

LOCAL GOVERNMENT COMMITTEE

Tuesday 25 March 2003
(Afternoon)

Session 1

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LOCAL GOVERNMENT COMMITTEE

9th Meeting 2003, Session 1

CONVENER

*Trish Godman (West Renfrew shire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

*Mr Keith Harding (Mid Scotland and Fife) (Con)

Tricia Marwick (Mid Scotland and Fife) (SNP)

*Dr Richard Simpson (Ochil) (Lab)

Iain Smith (North-East Fife) (LD)

Ms Sandra White (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Robert Brown (Glasgow) (LD)

Angus MacKay (Edinburgh South) (Lab)

John Young (West of Scotland) (Con)

*attended

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Ruth Cooper

ASSISTANT CLERK

Neil Stewart

LOCATION

Committee Room 4

Scottish Parliament

Local Government Committee

Tuesday 25 March 2003

(Afternoon)

[THE CONVENER *opened the meeting at 14:03*]

The Convener (Trish Godman): Okay, comrades, we can start. This is the last meeting of the Local Government Committee this session and, surprisingly, it will be a very short meeting—I hope.

Subordinate Legislation

The Convener: We have only one item on the agenda, which is consideration of subordinate legislation. There are 14 negative Scottish statutory instruments to consider—there were so many of them that we have not included them all with the agenda. However, all the SSIs were sent to members when they were referred to the committee, and we have some spare copies if they are required. Members may comment on the instruments and I will then put the question. It is not possible to disagree to any of the instruments, because no motions to annul have been lodged. I assume that members have read all the instruments and know what they are about.

Ethical Standards in Public Life etc (Scotland) Act 2000 (Devolved Public Bodies) Order 2003 (SSI 2003/119)

Ethical Standards in Public Life etc (Scotland) Act 2000 (Stipulated Time Limit) Order 2003 (SSI 2003/122)

Non-Domestic Rate (Scotland) Order 2003 (SSI 2003/123)

Ethical Standards in Public Life etc (Scotland) Act 2000 (Register of Interests) Regulations 2003 (SSI 2003/135)

Council Tax (Liability of Owners) (Scotland) Amendment Regulations 2003 (SSI 2003/137)

Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Amendment Regulations 2003 (SSI 2003/138)

Non-Domestic Rating (Rural Areas and Rateable Value Limits) (Scotland) Amendment Order 2003 (SSI 2003/141)

Non-Domestic Rating (Former Agricultural Premises) (Scotland) Order 2003 (SSI 2003/142)

Valuation (Stud Farms) (Scotland) Order 2003 (SSI 2003/143)

The Convener: Does the committee agree that it has no recommendation to make on the instruments?

Members *indicated agreement.*

Cinematograph (Safety) (Scotland) Amendment Regulations 2003 (SSI 2003/144)

Dr Richard Simpson (Ochil) (Lab): In its 24th report of 2003, the Subordinate Legislation Committee said that the regulations represented the fifth amendment of the principal regulations and asked the Executive what plans it had for consolidation. Did the Executive respond?

Eugene Windsor (Clerk): The Subordinate Legislation Committee received a reply.

The Convener: The Executive's response is at appendix 4 of that report. The report states that

“as these are the fourth set of amendments and do not introduce substantive changes, it was not considered necessary to consolidate. **The Committee accepts the**

Executive's explanation, drawing it to the attention of the lead committee and the Parliament."

Does the committee agree that it has no recommendation to make on the regulations?

Members indicated agreement.

Council Tax (Supply of Information) (Scotland) Regulations 2003 (SSI 2003/147)

Non-Domestic Rates (Levying) (Scotland) Regulations 2003 (SSI 2003/160)

The Convener: Does the committee agree that it has no recommendation to make on the instruments?

Members indicated agreement.

Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003 (SSI 2003/176)

The Convener: Members have a paper on students and the council tax from Ann Thomson, who is the head of the Executive's local taxation branch. The Subordinate Legislation Committee has a problem with the order. With respect to students and the council tax, the committee says:

"The restricted category of student for the purpose of the disregard operates as an overt discrimination against EU students and Scottish students studying abroad."

However, the committee also notes

"that the previous Order predated changes to the Treaty affecting the free movement provisions ... as the Court noted in the cases"

listed in the committee's report, and goes on to say that

"the law has moved on."

The Subordinate Legislation Committee says that European Union students who study here are subject to positive discrimination because they are disregarded for council tax purposes, but a student who studies abroad and whose home address is here is not disregarded. The opinion of the legal experts is that the order raises a devolution issue, because it is outwith EU law. That is how the law stands, but it has not been challenged. There are students from Scotland studying abroad and there are EU students here.

Members could agree to write to the Executive with our comments on the order; alternatively, we could ask the Executive to revoke it or we could just agree that we have no recommendation to make.

Dr Simpson: There has not been a case of a Scottish student studying abroad where the local authority has determined that their main residence is in Scotland and charged them council tax.

The Convener: That may have happened, but we know that the law has not been challenged.

Mr Keith Harding (Mid Scotland and Fife) (Con): I think that there is a flaw in the Executive's advice, because it is my understanding that there are no exemptions in France. A student from Scotland studying in France will be liable for council tax in France, which puts them at a disadvantage.

The Convener: The converse is that, under the order, a French student over here would be disregarded.

Mr Harding: We are here to safeguard our own students.

The Convener: The law has never been challenged.

Mr Harding: In France there are no discounts or reductions. If people have a property there, they pay the full council tax, regardless of whether they live there.

The Convener: We have two pieces of legal advice; one is from the Executive and the other is from the Parliament's adviser to the Subordinate Legislation Committee. It is a question of which we believe. I do not think that I have the wherewithal to know who is right and who is not. There is a question about the order that needs to be addressed. If we agree that we have no recommendation to make, I take it that the matter will continue in another place. [*Interruption.*] I have been advised that it will not.

Mr Harding: I think that you will find that there are different rules throughout the EU as regards discounts.

The Convener: There is a question mark over the legal advice, because we have been given one set of legal advice through the Subordinate Legislation Committee and another through the Executive. We have to decide whether we simply agree that we have no recommendation to make on the order and leave the matter to be sorted out elsewhere.

Mr Harding: All countries have council taxes, although they have different names. We need to know which countries exempt students from those taxes, because some do while others do not.

The Convener: Once the Executive agrees on a legal position, it can lodge an amending order, even if we agree that we have no recommendation to make today. Do we agree that we have no recommendation, in the knowledge that such an amendment would be made later if necessary?

Members indicated agreement.

**Ethical Standards in Public Life etc
(Scotland) Act 2000 (Register of Interests)
Amendment Regulations 2003
(SSI 2003/203)**

The Convener: There have been no comments on the regulations from the committee. I ask the committee to agree that it has no recommendation to make on the regulations.

Members *indicated agreement.*

The Convener: Thank you. That is the end of the committee meeting. I thank you all for your attention over the past four years. Three of us have lasted four years, including the clerks, of course. Four years ago, Eugene Windsor did not have the colour of hair that he has now; he was a nice blond young man then, but his hair has gone dark. Thank you and see you next time.

Meeting closed at 14:13.

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