

JUSTICE COMMITTEE

Tuesday 10 March 2009

Session 3

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JUSTICE COMMITTEE **8th Meeting 2009, Session 3**

CONVENER

*Bill Aitken (Glasgow) (Con)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)

*Angela Constance (Livingston) (SNP)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Nigel Don (North East Scotland) (SNP)

*Paul Martin (Glasgow Springburn) (Lab)

*Stewart Maxwell (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Aileen Campbell (South of Scotland) (SNP)

John Lamont (Roxburgh and Berwickshire) (Con)

Mike Pringle (Edinburgh South) (LD)

Dr Richard Simpson (Mid Scotland and Fife) (Lab)

*attended

THE FOLLOWING GAVE EVIDENCE:

Michael Carey (Scottish Government Legal Directorate)

CLERK TO THE COMMITTEE

Douglas Wands

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Andrew Proudfoot

LOCATION

Committee Room 6

Scottish Parliament

Justice Committee

Tuesday 10 March 2009

[THE CONVENER *opened the meeting at 10:22*]

Subordinate Legislation

Police Grant (Variation) (Scotland) Order 2009 (SSI 2009/41)

Police Grant (Revocation and Variation No 2) (Scotland) Order 2009 (SSI 2009/55)

The Convener (Bill Aitken): Good morning, ladies and gentlemen. I remind everyone that mobile phones should be switched off. There being a full turnout of committee members, there are no apologies.

Item 1 is consideration of two negative instruments. The Subordinate Legislation Committee drew the orders to the attention of the Justice Committee on the ground that the Police Grant (Variation) (Scotland) Order 2009 (SSI 2009/41) was defectively drafted. As a result, it was revoked by the Scottish Government and replaced by the Police Grant (Revocation and Variation No 2) (Scotland) Order 2009 (SSI 2009/55), which is satisfactory.

Scottish Government officials have been invited to attend the meeting and answer questions on the orders. I welcome Stephen Woodhouse, head of resources and performance in the police division; Gordon McNicoll, head of the solicitors criminal justice, police and fire division; and Michael Carey, from the solicitors business division of the legal directorate. Thank you for attending, gentlemen. Who is going to explain the error?

Michael Carey (Scottish Government Legal Directorate): Good morning. I can offer an explanation. The error was due to a problem with version control rather than the drafting of the order. There are internal systems for handling instruments throughout the drafting process, ensuring quality control and carrying out various checks. The version of the Police Grant (Variation) (Scotland) Order 2009 that was subject to those various checks was not the one that was laid. That was because there were two versions of the order in the system when there should have been only one. We should have avoided that regrettable error. I apologise for it and advise the committee that, since the error was drawn to our attention, steps have been taken to ensure that such errors will be avoided in future as far as possible.

The Convener: Remember that you are speaking to someone whose technological knowledge is somewhat challenged, to say the least. Basically, the computer record was duplicated. One version was the incorrect version, which was still live on the computer, and the second was the correct one. Reference was made to the wrong one when the order was finalised. Is that correct?

Michael Carey: Yes. An old version was laid when the new version, which had been subject to all the internal checks, should have been laid. The old version should have been deleted and should not have been in our internal system.

The Convener: I assume that the step that you have taken to prevent a repetition is to delete the old and incorrect version from the system altogether.

Michael Carey: Absolutely. We will do all that we can to ensure that the system operates properly so that only one version of an instrument makes its way through the various processes and checks.

Robert Brown (Glasgow) (LD): I understand that the Government is laying SSI 2009/41 then immediately revoking it and laying SSI 2009/55. Is that right or have I misunderstood?

Michael Carey: We are revoking the order with the error in it immediately so that it will never come into force. It is being replaced immediately by the version of the order that corrects the figure that was incorrect.

Robert Brown: Is it necessary to revoke SSI 2009/41, given that it is still making its way through the process and the timescale for objections has not yet ended?

Michael Carey: Yes. We took the view that it was necessary to revoke the order with the error in it. Alternatively, we could have amended it, but it was decided that it would be neater to revoke entirely the order that contains the error.

Robert Brown: Do we have any indication of how much it costs the Government to redo such an instrument in this way?

Michael Carey: There is a cost to the Government in that the correcting order is issued free of charge to all known recipients of the original order. An italic headnote across the top of the revocation order makes that clear. The cost to the Government of doing that is low because, as I understand it, there are now few purchasers of hard copies of subordinate legislation. I think that something like 30 purchasers buy hard-copy instruments by subscription; there may be more purchasers for individual instruments, but most people now access the material online.

There is a cost, but I do not expect that it is high.

The Convener: As the error involved a discrepancy of £700,000, the cost would have been an awful lot higher if it had not been picked up.

Michael Carey: Indeed.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): You said to Robert Brown that most people who require the order will access it online. I take it that, if somebody looks for it, SSI 2009/41 will not be online at all.

Michael Carey: It will be clear that it has been revoked and replaced by another order. That is a matter for OPSI—I cannot remember exactly what that stands for; Her Majesty's Stationery Office as was. As far as I am aware, OPSI ensures that an instrument that has been revoked is clearly labelled as such, although it still publishes the instrument because it has been made and has had legal effect at some point.

Cathie Craigie: Is that not an awfully complicated way to go about it? Would it not have been easier just to amend SSI 2009/41?

Michael Carey: The amendment order would have been subsequent to the order with the error in it, which would still have been on the OPSI website because it is not a consolidated website.

Bill Butler (Glasgow Anniesland) (Lab): What is a consolidated website?

Michael Carey: Subordinate legislation—indeed, all legislation—is made available online as it is made. It is possible to consolidate it—that is, to produce a version of subordinate legislation that takes account of the various amendments to it. Various websites—some commercial and some public—make such versions available with varying degrees of accuracy.

Bill Butler: So you mean a website that provides subordinate legislation that has been consolidated rather than a consolidated website.

Michael Carey: Yes.

The Convener: As there are no more questions, are committee members content to note the orders?

Members indicated agreement.

The Convener: I thank the officials for attending. This is the second time recently that we have had such a problem. I hope that there will not be too many repeats.

Michael Carey: Thank you. We take quality control of Scottish statutory instruments very seriously. We will think carefully about what the committee said and do everything that we can to continue to keep the level of errors to the very minimum.

10:31

Meeting suspended.

10:31

On resuming—

Arrestment Jurisdiction (Scotland) Order 2009 (SSI 2009/66)

The Convener: Item 2 is consideration of two negative instruments. The first is the Arrestment Jurisdiction (Scotland) Order 2009 (SSI 2009/66). The Subordinate Legislation Committee raised no points on the order. Do committee members have any questions on it?

Robert Brown: I have one query, which might not be answerable. Is the order in line with what takes place in other situations? There is an oddity in having one sheriff court make a decree or document of debt but having another deal with an application under the order. No doubt it is something to do with the debtor's convenience, which I can understand. Do the original case papers have to be transmitted from one sheriff court to another? Do procedural complications of that sort cause hassles?

The Convener: It is clear that the intention of the order is administrative convenience. Obviously, it would be most convenient for one of the parties to the action. As you have said, it might be necessary to transfer case papers from time to time, but that is not a significant point.

Is the committee content to note the order?

Members indicated agreement.

Diligence (Scotland) Regulations 2009 (SSI 2009/68)

The Convener: The Subordinate Legislation Committee raised no points on the regulations. Is the committee content to note them?

Members indicated agreement.

Sexual Offences (Scotland) Bill

The Convener: The committee will now move into private session.

10:33

The Convener: The purpose of agenda item 3 is to seek approval for the order of consideration of the Sexual Offences (Scotland) Bill at stage 2. Committee members will be aware that we will have a private meeting with the Cabinet Secretary for Justice later this morning. The thinking behind the motion is that, as described in the papers that have been issued for that private meeting, the Government will need to introduce certain amendments. That is why there is a slight change in the proposed order of consideration.

I move,

That the Justice Committee considers the Sexual Offences (Scotland) Bill at Stage 2 in the following order: sections 1 to 8, section 13, sections 9 to 12, sections 14 to 37, schedule 1, section 38, schedule 2, sections 39 to 42, schedule 3, sections 43 to 48, schedules 4 and 5, section 49 and the long title.

Motion agreed to.

10:34

Meeting continued in private until 11:43.

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