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SCOTLAND'S NUCLEAR POWER

AN EURO-AMERICAN LAWYERS GROUP BRIEFING ARTICLE

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It is clear that at last, and certainly not before time, the Government's attention is turning to how they are going to ensure that there is an adequate supply of energy to keep the lights on, and the PCs and machinery operating, over the next 10 to 20 years. This issue has become increasingly important as the remaining life of nuclear power stations diminishes, the pressure to close old-fashioned coal fired power stations and the expense of modifying more modern ones makes coal an increasingly unattractive fuel for generating electricity, and the recognition, as demonstrated by recent events in the Ukraine and Georgia, that relying upon gas as a major source of energy and in particular electricity in the UK, exposes us to considerable risks.

As a result much attention has been focused on the possibility that the UK might re-start its nuclear power station building programme. In Scotland this raises a particular legal issue.

In order to obtain permission to build a nuclear power station in Scotland it would be necessary to obtain the consent of the Scottish Executive under Section 36 of the Electricity Act 1989 because the granting of such consent is a matter which is devolved to the Scottish Parliament.

However, the current Partnership Agreement between the Labour and Liberal Democrat Parties states that "we will not support the further development of nuclear power stations whilst waste management issues remain unresolved." Although therefore the Energy White Paper and the debate which the Government wants to have as a result, applies to the whole of the UK, the reality is that if the Government determines that its policy should include the building of new nuclear power stations it cannot enforce that policy in Scotland.

One might say, why have nuclear power stations – they are expensive to build and we have not yet found a way of satisfactorily disposing of their waste? These are perfectly legitimate questions, which need to form part of this debate. Equally legitimate concerns are the amount of money which is being used to subsidise the production of wind energy which will never provide the reliable baseload supply of electricity which is essential to the electricity supply of the UK, and the fact that nuclear power stations do not generate CO² whilst operating and therefore of all the major sources of power contribute least to climate change and warming.



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Whilst it may be that at some time in the future we will actually have a perpetually renewable source providing a continuous supply of electricity, we have certainly not reached that stage. Despite the potential for wave and similar technologies, there is no realistic prospect that we will have such a source of electricity in the next 10 or 15 years.

Government must ensure that there is a reliable, sufficient and cost effective supply of electricity. To the extent that depends upon the action of government it must take all necessary steps to allow that supply to be provided. Building and commissioning new power stations takes a lot of time - in some nuclear cases well over 10 years. Obviously no-one in the private or public sector is going to commit resources to building new power stations if those who grant the necessary consents, in this case the Scottish Parliament, are set against granting those consent. The hurdle created by the Partnership Agreement is therefore urgent

The issue for the Scottish Parliament and the Labour/LibDem coalition is how they interpret the requirement in the Partnership Agreement that waste management issues should be "resolved". It seems increasingly likely that the investigations which are currently being undertaken into the disposal of nuclear waste will come back to the original suggestion as being the best one, namely, finding suitably stable areas and creating large holes underground in which the nuclear waste is allowed to lose its radioactivity over a very very long period of time. If that is the view that is reached for the rest of the UK, will the Scottish Parliament take a different view?

If the Scottish Parliament does not take a different view and new nuclear stations are commissioned in England, will it be necessary to build additional capacity in England in order to feed the Scottish grid? If the major coal-fired power stations in Scotland, particular Longganet are closed, and we are faced with the closure of Hunterston B and in due course Torness nuclear stations, where is Scotland going to get its electricity?

These are all major questions and the answers to them may well turn upon how the Labour/LibDem partnership interprets the Partnership Agreement.

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