

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 7 September 1999  
*(Morning)*

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## SUBORDINATE LEGISLATION COMMITTEE

### 3rd Meeting

#### CONVENER :

\*Mr Kenny MacAskill (Lothians) (SNP)

#### COMMITTEE MEMBERS :

\*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

\*Trish Godman (West Renfrewshire) (Lab)

\*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)

\*Bristow Muldoon (Livingston) (Lab)

David Mundell (South of Scotland) (Con)

\*Ian Welsh (Ayr) (Lab)

\*attended

#### COMMITTEE CLERK:

Alasdair Rankin

#### ASSISTANT CLERKS:

Claire Menzies

Anne Peat



# Scottish Parliament

## Subordinate Legislation Committee

Tuesday 7 September 1999

(Morning)

[THE CONVENER opened the meeting at 11:19]

**The Convener (Mr Kenny MacAskill):** We have two agendas today: an agenda and a supplementary agenda. We have had the benefit of both written and oral legal advice and, without further ado, we can begin.

### Food (Animals and Animal Products from Belgium) (Emergency Control) (No 2) (Scotland) Order 1999 (SSI 1999/32)

**The Convener:** Various matters regarding the first item have been flagged up by legal advice and some recommendations have been given to us in writing. Does anybody wish to make a representation on what we should do regarding this item? I do not think that there are any fundamental problems, but there are matters that we may wish to raise.

**Bristow Muldoon (Livingston) (Lab):** There are two matters that we should draw to the attention of the Executive. First, both this statutory instrument and SSI 1999/33 are slightly deficient. In neither does subsection 1(1) state the date on which the orders should have come into force. Secondly, the Executive did not provide a 21-day rule letter to the Presiding Officer, explaining why the orders came into force before being laid before the Parliament.

**The Convener:** I can understand that the Executive might wish to leave the date blank until the relevant minister has signed the order, but it would be a courtesy if the Executive were to attach a note, explaining that the order will be signed by the minister and what the date will be. Otherwise, it is extremely sloppy as it seems perfectly reasonable that this committee should know the relevant date.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I ask that two matters be raised with the Executive. First, could we have an explanation as to why SSI 1999/32 was made on 19 August, came into force on 20 August, but was not laid before the Scottish Parliament until 30 August? Could the Executive explain the delay?

Secondly, paragraph 3 of the same order states:

“no person shall carry out commercial operations with respect to any relevant animal or animal product.”

However, there is no definition of the phrase “commercial operations” in the statutory instrument. There may be a definition in the head statute, the Food Safety Act 1990. It would be helpful, especially given that it is a matter that involves criminality, if the committee were told whether there is a definition of that phrase in the act and, if there is not, whether there should be one in the statutory instrument. In that respect, it would be helpful if members of the committee were to have access to current law statutes. I understand that statutes prior to 1998 are not available in the Parliament’s information centre, which must make life difficult for those of us who do not have our own set.

**Bristow Muldoon:** A further, minor point is that in SSI 1999/33 there is an omission in the explanatory note—it should refer to SSI 1999/15. It is covered elsewhere in the statutory instrument.

**The Convener:** There are four points to be canvassed with the Executive regarding SSI 1999/32: the fact that there is no letter to the Presiding Officer, the failure to refer to the commencement date, the two points raised by Fergus about the delay between making and laying the order, and the definition of commercial operations.

More generally, we are asking at what point in the process we will be allowed to scrutinise fully the statutory instruments. For that, we need access to current law citations. Even if some time scale is given, we have all experienced the difficulties that the information technology department is having in a variety of matters. This one appears to us to be very important, however. I had understood that some arrangements might be made to allow us to use the Writers to the Signet library just around the corner. The bottom line should be that, if we cannot get access to information electronically, we should be granted access to one of the three substantial law libraries that are within 250 yards of this building.

**Fergus Ewing:** On that point, convener, I should declare an interest. I have a set of current law statutes, and I surmise that you do too. In the spirit of non-partisan co-operation and fairness, it would be extremely unfair if only the Scottish National party members of this committee were to have access to them.

**Ian Welsh (Ayr) (Lab):** Or only the lawyers.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** You two could bring them in every week and let us have a look at them. [Laughter.]

### **Animal Feedingstuffs from Belgium (Control) (No 2) (Scotland) Regulations 1999 (SSI 1999/33)**

**The Convener:** Item 2 on the agenda is paper SL/99/3/2, which deals with animal feedingstuffs from Belgium. The concerns that were flagged up for the first item on the agenda apply here too, as does Bristow's point about the omission in the explanatory note. Are there any other concerns apart from those? If not, the clerk will write one letter, which will deal with items 1 and 2 together and with the matter relating to the explanatory note.

### **Spreadable Fats (Marketing Standards) (Scotland) Regulations 1999 (SSI 1999/34)**

**The Convener:** Let us move on to the supplementary agenda and to paper SL/99/3/3 on spreadable fats. No specific points were raised with us by the legal office. Are there any points that members want to raise? I understand that that it is a negative instrument.

**Fergus Ewing:** Which instrument is this?

**The Convener:** SSI 1999/34. It is about the contents of margarine. No points to be raised? All right.

### **Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) Revocation (Scotland) Order 1999 (SSI 1999/41)**

**The Convener:** The next item is paper SL/99/3/4, concerning amnesic shellfish poisoning on the east coast. No specific issues were raised by the legal advice, but questions were raised regarding delays.

**Fergus Ewing:** SSI 1999/41 is a revocation order of the previous Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (Scotland) Order 1999. This instrument was made on 26 August and came into force at 4 o'clock in the afternoon of 26 August, but it was not laid before the Scottish Parliament until 3 September, around a week later. I think the Executive should explain why there was such a long gap, especially when we consider that this order was a revocation, lifting a ban on scallop fishing.

I would also be grateful if the Executive could state when and how it made known to those involved—namely, the fishermen, especially on the west coast of Scotland and the islands—when the revocation became effective. Will the Executive make available to this committee a copy

of the press release, or other method of communication, that stated the revocation of that ban?

**The Convener:** In our earlier meeting, we wondered how information about shellfish and any other matters would be relayed to interested parties. Perhaps we could ask the Executive to let us know—in case people ask us how they are supposed to know about something that has only been tabled and intimated to them belatedly.

**Ian Jenkins:** Fergus, this item refers to the east coast, not the Highlands and Islands.

**Fergus Ewing:** Yes, you are quite right.

### **Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (No 2) (Scotland) Order 1999 (SSI 1999/42)**

**The Convener:** Paper SL/99/3/5 concerns Orkney. As with the orders dealing with discussion on products from Belgium, the date has been omitted. Here again, I think we need clarification. It is also fair to say that Fergus's previous point about the delay before the order was laid before Parliament is again relevant. We need clarification as to why there was a delay.

**Trish Godman (West Renfrewshire) (Lab):** In this order no date and no hour is given for when the order would come into force.

### **Scottish Executive Response (Paper SL/99/3/6)**

**The Convener:** This is a matter that we canvassed with the Scottish Executive and we have received a written response. I do not know whether that satisfies the committee. It seems to be something that we will have to revisit at some future stage, given that the Executive is not in a position to clarify matters fully. It may be best simply to note that and to await hearing from them in due course.

That brings matters to a conclusion. Apparently, in this committee we are not supposed to discuss any other competent business and I am not supposed to put it on the agenda. However, that issue may be canvassed in the conveners group.

*Meeting closed at 11:32.*

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