as possible, in order to facilitate the development of a service specification that will best serve the needs of remote and peripheral communities.

Concerns have been raised as to whether the proposed tendering arrangements will allow for innovation and further development of services\(^9\). Fears were expressed that the proposed five-year contract term might not provide sufficient incentives for operators to invest in new services or new vessels. Reporters are aware that there will be a need to balance flexibility and contractual certainty in developing the service specification. Reporters have discussed these issues with the consultants and are of the view that there must be some potential for variations to the contract in order to provide flexibility and encourage service development.

**Issues relating to costs and transparency**

Reporters note that the Minister has given a commitment to protect current fares and levels of services. While broadly welcoming this commitment, reporters would also encourage the Executive to examine whether there is scope for either reducing fare levels or improving levels of services within the budget for delivering these services.

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\(^6\) The only remaining exemption is for Greece, and this partial exemption (for passenger services between Greek Islands) will expire in 2004.

\(^7\) Official Report, 26 June 2001 col 1937

\(^8\) The Shipping Services Advisory Committees (North, South and Clyde) and the CalMac Users Consultative Committee

\(^9\) Official Report, 18 June, col 1886
In undertaking visits to the Western Isles over the summer recess, reporters became aware that the introduction of competition on the Ullapool-Stornoway route had revealed an unmet demand for further sailings. Reporters believe that similar unmet demand could exist on other routes, and would encourage the Executive to undertake more research in this respect. It may be that alterations in capacity of vessels or timings of services might stimulate increased demand for services.

Concerns have been raised with reporters as to the transparency of current services operated by CalMac and the need to provide a financial breakdown of route costs in relation to those services. Reporters also note that there are wide variations in costs per mile both between existing CalMac operated routes and between CalMac services and routes operated in the Northern Isles which are in part subsidised by local authorities. These concerns have also been raised with the consultants. It is hoped that the development of a detailed service specification may provide an opportunity to address the need for transparency in this respect. The consultation on the draft service specification should also be conducted in sufficient detail to allow local communities to engage constructively in the process.

A number of detailed representations have been made to reporters on cost issues. Firstly, reporters are concerned that decisions regarding both new vessels and the deployment of existing vessels will have an impact upon the costs of operating on particular routes. The cost implications of such vessel deployment decisions should be transparent and be able to be catered for in contractual arrangements. Reporters would also urge the Executive to ensure that maximum advantage can be taken of any reductions in operating costs based on vessel deployment, in order to allow services to operate in the most efficient manner and maximise revenue. This is particularly important given that the level of subsidy provided to operate these services has increased in recent years, without, in the view of many service users, corresponding increases in the level of services provided.

Secondly reporters would encourage the Executive to explore the idea of targeting the subsidy towards the groups most reliant upon the services. For example, reporters would wish to see some thought given to whether any concessionary fare could be granted to frequent users such as residents, hauliers and other business interests.

Reporters would wish to see an OpCo set up in a manner that will allow it to be responsive and flexible both in providing commercial services, and in responding to the needs of communities. Achieving this objective may require an OpCo to be granted a higher degree of commercial freedom than CalMac currently possesses.

**Regulation of Service Delivery**

The lack of a legislative framework and/or regulatory body to regulate issues such as fares, service standards and consultation with users has been criticised in written evidence to the Committee.10

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10 written evidence to the Committee for meeting 18, 18th June 2001, Prof Tony Prosser (Glasgow University), Captain Sandy Fergusson (ex Marine Superintendent CalMac) and Prof Neil Kay (Strathclyde University).
Ministers have said that they do not see the need to implement primary legislation in advance of the tender process and that they will monitor the situation over the term of the first contract and make an assessment of whether legislation is needed at that point in time. Evidence from local authorities, CalMac and trade unions did not provide a definitive view on whether regulation was needed in advance of the tendering process, or whether regulatory issues would best be dealt with in the tender documentation\textsuperscript{11}. It was generally agreed that issues in relation to safety were best dealt with by the Maritime and Coastguard Agency (MCA), although some caveats were expressed by witnesses as to whether the MCA had appropriate resources to meet its workload\textsuperscript{12}.

Reporters note that the Executive points to the Northern Isles Ferry contract as being an example of a similar process being undertaken without the need for an independent regulator\textsuperscript{13}. However, as has been noted in further submissions from Professor Neil Kay, this contract is not yet operational, so the regime has yet to be proven effective in practice. Reporters also note that the current contract involves a much more complicated arrangement than the Northern Isles contract by virtue of the larger number of routes. Reporters would encourage the Executive to fully examine the question of whether an independent regulator is needed, particularly in the event of the route being tendered in more than one bundle.

Reporters also wish to express concern regarding the accountability of the OpCo to communities. Reporters consider that any OpCo must be accountable to the communities that it serves, and responsive to their needs and concerns. The Executive is urged to consider ways of making an OpCo more responsive to it’s users, by, for example, appointing community representatives as members of any Board of Directors. Any such proposals should have the aim of increasing community involvement in the development of strategies for service delivery.

### Security of Service and The Need for an Operator of Last Resort

The Executive proposals envisage a split between the vessel owning company (VesCo) and the operating company (OpCo) with the VesCo leasing the vessels to the successful tenderer (OpCo). The Executive has also proposed that the VesCo operate in a management role to procure ferry services as necessary should an operator fail to deliver its contractual obligations. The Minister has said that it is extremely unlikely that this situation would ever arise\textsuperscript{15}.

This proposed VesCo role as operator or procurer of last resort has been the subject of criticism. Given the lifeline nature of the services, it is seen as essential that an operator of last resort could step in to deliver services immediately and ensure uninterrupted service provision. The proposals have been criticised by Professor Neil Kay as failing to designate a guaranteed provider of last resort and it has been

\textsuperscript{11} Official Report, 18 June
\textsuperscript{12} Official Report, 18 June, col 1909
\textsuperscript{13} Official Report, 26 June, col 1928
\textsuperscript{14} Official Report, 26 June, col 1928
\textsuperscript{15} Official Report, 26 June, col 1929
suggested that any replacement operator would be able to exert undue negotiating pressure on the Executive due to the need to quickly re-establish services. It has also been said that there could well be a time lag in obtaining replacement services due to the VesCo being required to procure another operator or obtain relevant safety certificates to operate the services itself. Critics of the current Executive proposals point to the failure of shipping services such as Kirkwall-Invergordon as examples of recent failures of operators to provide ferry services. However, Reporters do not believe that an exact parallel can be drawn between that service and the current CalMac service, as the service was not a ‘life-line’ service, and was in fact under-cut on the route by a subsidised competitor.

Reporters note that in relation to conditions able to be imposed under Article 4 of the Regulation, a member state may, in considering whether the operator has the ‘capacity to provide the service’, carry out checks to ascertain whether the shipowner has any outstanding tax or social security debts\textsuperscript{16}. Reporters would encourage such checks to be undertaken.

The Executive is still considering its approach to such ‘worst-case’ scenarios, and consultants have been engaged to look at issues surrounding the creation of the VesCo. The current proposals envisage the VesCo procuring another operator, and Executive officials have given assurances that if required the tendering process could be run relatively quickly. However, the Executive also proposes that, if necessary, the VesCo could deliver the services at its own hand. The Executive has undertaken to conduct discussions with the MCA in relation to the issuing of safety certificates to a VesCo should that prove necessary.

The MCA has now provided further advice to the Committee on this issue. The MCA has said that they ‘can see no reason why VesCo, if properly prepared for such an emergency, could not satisfy the requirements for the issue of an Interim Document of Compliance. We expect that the Scottish Executive would be monitoring the accounts of OpsCo and would have, perhaps, several months warning of unsatisfactory trading during which time VesCo could be drafting its SMS\textsuperscript{17} in preparation for taking on the responsibilities of ‘operator of last resort’\textsuperscript{18}.

This in turn raises the question of how the VesCo can be ‘properly prepared for such an emergency’. Specifically reporters would like clarification on whether the VesCo could be in a position to have a SMS in place as a matter of course rather than waiting for a situation in which an operator failed to comply with contractual obligations. If this was the case, then this would obviously reduce the time which would be needed to obtain an Interim Document of Compliance.

There may conceivably be issues other than long-term poor financial performance that could cause an OpCo to fail to deliver services. For example, if the network was tendered in bundles rather than as a single unit, vessel breakdown could result in loss of services. Reporters would also like to receive clarification on the contractual provisions in the event of a vessel breakdown, the division of responsibility for the

\textsuperscript{16} Case C-205/99 Asociación Profesional de Empresas Navieras de Líneas Regulares (Analir) and Others and Administración General del Estado ( judgment 20-02-2001)
\textsuperscript{17} Safety Management System
\textsuperscript{18} Response from the MCA to a letter from the Clerk, 17 July 2001
provision of relief vessels between the OpCo and VesCo and any contractual arrangements for compensation to be paid in the event of a breakdown. Reporters note that consultants are currently engaged in working through these issues, and that the Executive are engaged in continuing discussions with the MCA. The Committee may wish reporters to meet with consultants to discuss these issues further, and maintain involvement with the Executive in order to scrutinise the plans as they develop.

Consultants are also engaged in looking at infrastructure issues such as the ownership of harbours and piers, which are currently owned by a range of organisations such as CalMac, local authorities and harbour trusts19. Concerns have been expressed regarding the multiple ownership of infrastructure, and reporters would urge the Executive to take advantage of the opportunities presented by the tendering process to rationalise the ownership of infrastructure. The Committee may also wish reporters to follow this issue up with consultants.

**Bundling Of Services**

Groups giving evidence to the Committee were united in wishing to see the network tendered as a single bundle. There was also agreement with the proposal to seek PSO status for the current mainland to mainland routes of Gourock-Dunoon and Tarbert-Portavadie. Reporters are also supportive of these proposals. It is likely that tendering the network as a whole will reduce concerns over “cherry picking” of routes, provision of relief vessels and integration of through ticketing and marketing services.

However, in giving general support to the tendering of the network as a single bundle, reporters would also re-iterate the concern outlined earlier regarding transparency. The tendering of the network as a unit should not diminish the need to provide a transparent breakdown of the costs associated with individual services.

In addition, there was support for the Executive investigating the inclusion of other services outwith the current CalMac contract in remote island and peripheral areas in the tender specification (eg, Kilchoan to Tobermory, Lismore to Oban). Reporters have discussed the inclusion of some possible routes with consultants and would encourage the Executive to explore the possibility of including these routes within the contract.

There was also a general consensus amongst witnesses that the tendering process could deliver some efficiency gains, if the network was tendered as a single bundle. Reporters concur with the view of witnesses that if such gains occur, any savings should be used to fund improvements and developments in these services.

**Local Employment Issues**

Many of the current employees of CalMac live in the communities affected by the tendering exercise and have strong ties with them. CalMac crews have also developed strong local knowledge of the communities, waters and sailing conditions

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in the areas that they serve. In particular, Reporters note that many of the CalMac routes in the Hebrides serve communities with a strong Gaelic tradition. Reporters believe that a proportion of the crew serving on these routes should be Gaelic speakers.

Groups giving evidence to the Committee were keen to retain the expertise of the current CalMac workforce, and to ascertain the extent to which the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations will apply to any transfer of CalMac employees to a new operator.

The Minister has said that the application of TUPE is a legal matter which will be addressed at the time of transfer, and that issues such as this will be addressed by the consultancy team, and in the draft service specification. Reporters have explored these issues with consultants and would wish to be kept informed of any developments in Executive policy. To avoid increasing the level of uncertainty being experienced by CalMac crews, Reporters would urge the Minister to provide clarity on this issue as soon as possible. It is understood that TUPE does not apply to the issue of pension rights, and reporters again urge the Minister to investigate the pension rights of employees and provide some clarity on this issue.

It is clear that the draft service specification will have a large bearing on the rights of employees, and reporters again urge the Executive to involve trade unions and the CalMac management and workforce closely in the consultation process. Reporters note the need to provide for a degree of flexibility in relation to service provision and would encourage the Executive to explore differing configurations of service provision together with the implications of different models for the labour force.

Reporters note that Regulation 3577/92/EEC allows a member state in imposing a PSO, to stipulate requirements in respect of ‘ports to be served, regularity, continuity, frequency, capacity to provide the service, rates to be charged and manning of the vessel’. The Executive is urged to explore the amount of flexibility that this provision allows, and to investigate to what extent they may specify matters relating to the manning of vessels in the service specification.

**Next Steps**

It is recommended that the Committee:

a) consider the matters outlined in this report and amend the paper as necessary;

b) Note that Reporters have met with the consultants taking forward the service specification and discussed issues relating to
   - Consultation with stakeholder groups
   - Service Development and Innovation
   - Transparency of Operating Costs
   - The inclusion of other remote ferry services within the contract
   - Local employment issues including the application of TUPE and the issue of pension rights;
c) Agree that Reporters should meet with consultants to take forward issues regarding regulation and the operation of the VesCo, including the proposed role as procurer of last resort;

d) Forward a copy of the report (as amended if necessary) to the Minister for Transport and invite her to respond to the points made in relation to Executive policy; and

e) Consider whether the Committee as a whole wishes to be involved in the consultation on the draft service specification, or whether reporters should carry out this role.

Maureen MacMillan MSP
Des McNulty MSP
September 2001
Subject: The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001, (SSI 2001/266)

Meeting No: 23rd Meeting, 2001

Meeting Date: 26 September 2001

Author: Note by the Assistant Clerk

Introduction – SSI 2001/266

1. The Town and Country Planning (General Permitted Development) (Scotland) Amendment (No.2) Order 2001, (SSI 2001/266) was laid on 20 July 2001.

2. This instrument was laid under a negative procedure, and the time limit for Parliamentary action expires on 22 October 2001. The Committee is required to report on the instrument by 1 October 2001. A motion for the annulment of the Order has been lodged and the procedure for considering this motion is outlined below.

3. The instrument is accompanied by an Executive note, a Regulatory Impact Assessment, and a letter to the Presiding Officer explaining the reasons for the breach of the “21 day” rule in the laying of the instrument.

Details of the instrument

4. SSI 2001/266 effectively replaces SSI 2001/244 which has been revoked. The provisions of the previous Order are reintroduced in SSI 2001/266 other than one correction within Article 2(2) and there is the introduction at Article 3(2) of transitional arrangements to ensure consistent application of the Order. The original order SSI 2001/244 restricts the range of development permitted under classes 67 and 68 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (SI 1992/223) without express planning permission being granted. The Order provides for circumstances where development is not permitted and specifies restrictions on structures on buildings. The Order also specifies the circumstances in which radio equipment housing is permitted.

5. SPICe Research Note RN 01/74 contains further information on the Executive's proposals as set out in the two instruments. It was circulated for the last meeting of the Committee.
Motions for Annulment - Procedure

6. The motion for annulment reads: “That the Transport and the Environment Committee recommends that nothing further be done under the Town and Country Planning (General Development Procedure) (Scotland) Amendment (No 2) (Order 2001, SSI 2001/266)”.

7. The member lodging the motion will be invited to speak to the motion and then formally move it. A debate of up to 90 minutes is permitted on the motion (Rule 10.4.2). The member of the Scottish Executive or junior Scottish Minister in charge of the instrument, plus the member lodging the motion for annulment, are entitled to attend the Committee meeting and participate in the meeting for the purpose of debating the motion. However, only members of the Committee can vote on the motion.

8. The Transport and the Environment Committee has adopted the practice of holding an informal session before the formal debate on affirmative instruments to raise technical points of clarification or other questions. This practice was also adopted on the previous occasion that the Committee considered a motion for annulment. It allows the Minister’s officials to participate in the informal discussion before the formal debate, which they cannot participate in.

9. During the formal debate, after the member who has lodged the motion for annulment has spoken and formally moved the motion, the Minister is invited to respond, followed by other members of the Committee. Members may address questions directly to the Minister, but should do so on a member to member basis, not as members questioning a witness. The debate can last a maximum of 90 minutes.

10. After other speakers have contributed, the Minister will be given an opportunity to respond to points raised in the debate, and then the mover of the motion can make any concluding remarks.

11. The mover of the motion will then be asked whether he or she wishes to withdraw the motion, or press it to a decision. If the member wishes to withdraw the motion, the Committee will be asked if any member objects. If any member of the Committee objects, the question on the motion must be put.

12. If the question is put to the Committee (either by the mover of the motion or another member), and the motion is agreed to, the Committee has recommended annulment and the Bureau must then lodge a motion for the whole Parliament to consider under Rule 10.4.4. The Committee is still required to report on the instrument.

13. If the question on the motion is put to the Committee and is disagreed to, the Committee has decided not to recommend annulment. Although this means there
will be no debate in the Chamber, the Committee must still report to the Parliament on the instrument.

14. The Committee’s report on the instrument to the Parliament might usually involve recording the results of the Committee’s debate on the motion.

Recommendation

15. The Committee is invited to debate and report on Motion S1M-2246 which recommends that nothing further be done in relation to the Instrument.

Alastair Macfie
Assistant Clerk to the Transport and the Environment Committee
September 2001
Subject: Petition 96 – Petition by Mr Allan Berry calling for an independent investigation into the environmental impacts of sea cage fish farming.

Meeting No: 24th Meeting

Meeting Date: 3 October 2001

Author: Note by the Senior Assistant Clerk

BACKGROUND

The Committee last considered this matter at its meeting of 19 September. At this meeting the Committee:

a) agreed to continue the appointment of reporters on the petition and further agreed that Maureen Macmillan MSP should replace Bristow Muldoon MSP as a reporter and that Robin Harper MSP should continue to act as a reporter. The Committee also approved the programme of reporters visits referred to in the paper;

b) agreed in principle to hold a rolling inquiry, and that the inquiry should use the phased approach to evidence taking and committee reporting outlined in the paper. The Committee agreed the remit of the inquiry as set out in the paper, subject to certain specific changes, and agreed to issue a call for written evidence based upon this remit;

c) agreed to pursue the creation of a post of research co-ordinator and to write to the Scottish Executive to request that it arranges for the appointment of this person. The Committee agreed to appoint an adviser on the inquiry, but to defer further consideration of the adviser’s role until a response has been received from the Executive regarding the post of research co-ordinator.

The purpose of this paper is to provide advice to the Committee on taking forward the decisions made at this meeting. The paper provides further advice on:

- the remit of reporters;
- the issuing of a call for evidence;
- the appointment of a research co-ordinator;
- the appointment of an advisor;
- the consideration of the petition.

REPORTERS REMIT

Reporters were originally appointed on 26 June, to monitor the progress being made by the Executive over the summer recess in relation to the initiatives outlined in the Minister’s evidence.
In the light of the decision to proceed with a rolling inquiry the Committee may wish to update this remit. It is suggested that the Committee may wish reporters to:

“Monitor and review the ongoing work of the Scottish Executive and other relevant bodies in relation to aquaculture, with a view to assisting the Committee to obtain a greater focus on the issues relevant to its inquiry”.

CALL FOR EVIDENCE

At the last meeting, the Committee agreed to issue a call for evidence, based upon the remit of the rolling inquiry. Members are invited to comment on the draft call for evidence, attached as Annexe A, at the meeting.

Further information regarding meeting dates and prospective witnesses for the inquiry will be provided to members in a separate paper closer to the time when evidence will be taken.

THE APPOINTMENT OF A RESEARCH CO-ORDINATOR

The Convener has written to the Executive requesting that they establish a post carrying out the functions identified by members in the paper considered on 19 June. A copy of this letter, together with the response of the Minister, is attached at Annexe B to this paper. Members will wish to note that the Minister suggests that reporters undertake further discussions with Executive officials on this matter, prior to any decision.

THE APPOINTMENT OF AN ADVISOR

At the last meeting, the Committee agreed to appoint an adviser on the inquiry, but to defer further consideration of the adviser’s role until a response has been received from the Executive regarding the post of research co-ordinator. Given that discussions regarding the appointment of a research co-ordinator are likely to be ongoing, and that the first phase of the inquiry is due to begin in November, members may now wish to take a decision on the role of an advisor.

The committee, in consultation with the appropriate SPICe researcher, is required to draw up the Adviser specification. A draft advisor specification is attached at Annexe C and members may wish to comment on this specification at the meeting.

As noted previously, the speed with which an adviser may be appointed may be dependent upon the speed with which suitable candidates can be identified, the number of candidates who are interested, and the fees that candidates are prepared to accept. It is likely that even on a fast-track approach it would take at least a month to appoint an advisor, and indeed it may take considerably longer than this, given the technically complex and contentious nature of the subject matter. It is hoped than an advisor can be in place in time for any evidence sessions in November/December, however this cannot be guaranteed.
THE CONSIDERATION OF THE PETITION

Petition PE 96 was lodged on 9 February 2000. The Petition called upon the Parliament to hold an independent and public inquiry into the adverse environmental effects of sea cage fish farming; and the regulatory failure to both recognise and prevent significant damage to our natural heritage, the environment and other interests dependent upon the integrity of our Scottish coastal waters. The petition was referred to both the Rural Development and Transport and the Environment Committees and has been subject to consideration by both Committees over the past 18 months, culminating in the Transport and the Environment Committee decision to undertake the rolling inquiry.

Given that the Committee has now agreed to undertake this rolling inquiry, with its own agreed remit, there would appear to be little other action the Committee may wish to take on the actual petition.

The Committee may therefore wish to conclude its formal consideration of the petition, and agree to take forward the issues raised by the petitioner in its rolling inquiry into aquaculture. Obviously this will not preclude the petitioner becoming involved in this inquiry by providing written or oral evidence as the Committee sees fit.

SUMMARY

It is recommended that the Committee:

a) Agree the remit of reporters;
b) Agree the attached call for evidence;
c) Agree to take forward the appointment of an adviser;
d) Agree the attached adviser specification; and
e) Agree to conclude formal consideration of Petition PE 96.

Tracey Hawe
Senior Assistant Clerk
1 October 2001
COMMITTEE TO INQUIRE INTO AQUACULTURE

The Transport and the Environment Committee has agreed to conduct a ‘rolling’ inquiry into aquaculture. The aim of the ‘rolling’ inquiry is to ensure that work by the Executive and other relevant bodies in developing a strategy for a sustainable aquaculture industry is subject to public scrutiny and that the process of policy development and review is open, transparent and responsive to the views of relevant stakeholders.

The Committee welcomes written evidence on this inquiry from interested groups and individuals. It would be appreciated if submissions could be focused on the agreed remit of the inquiry, which is to:

“…monitor and review on an ongoing basis the work of the Scottish Executive and other relevant bodies in relation to aquaculture, by scrutinising the review of the current regulatory framework and reviewing the development of a strategy for aquaculture. In doing so, the Committee intends to review:

- The extent to which the proposed strategy for aquaculture addresses the concerns of relevant bodies and the extent to which it provides incentives to encourage best environmental practices;
- The extent to which the current research programme recognises and addresses the needs of relevant bodies;
- locational guidelines for sea cage fish farming;
- voluntary codes of practice and area management agreements;
- The proposed transfer of planning controls for fish farming to local authorities;
- The extent to which current regulatory systems can be harmonised and made more effective.”

The Committee has agreed to conduct the inquiry on a phased basis. The first evidence sessions of the Committee will focus on issues associated with the regulatory framework for sea cage fish farming (eg, the last four bullet points outlined above). Evidence for these sessions should be submitted **no later than Friday 2 November 2001**. Late submissions will only be accepted by prior arrangement with the Committee Clerk.

The Committee will consider evidence on the development of a strategy for aquaculture early in 2001, and a further call for evidence on these issues will be issued later in the year.

The Committee will consider every response. Some of those responding may be invited to come and talk to the Committee and give more detail on their response, however, you should not assume that this will happen. **Your response will be treated as a public document, unless you make it clear when you send it in, that you do not want it to be published or circulated in public.** All responses will be circulated to the Committee.
HOW TO SEND YOUR RESPONSES TO US

Since written evidence may be published it would be most helpful if responses could be submitted by EMAIL to transportandenvironment@scottish.parliament.uk

If you have a computer, but no EMAIL, you can post your response to us on a 3½” disk in Word 97. If you cannot use EMAIL or a disk, your submission must be typed. Submissions should not exceed 4 sides of A4 paper. All responses become the property of the Scottish Parliament and we are unable to return documents.

Submissions also can be faxed on 0131 348 5600 or posted to the Clerk to the Transport and the Environment Committee, Room 2.01 Committee Chambers, Scottish Parliament EDINBURGH EH9 1SP.
Annexe B

Transport and the Environment Committee

Ms Rhona Brankin
Deputy Minister for Environment and Rural Development
Pentland House
47 Robb's Loan
EDINBURGH

September 2001

Dear

ROLLING INQUIRY INTO FISH-FARMING

As you will be aware the Transport and the Environment Committee has been considering Petition PE 96 from Mr Allan Berry calling for an inquiry into the environmental impacts of fish farming.

At its meeting of 19 September the Committee discussed a paper outlining options for an inquiry. The paper (as amended after discussion at the meeting) is attached for your information.

The Committee agreed to continue the appointment of reporters on the petition and further agreed that Maureen Macmillan MSP should replace Bristow Muldoon MSP as a reporter and that Robin Harper MSP should continue to act as a reporter. The Committee also approved the programme of visits referred to in the paper.

The Committee agreed in principle to hold a rolling inquiry, and that the inquiry should use the phased approach to evidence taking and committee reporting outlined in the paper. The Committee agreed the remit of the inquiry as set out in the paper, subject to certain specific changes, and agreed to issue a call for written evidence based upon this remit.

As you will note from the attached paper, the timeframes for the inquiry are to some extent dependent upon the timeframe for Executive policy development in relation to the regulatory review, aquaculture strategy and the forthcoming Water Environment and Water Services Bill. I would therefore request that Executive officials keep in close touch with the Clerks to the Committee regarding the progress of these matters, and alert Clerks to any possible difficulties in relation to time-tabling.

I would also note that the inquiry is being conducted on the basis that legislative proposals arising from the regulatory review and development of the aquaculture
strategy will be contained within the Water Environment and Water Services Bill. Should this not prove to be the case then the Committee may wish to review its approach to this inquiry to ensure that the issues identified receive sufficient scrutiny within an appropriate time-scale. Again, I would be grateful if officials could liaise with Clerks regarding any changes to the Executive’s position.

External Research Co-ordinator

You will recall that when you gave evidence to the Committee prior to the summer recess, there was some discussion about the extent of research into the environmental impact of sea cage fish farming. In the meetings since the recess the Committee has considered in more detail the need for an independent assessment of the research in this field.

In light of the proposed introduction of the Water Environment and Water Services Bill in the spring of next year, the Committee agreed at our last meeting to recommend that the Scottish Executive appoints, as a matter of urgency, an independent research co-ordinator, with the following role:

- drawing together the available science, both government and industry sponsored, and national and international;
- identifying any gaps in the SERAD research programme
- ensuring sufficient emphasis is placed on environmentally based research;
- working with the Committee and the Executive to ensure that the Water Environment and Water Services Bill proposals and the development of the Executive aquaculture strategy are based on the best available scientific information.

From the official report of the Committee’s meetings, you will see that the Committee is keen that any appointee should come from a scientific background, have knowledge of the industry, and be of sufficient standing to command the respect of all interested parties. The Committee is also concerned that the appointee should be seen as being independent of the Scottish Executive and be able to report to this Committee as well as Scottish Ministers. The Committee has also expressed its desire to be involved in the appointment process.

On a related matter, the Committee agreed to appoint an adviser to its inquiry, but to defer further consideration of the scope of the adviser’s role until it is clear whether the Scottish Executive is willing to appoint a research co-ordinator. Given the imminent need to make progress on the inquiry - including the appointment of a committee adviser - I would be grateful to receive a response from on the question of whether the Executive is willing to appoint a research co-ordinator by Monday, 1 October.
I hope this letter outlines the position of the Committee adequately. Should you or your officials wish to discuss this matter, please contact either myself of a member of the Transport and the Environment Committee clerking team.

Yours sincerely

Andy Kerr
Convener

CC: Jinny Hutchison, Scottish Executive, Fisheries Division
    Michael Kellett, Scottish Executive Water Environment Unit
Thank you for your letter of 24 September outlining how your Committee proposes to take forward the rolling inquiry it has decided to mount.

I do of course recall the Committee’s concerns about the Executive’s existing programme of research into the environmental impact of sea cage fish farming. Your suggestion that an external research co-ordinator be appointed is an interesting one and one which I am sure would repay further consideration. My officials (Jinny Hutchison and Gordon Brown) discussed informally with Tracey Hawe when they met last week, but I think we probably need to consider in detail with the Committee Reporters how the matter might best be progressed. I certainly want to afford the Committee whatever assistance I can – as I undertook to do before the Recess.

Might I suggest that Maureen Macmillan (who I note has replaced Bristow Muldoon in the role) and Robin Harper take a meeting with my officials? I am sure that something could be arranged quickly to fit in with the Committee’s own timetable. If this seems like a useful way of proceeding, perhaps Ms Hawe would arrange.

RHONA BRANKIN
TRANSPORT AND THE ENVIRONMENT COMMITTEE

ADVISER TO AQUACULTURE INQUIRY: SPECIFICATION

Background and Process

The Transport and Environment Committee has agreed to appoint an adviser to assist it in a 'rolling' inquiry into fish farming. The aim of the 'rolling' inquiry is to ensure that work by the Executive and other relevant bodies in developing a strategy for a sustainable aquaculture industry is subject to public scrutiny and that the process of policy development and review is open, transparent and responsive to the views of relevant stakeholders.

It is currently envisaged that 15 days will be adequate to advise the Committee on this inquiry. It is currently not known whether it will be possible to identify a suitable adviser at the rate of £140 per day.

Rermit

The adviser will take instruction from the Transport and Environment Committee and will be accountable to that Committee. Day to day, the adviser will report to the Convener and the Clerk of the Committee.

The adviser will have the following main functions in relation to the committee’s inquiry into fish farming:

- providing the Committee with initial oral and written briefing. This will focus on the current review by the Scottish Executive of the regulatory framework for fish farming, the development by the Executive of a strategy for fish farming;
- providing briefing to the Committee in relation to the Executive’s legislative proposals for the forthcoming Water Environment and Water Services Bill;
- briefing members prior to Committee meetings on the most fruitful lines of questioning for witnesses;
- attending committee meetings to advise and engage with members and assist in the subsequent assessment and interpretation of oral evidence;
- drafting of the inquiry report and recommendations;
- providing any additional advice to committee clerks and SPICe researchers.

It is planned to conduct the inquiry in several phases. The Committee plans to take oral evidence on the regulatory framework for sea cage fish farming in October/November 2001, followed by further sessions on the development of a strategy for aquaculture in early 2002. The Committee will also be engaged in scrutinising the Water Environment and Water Services (Scotland) Bill in Spring 2002, which is likely to contain legislative proposals relevant to these issues.

Person specification

The key requirements are for the adviser to
• Have an understanding of the sea cage fish farming industry and the potential impacts of the industry on the environment;

• Be able to analyse and interpret views and evidence from a wide range of sources, and synthesise these to produce understandable and meaningful analysis for the benefit of the committee. The adviser must be able to communicate with non-specialists;

• Have an understanding of the relevant legislative and policy context (both European and domestic) and regulatory framework for sea cage fish farming;

• Have an understanding of the current policy debate surrounding aquaculture and the drivers for change in this area.

In addition the adviser must:

• Be able to demonstrate that they have the time and resources to undertake the work within the timescales set by the committee;

• Be able to understand and analyse technically complex information. Given that some of the evidence presented to the Committee will be scientifically based, a scientific background would be a distinct advantage.

Conditions of Appointment

The duties of the adviser will involve handling confidential and sensitive material. The adviser will be required to maintain absolute confidentiality about the matters under consideration or which come before them.

It is important that the adviser is impartial. The adviser will be required to declare interests, pecuniary or otherwise, in advance of commencing employment.

Timescale

It is initially proposed that the adviser be appointed for 15 days. The following gives an indication of how that time may be allocated, but the committee may reserve the right to allocate the days as it believes appropriate:

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<th>Activity</th>
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<tr>
<td>Analysis of written and oral evidence</td>
<td>5</td>
</tr>
<tr>
<td>Advice to Committee and attendance at meetings</td>
<td>6</td>
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<tr>
<td>Drafting of reports</td>
<td>4</td>
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It is envisaged that the work of the adviser will be undertaken from November 2001 to June 2002.

Reporting Arrangements

The adviser would report to the Committee through the Clerk.