



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 18 December 2012

Session 4

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SUBORDINATE LEGISLATION COMMITTEE

30th Meeting 2012, Session 4

CONVENER

*Nigel Don (Angus North and Mearns) (SNP)

DEPUTY CONVENER

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

COMMITTEE MEMBERS

*Jim Eadie (Edinburgh Southern) (SNP)

*Mike MacKenzie (Highlands and Islands) (SNP)

*Hanzala Malik (Glasgow) (Lab)

*John Pentland (Motherwell and Wishaw) (Lab)

*John Scott (Ayr) (Con)

*attended

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

Committee Room 6

Scottish Parliament
Subordinate Legislation
Committee

Tuesday 18 December 2012

[The Convener *opened the meeting at 10:30*]

Decision on Taking Business in
Private

The Convener (Nigel Don): Good morning and welcome to the Subordinate Legislation Committee's 30th meeting in 2012. As always, I ask members to turn off mobile phones.

Agenda item 1 is a decision on taking in private item 5, which is consideration of a draft report on the Aquaculture and Fisheries (Scotland) Bill at stage 1. Do members agree to take item 5 in private?

Members *indicated agreement.*

Instruments subject to Negative
Procedure

Town and Country Planning
(Miscellaneous Amendments) (Scotland)
Regulations 2012 (SSI 2012/325)

10:30

The Convener: No points have been raised under any of the reporting grounds, but the regulations raise general issues about the choice of delegated powers and the proper programming of subordinate legislation. When a choice of enabling powers is available to make provisions in subordinate legislation, the committee would normally expect the provisions to be made under the powers that are more specific, or tailored to them, rather than more general powers. That will be particularly appropriate when a choice of enabling powers involves a choice of a greater or lesser degree of parliamentary scrutiny of the provisions.

As the provisions in the regulations relate directly to public service reform matters, they could have been made under the more specific powers to make ancillary provisions in section 17(9) of the Public Services Reform (Scotland) Act 2010, rather than under the more general powers relating to planning applications in the Town and Country Planning (Scotland) Act 1997. Had that been done, the provisions could have been included in the draft Public Services Reform (Planning) (Local Review Procedure) (Scotland) Order 2013 and the draft Public Services Reform (Planning) (Pre-application consultation) (Scotland) Order 2013, which the committee considered last week.

In that case, the regulations would not have been required in addition to those orders, and the provisions would have been subject to the super-affirmative procedure—to which those orders are subject—rather than the negative procedure. That would also have avoided the anomaly that the period within which the Parliament may reject the purely consequential changes that are made by the regulations is likely to expire prior to the Parliament having determined whether it agrees to the two super-affirmative orders that give rise to the necessity for the regulations.

Does the committee have any comments on the matter?

Members: No.

**Children's Hearings (Scotland) Act 2011
(Child Protection Emergency Measures)
Regulations 2012 (SSI 2012/334)**

**Children's Hearings (Scotland) Act 2011
(Rights of Audience of the Principal
Reporter) Regulations 2012 (SSI 2012/335)**

**Children's Hearings (Scotland) Act 2011
(Appeals against Dismissal by SCRA)
Regulations 2012 (SSI 2012/337)**

**Act of Sederunt (Fees of Sheriff Officers)
(Amendment) (No 2) 2012 (SSI 2012/341)**

*The committee agreed that no points arose on
the instruments.*

Instruments not subject to Parliamentary Procedure

**Police and Fire Reform (Scotland) Act
2012 (Commencement No 2, Transitory
and Transitional Provisions and Appointed
Day) Order 2012 (SSI 2012/333)**

**Act of Sederunt (Fees of Messengers-at-
Arms) (Amendment) (No 2) 2012 (SSI
2012/340)**

10:33

*The committee agreed that no points arose on
the instruments.*

**Water Resources (Scotland) Bill:
Stage 1**

10:34

Meeting continued in private until 10:34.

10:33

The Convener: Agenda item 4 is consideration of the Scottish Government's response to the committee's stage 1 report on the Water Resources (Scotland) Bill. Members will have seen the briefing paper and the response from the Scottish Government. Unless amendments that affect the delegated powers provisions are made to the bill at stage 2, the committee will not consider it again.

If members have no comments, are we content to note the response and, if necessary, reconsider the bill after stage 2?

Members *indicated agreement.*

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