

COMMUNITIES COMMITTEE

Wednesday 17 November 2004

Session 2

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COMMUNITIES COMMITTEE 28th Meeting 2004, Session 2

CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

DEPUTY CONVENER

*Donald Gorrie (Central Scotland) (LD)

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Linda Fabiani (Central Scotland) (SNP)
*Christine Grahame (South of Scotland) (SNP)
*Patrick Harvie (Glasgow) (Green)
*Mr John Home Robertson (East Lothian) (Lab)
*Mary Scanlon (Highlands and Islands) (Con)

COMMITTEE SUBSTITUTES

Shiona Baird (North East Scotland) (Green)
Christine May (Central Fife) (Lab)
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
John Scott (Ayr) (Con)
Ms Sandra White (Glasgow) (SNP)

*attended

CLERK TO THE COMMITTEE

Steve Farrell

SENIOR ASSISTANT CLERK

Katy Orr

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 6

Scottish Parliament

Communities Committee

Wednesday 17 November 2004

[THE CONVENER *opened the meeting at 10:02*]

Subordinate Legislation

Debt Arrangement and Attachment (Scotland) Act 2002 (Transfer of Functions to the Accountant in Bankruptcy) Order 2004 (SSI 2004/448)

The Convener (Karen Whitefield): Good morning everyone and welcome to the 28th meeting in 2004 of the Communities Committee. Apologies have been received from Linda Fabiani, who I understand is in Tanzania, where she is taking part in a British Council visit.

Mr John Home Robertson (East Lothian) (Lab): A jaunt.

The Convener: I could not possibly comment on that, John.

The first item on our agenda concerns two items of subordinate legislation, both of which are to be considered under the negative procedure. Members have been provided with copies of the instruments and the accompanying documentation.

The first instrument allows the Accountant in Bankruptcy to exercise functions of the Scottish ministers under part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002. In addition to the functions of Scottish ministers, which are prescribed by secondary legislation under section 7 of the 2002 act, the order gives the AIB the power to approve debt payment programmes, payment distributors, variations of debt payment programmes and money advisers.

Members should note that the Subordinate Legislation Committee is not convinced that article 4 of the order, which allows the functions of the AIB to be carried out by authorised members of AIB staff, is necessary. The committee considers that section 1B of the Bankruptcy (Scotland) Act 1985 contains a similar provision. Nevertheless, the Subordinate Legislation Committee reports that the provision appears to have no harmful effect. Does any member have comments on the instrument?

Members: No.

The Convener: In that case, I am required to ask the committee whether it is content with the order.

Members indicated agreement.

The Convener: Therefore, the committee will not comment on the order in its report to the Parliament. Do members agree that we report to the Parliament on our decision on the order?

Members indicated agreement.

Debt Arrangement Scheme (Scotland) Amendment Regulations 2004 (SSI 2004/470)

The Convener: The purpose of the second instrument is to amend the Debt Arrangement Scheme (Scotland) Regulations 2004, which provide a scheme for repayment of multiple debts. We took evidence and reported on those regulations in 2003. The order amends the regulations in a number of ways, including making a change to the commencement date and increasing the administration fees that can be charged by the payment distributor. The order also proposes a number of changes to the regulations in response to the Subordinate Legislation Committee's concerns.

The Executive has written to the Presiding Officer to explain why it was unable to comply with the 21-day rule in the case of the instrument. As members know, the rule stipulates a period of 21 days between the laying and coming into force of an instrument. The Executive's explanation is that it wanted to ensure that all applications under the debt arrangement scheme were dealt with under the same regulations.

Does any member have comments on the instrument?

Members: No.

The Convener: Is the committee content with the regulations?

Members indicated agreement.

The Convener: In that case, the committee will not make a recommendation on the regulations in its report to the Parliament. Do members agree that we report to the Parliament on our decision on the regulations?

Members indicated agreement.

Petition

JNF Charitable Trust (PE779)

10:06

The Convener: The second item on our agenda is consideration of petition PE779, which was submitted by Ivan Clark on behalf of the Scottish Palestinian Solidarity Campaign. The petition concerns the charitable status of the Jewish National Fund. Before we move to our consideration of the petition, I ask Patrick Harvie to make a declaration.

Patrick Harvie (Glasgow) (Green): Before the committee discusses anything that relates in any way to charities legislation, I want to update my declaration of interests. Since I last made a declaration at committee, I have become a member of the board of directors of GALA Scotland Ltd, a company with charitable status. The purpose of the charity is to run the Glasgay arts festival in Glasgow. Although I have added the interest to my register of interests, I thought that I should also make a declaration today.

Christine Grahame (South of Scotland) (SNP): Does the convener want other members who are patrons of charities to make declarations?

The Convener: It is not necessary for members to do so. If members wish to make public declarations, that is entirely up to them, but such matters would usually be included in a member's register of interests.

Christine Grahame: It is.

The Convener: We return to our consideration of PE779, which calls on the Scottish Parliament to take all possible measures to ensure that the JNF Charitable Trust and similar organisations do not continue to benefit from charitable status in Scotland. Does any member have comments on the petition?

Scott Barrie (Dunfermline West) (Lab): My comments are not necessarily about the specifics of the petition, which raises general issues on which the committee will want to take further evidence during the course of the Charities and Trustee Investment (Scotland) Bill. Certainly the petition raises the general issue about a charity that is registered in England and Wales fundraising in Scotland, which was raised with the committee on its informal visits throughout Scotland. We should return to that subject when we consider the bill in greater detail. Given that we will start to do that within the next few weeks, it would be more appropriate to discuss the general issues then rather than today.

Mary Scanlon (Highlands and Islands) (Con):

I note that the petition calls on us to ensure that

"the JNF Charitable Trust, and similar organisations, will not continue to benefit from charitable status in Scotland."

We are at the beginning of scrutiny of the Charities and Trustee Investment (Scotland) Bill, but it is not for the committee to decide which organisations have charitable status in Scotland. We must put out a clear message about that, otherwise we could be inundated with such petitions. It is the Office of the Scottish Charity Regulator's role to deal with such issues.

During my bedtime reading of the bill's policy memorandum, I noted that it says:

"the final Bill ... only requires charities with significant operations in Scotland to register with OSCR. All charities either managed or controlled from Scotland or with significant operations ... in Scotland will have to register".

Therefore, I do not think that we need to go any further with the petition. It is an interesting petition and it is good that the wider aspects that we heard about when we went on our pre-legislative visits have been brought to our attention. However, at this point, I do not think that we should take any action on the petition; we should leave that to OSCR.

Patrick Harvie: I agree that it would be inappropriate for us to take any position on a specific organisation and its right to charitable status. However, we could make a point of considering and discussing with stage 1 witnesses whether exclusions on the ground of involvement in specific activities should be worked into the bill.

Donald Gorrie (Central Scotland) (LD): I support what Scott Barrie said. When we study the bill, we should take evidence on the United Kingdom charity and Scottish charity issue.

There is also Patrick Harvie's point that although a charity might appear to have worthy aims, what happens in practice might not be so good, which is the allegation in the petition. Without judging the individual case, perhaps we should consider whether the bill should give guidance to OSCR on how far it should take investigations into allegations that a charity's activities give rise to a political problem. That issue should also be included in our examination of the bill.

Christine Grahame: I support Patrick Harvie and Donald Gorrie. The issues can be appropriately dealt with when we are considering stage 1 of the bill and discussing and taking evidence on the definition of charitable purpose. Perhaps we should also consider OSCR's role in monitoring subsequent charities that are set up to see whether their activities differ from the initial operation. I make no comment on the charity

mentioned in the petition, just a general comment that that would be more appropriate.

Mr Home Robertson: I think that we have a rare consensus on the committee.

It would be entirely improper for the committee to make judgments about individual charities, but the petition might raise an interesting point of which OSCR might need to take account. If a charity has charitable purposes but does other things that might appear not to be charitable, that ought to be taken into account and we need to devise a system to deal with that. It is timely that the point has been drawn to our attention.

The Convener: I am grateful to all colleagues for their comments. There seems to be a consensus.

Two main relevant points arise as a result of the petition. The operating conditions in Scotland for charities registered in England and Wales were raised with the committee during its early evidence sessions. The other point is about the charity test.

I suggest that we agree to ensure that those two points are taken into account when we take oral evidence on the bill, and that we formally close consideration of the petition. In the meantime, we will write to the petitioner to indicate that we have decided to take that course of action. Are we agreed?

Members *indicated agreement.*

The Convener: Our next item of business is the draft report to the Finance Committee on the Scottish Executive budget for 2005-06, which will be taken in private.

10:13

Meeting continued in private until 11:11.

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