

JUSTICE 1 COMMITTEE

Wednesday 14 June 2006

Session 2

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JUSTICE 1 COMMITTEE

23rd Meeting 2006, Session 2

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Stewart Stevenson (Banff and Buchan) (SNP)

COMMITTEE MEMBERS

*Marlyn Glen (North East Scotland) (Lab)
*Mr Bruce McFee (West of Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
*Mrs Mary Mulligan (Linlithgow) (Lab)
*Mike Pringle (Edinburgh South) (LD)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)
Bill Aitken (Glasgow) (Con)
Karen Gillon (Clydesdale) (Lab)
Mr Jim Wallace (Orkney) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Hugh Henry (Deputy Minister for Justice)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERKS

Euan Donald
Douglas Wands

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 5

Scottish Parliament

Justice 1 Committee

Wednesday 14 June 2006

[THE CONVENER *opened the meeting at 09:49*]

Item in Private

The Convener (Pauline McNeill): I open the 23rd meeting this year of the Justice 1 Committee. We have not received any apologies this morning; I believe that Margaret Mitchell and Mary Mulligan will be joining us shortly.

Under item 1, I ask members to agree to take in private item 4, which is consideration of the committee's draft stage 1 report on the Criminal Proceedings etc (Reform) (Scotland) Bill, and to agree to consider subsequent drafts in private. Is that agreed?

Members *indicated agreement.*

Subordinate Legislation

Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2006 (draft)

09:50

The Convener: Item 2 is subordinate legislation. I welcome Hugh Henry, Deputy Minister for Justice, who is accompanied by Anne Cairns, from the office of the solicitor to the Scottish Executive, and Christina Phillips, from the Scottish Executive's Justice Department.

I invite the deputy minister to make a short opening statement on the draft Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2006 and then to move motion S2M-4472.

The Deputy Minister for Justice (Hugh Henry): The draft order makes consequential amendments to primary legislation to take account of civil partners. The Civil Partnership Act 2004 came into force throughout the United Kingdom in December 2005 and gave couples who have entered into a civil partnership rights and duties towards each other on the same basis as married couples.

Schedule 28 to the 2004 act set out the required consequential amendments to Scottish primary legislation to take account of civil partnerships. The amendments pick up instances where spouses have particular rights or responsibilities and, where appropriate, extend them to civil partners.

Given the extent to which the status of marriage is embedded in existing legislation, schedule 28 has not picked up every instance where a consequential amendment is required. The draft order before the committee provides for consequential amendments to be made to the Agricultural Holdings (Scotland) Act 1991 and the Title Conditions (Scotland) Act 2003 to include references to civil partners, as appropriate.

I move,

That the Justice 1 Committee recommends that the draft Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2006 be approved.

The Convener: The draft order is fairly straightforward. I suppose that we will be dealing with consequential amendments in relation to the Civil Partnership Act 2004 for some time, until we ensure that we have included all the relevant acts.

Hugh Henry: Yes. As and when we identify areas that have been inadvertently missed, we will rectify them, as we have done here.

Motion agreed to.

The Convener: Thank you. That was short and sweet for a change.

Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment) 2006 (SSI 2006/295)

The Convener: I refer members to the note prepared by the clerks in relation to the Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment) 2006. Do any members wish to comment on the instrument?

Stewart Stevenson (Banff and Buchan) (SNP): I note the letter from the legal secretary to the Lord President, which draws to our attention the fact that

“The overall increase of 4% reflects the increase in the Notional Average Earnings Index.”

Given that the fees are, to some extent, related to the costs that are incurred, rather than to the earnings that are derived for solicitors, I remain somewhat malcontent that we pass such instruments automatically, just because the fees are aligned with the average earnings index. I say all that not because I wish to take action against the instrument, but because I want to put on the record the fact that I think that this is a relatively unsatisfactory basis on which to be doing things. Lawyers, like everybody else, should be seeking to do things more efficiently and we should be seeing savings to the public purse on the basis of their doing so.

The Convener: By and large, the fees do not affect the public purse. The instrument is about fees that can be claimed. I suppose it depends what side of the argument one is on and whether one is claiming expenses or paying them.

There are no other comments, so we will note Stewart Stevenson’s comment; he is quite correct that we should not simply pass such instruments without scrutinising them. However, we are all satisfied that we understand where the increase has come from. We certainly welcome the fairly lengthy explanation from the legal secretary to the Lord President, which I am sure also responds to the questions that Stewart Stevenson has asked in the past. We now have a full answer, which I welcome.

Are members happy simply to note the instrument?

Members indicated agreement.

The Convener: Members agreed earlier to take item 4 in private.

09:55

Meeting continued in private until 13:12.

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