

JUSTICE 1 COMMITTEE

Tuesday 25 March 2003
(*Afternoon*)

Session 1

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JUSTICE 1 COMMITTEE

8th Meeting 2003, Session 1

CONVENER

*Christine Grahame (South of Scotland) (SNP)

DEPUTY CONVENER

*Maureen Macmillan (Highlands and Islands) (Lab)

COMMITTEE MEMBERS

Ms Wendy Alexander (Paisley North) (Lab)

*Lord James Douglas-Hamilton (Lothians) (Con)

*Donald Gorrie (Central Scotland) (LD)

*Paul Martin (Glasgow Springburn) (Lab)

*Michael Matheson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)

Kate Maclean (Dundee West) (Lab)

Mrs Margaret Smith (Edinburgh West) (LD)

Kay Ullrich (West of Scotland) (SNP)

*attended

CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies Smith

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

The Chamber

Scottish Parliament

Justice 1 Committee

Tuesday 25 March 2003

(Afternoon)

[THE CONVENER *opened the meeting at 13:35*]

Convener's Report

The Convener (Christine Grahame): Welcome to the eighth meeting this year of the Justice 1 Committee. I remind members to turn off mobile phones and pagers.

The report on the inquiry into alternatives to custody was published on 21 March. I advise members that the Deputy Minister for Justice has responded to our request for clarification of points in relation to the draft Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) Order 2003. The relevant committee document is J1/03/8/10.

We have received a letter from Scottish Women's Aid—that letter is before the committee as J1/03/8/9—thanking the committee for its work on the Protection from Abuse (Scotland) Act 2001 and on furthering of the rights of women, children and young people who experience domestic abuse. I think that that legislation was one of the first committee bills that the Scottish Parliament dealt with. Committee bills are an example of the great benefits that derive from the Parliament's practices and procedures.

The Sheltered Retirement Housing Owners Confederation has also written a letter—J1/03/8/6—thanking the committee for its assistance in highlighting the problems that are faced by the owners of sheltered and retirement housing and for supporting its suggested amendments to the Title Conditions (Scotland) Bill. Again, another advantage of our system is demonstrated by the fact that, on that issue, members of other committees were able to come to make submissions to this committee.

Subordinate Legislation

Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment) 2003 (SSI 2003/162)

The Convener: I refer members to the note by the clerk on the instrument and correspondence from the Lord President of the Court of Session's office setting out background information about the instrument. Eagle-eyed members of the committee will have noticed that there is a mistake in the letter: on the second page of the appendix, which has columns of figures on it, the figure £60.20, at provision 11(a)(i), has been entered in error. All the figures that follow in the column for 2001 are out of alignment. For instance, the figure £261.70 should be on the same line as £273 in the 2002 column. I hope that members follow me. That misalignment continues until provision 21(a). I hope that that is clear.

I omitted to welcome to the committee our ad hoc but efficient clerk, Callum Thomson, who has been very helpful. He is standing in today for our clerks, who are off to other climes—Westminster and Europe—at the end of term.

Do members wish to make any comments? Are we content simply to note the instrument and move on?

Donald Gorrie (Central Scotland) (LD): I had ringed about 20 figures that I could not understand, but you have now explained them. It is a step forward that the Lord President has sent us all those figures. I had assumed that what is in provision 11(a)(i) was in some way different from before. All the columns of figures mean absolutely zilch unless one knows what the various sections are. If it would not be too onerous, perhaps a crib sheet to say what the sections refer to could be attached in future.

The Convener: That has been noted.

Donald Gorrie: Such a crib sheet would be helpful. I am relieved to find that there is a simple explanation for the error.

The Convener: Yes—it was quite a big leap from £60.20 to £273 between one year and another.

Donald Gorrie: Some figures had leaped up and some had gone down, so I thought that they might have balanced out because of different categorisation. However, the Lord President has tried to explain the situation sensibly.

The Convener: The committee notes the instrument.

**Advice and Assistance (Scotland)
Amendment Regulations 2003
(SSI 2003/163)**

The Convener: I refer members to clerk's note J1/03/8/2. I think that comment must be made on disregard of state benefits, which is one of the issues that the committee has been concerned about. We are still looking for further progress on uniformity and for clarity about benefits that are disregarded. I take it that the committee is content to note the regulations.

Members indicated agreement.

**Police Grant (Scotland) Order 2003
(SSI 2003/172)**

The Convener: The statutory instrument is again subject to the negative procedure. I ask members to refer, please, to clerk's note J1/03/8/3.

Donald Gorrie: Were Fife people naughtier than others? They seem to have received a bigger increase in their police grant. I thought there might be a reason for that, other than the sinfulness of people in the kingdom.

The Convener: Sinfulness in Fife—heaven forfend! To be serious, we are out of time for parliamentary questions, but if anyone wants to inquire, the issue might be one for a Fife MSP to raise in the new parliamentary session.

Michael Matheson (Central Scotland) (SNP): There is a technical issue that must be investigated.

The Convener: I take it that the committee is content to note the instrument.

Members indicated agreement.

**Zoo Licensing Act 1981 Amendment
(Scotland) Regulations 2003 (SSI 2003/174)**

The Convener: The instrument is subject to the negative procedure. I ask members please to refer to clerk's note, J1/02/8/4 and to the fact that the Subordinate Legislation Committee reported on the instrument. Members now have a copy of that report, to which they might wish to refer.

I declare an interest as an honorary member of the elected members of the Royal Zoological Society of Scotland.

Lord James Douglas-Hamilton (Lothians) (Con): I, too, declare an interest as a member of the Royal Zoological Society of Scotland. I have also been involved for some years in the society's fundraising committee.

I note that the convener of the Subordinate Legislation Committee recommended strongly that

the lead committee be "careful with the instrument". The instrument is late, and there is confusion over when the licences would have to come into effect. There is also confusion in the drafting. In the document that has just been submitted to us, the Executive's answers make it clear that a large number of amendments will be necessary. The purposes of the instrument are worthy; we all support conservation. Where there are insufficiently high standards, it is probably entirely legitimate to close, or to partially close, zoos. Also, local authorities should have powers to direct that animals be disposed of.

However, I am concerned that there seems to be no particular evidence that the organisations concerned have been consulted: we do not appear to have any information from those bodies. Unless there are persuasive reasons why we should let the regulations proceed, we should knock them back until the next session of Parliament so that the job can be done properly. If there is a need for a large number of amendments, the job should be done properly after there has been full and detailed consideration. Looking after animals well should be a priority.

13:45

The Convener: I am advised that a motion to annul the instrument would have to have been considered by the committee today, but we are not in a position to do that. I share the concerns about the lack of evidence of consultation. Although the substance of the instrument is excellent, most good zoo proprietors and trusts would subscribe to the ideas that bad zoos should be closed and that the capacity should exist to investigate the ways in which various zoos are run and how zoos take part in breeding and conservation programmes. That is all very well, but I would like to have heard what the various zoos and the Royal Zoological Society of Scotland have to say about the matter. We are expected to allow an instrument to proceed that will be revised immediately. I am advised that the minister cannot even withdraw the instrument, which, because it is subject to the negative procedure, will come into force on 1 April.

Lord James Douglas-Hamilton: There is another way of raising the matter. The committee is entitled to write to the minister concerned in order to draw his attention to the serious reservation that a large number of amendments will have to be made, which the Executive has admitted will be the case.

We are not just talking about Edinburgh zoo; Glasgow zoo is also very big and there are many other places in Scotland where zoos of one kind or another exist. We would prefer that the instrument had been dealt with more thoroughly, so we are entitled to send such a letter to the minister.

The Convener: I am looking at paragraph 140 of the Subordinate Legislation Committee's report, which is a real indictment of the situation. The committee states:

"As the Committee has observed repeatedly, the use of different words for similar meanings and vice versa is at the very least a failure to comply with proper legislative practice and at worst can amount to defective drafting. In the present instance, however, the Committee takes the view that the error acknowledged by the Executive probably falls towards the lower end of the scale. The Committee therefore draws the attention of the lead Committee and the Parliament to the Regulations on the grounds that they fail to follow proper legislative practice in this respect."

The drafting is clumsy and we have concerns about the consultation. If the committee is content with the suggestion, we will draft a letter to the minister, which will be circulated to committee members and sent in my name before dissolution.

Donald Gorrie: Could the letter also ask what, if any, national legislation affects circus animals as opposed to zoo animals?

The Convener: Yes, it would be interesting if that were brought up during the next session of Parliament because we have noted that the original legislation goes back to 1912. It might be time for an overhaul of animal welfare legislation, so we will put that in the letter. Are we agreed on that course of action?

Members indicated agreement.

Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2003 (SSI 2003/178)

The Convener: My first comment is that line 4 in paragraph 9 of the clerk's note on the regulations should read "precede" and not "proceed".

I remind members that at our meeting on 18 March we commented on the Subordinate Legislation Committee's report on the regulations, as is outlined in paragraph 9 of paper J1/03/8/5. That note is for the committee, but the minister should see our observations on that paragraph, so we will send that in letter form. Are members content with that suggestion?

Members indicated agreement.

The Convener: That concludes business for the day, which has been done at breakneck speed; I am nothing if not fast.

I thank members for all their hard work on the committee during the session. I also thank some of my colleagues for their longevity; Maureen Macmillan and I have been on the committee for four years. It has been an extremely interesting experience and we will see what turns up after the election—some of us might meet again. I also thank the committee's clerks, and I thank Callum Thomson for his help today.

Meeting closed at 13:50.

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