

SUBORDINATE LEGISLATION COMMITTEE

Monday 29 November 1999
(*Afternoon*)

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SUBORDINATE LEGISLATION COMMITTEE

12th 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

Monday 29 November 1999

(Afternoon)

[THE CONVENER *opened the meeting at 14:45*]

The Convener (Mr Kenny MacAskill): I have apologies from Fergus Ewing, David Mundell and Trish Godman. Ian Welsh has advised us that he might be delayed.

Abolition of Feudal Tenure etc (Scotland) Bill

The Convener: Some points were raised at the previous meeting about the Abolition of Feudal Tenure etc (Scotland) Bill, in particular about section 5(1). That point was drawn to the attention of the Executive, which has responded to us. The legal briefing suggests that we draw the attention of the Parliament to the explanation given, which fully clarifies matters, and advise that we are content with the use of the powers and procedures. Is that acceptable?

Members indicated agreement.

The Convener: The suggestion is the same for section 20, although our lawyer, Margaret Macdonald, has advised that the Executive has accepted our position. We are grateful that it has generously taken on board the points that we raised. Again, this is a matter that we should draw to the attention of Parliament, but we are perfectly satisfied with it.

On section 74—the Henry VIII powers, which we flagged up—it is suggested again that, in view of the undertaking given by the Executive, this is an acceptable compromise and that we should alert the Parliament and the lead committee to the proposed amendment. Is that agreed?

Bristow Muldoon (Livingston) (Lab): The proposed change of moving to affirmative procedures is welcome.

Adults with Incapacity (Scotland) Bill

The Convener: Sections 2(7) and 9 of the Adults with Incapacity (Scotland) Bill concern rules of court about which various points have been raised. We are grateful for the explanation that is given. It is more a matter of policy as to whether matters are dealt with by a rule of court or through

legislation. Perhaps we could flag that up for the lead committee to discuss. We can formulate our own views as individuals.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): The Justice and Home Affairs Committee will want to be aware of that.

The Convener: On sections 5, 34, and 58(11) it is suggested that we should draw the attention of Parliament and the lead committee to the Executive's response. Is that agreed?

Members indicated agreement.

The Convener: Paragraph 1 of schedule 6 also relates to the matter of the rules of court, which we are noting, drawing to the attention of Parliament, and flagging up.

Council Tax (Exempt Dwellings) (Scotland) Amendment (No 2) Order 1999 (SSI 1999/140)

The Convener: Moving on to Executive responses on statutory instruments, there was a delay over SSI 1999/140 for which the Executive has held up its hands. We are grateful for that. Is it agreed that we should draw the attention of Parliament to this statutory instrument?

Members indicated agreement.

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (Partial Revocation) (No 2) (Scotland) Order (SI 1999/141)

The Convener: The position is similar for SSI 1999/141.

Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) (No 2) Order 1999

The Convener: This is one of the unusual matters filtering through. Are there any comments?

Bristow Muldoon: The only thing to note is that there appear to be different procedures for different bills that began before the Scotland Act 1998 was enacted. We could do with some consistency of approach.

The other question is whether, as a general principle, we want many acts on devolved matters to be initiated by Westminster. This is a minor issue, but we might wish more substantial matters to be dealt with through the Scottish Parliament.

The Convener: I wholeheartedly concur. We are grateful for the lawyer's explanation of how it happened. I have some sympathy, as I would not want to legislate twice over on the breeding and sale of dogs or whatever.

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (No 3) (Scotland) Partial Revocation Order 1999 (SSI 1999/144)

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No 3) (Scotland) Partial Revocation Order 1999 (SSI 1999/145)

The Convener: Moving now to instruments not subject to parliamentary procedure, legal advice is that there is nothing in these instruments to which we should draw the attention of the lead committee.

Correspondence

The Convener: Our final item is the letter to the Minister for Parliament. In our pre-meeting, we noted that, rather than deal with this matter piecemeal, it might be better to wait until we are better represented and have received a fuller response on issues outstanding. Is that agreed?

Members *indicated agreement.*

Meeting closed at 14:51.

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