

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 11 January 2000
(Morning)

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2000.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 11 January 2000

	Col.
CONTAMINANTS IN FOOD AMENDMENT (SCOTLAND) REGULATIONS 1999 (SSI 1999/171).....	79
BUILDING STANDARDS AND PROCEDURE AMENDMENT (SCOTLAND) REGULATIONS 1999 (SSI 1999/173).....	79
BREEDING OF DOGS (LICENSING RECORDS) (SCOTLAND) REGULATIONS 1999 (SSI 1999/176)	80
SALE OF DOGS (IDENTIFICATION TAG) (SCOTLAND) REGULATIONS 1999 (SSI 1999/177)	80
BEEF BONES (SCOTLAND) REGULATIONS 1999 (SSI 1999/186)	80
HILL LIVESTOCK (COMPENSATORY ALLOWANCES) (SCOTLAND) REGULATIONS 1999 (SSI 1999/187)	81
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (AMNESIC SHELLFISH POISONING) (WEST COAST) (No. 2) REVOCATION (SCOTLAND) ORDER 1999 (SSI 1999/167)	82
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (AMNESIC SHELLFISH POISONING) (WEST COAST) (No. 3) REVOCATION (SCOTLAND) ORDER 1999 (SSI 1999/168)	82
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (AMNESIC SHELLFISH POISONING) (WEST COAST) (No. 3) PARTIAL REVOCATION (SCOTLAND) ORDER 1999 (SSI 1999/169).....	82
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (AMNESIC SHELLFISH POISONING) (WEST COAST) (No. 4) PARTIAL REVOCATION (SCOTLAND) ORDER 1999 (SSI 1999/170).....	83

SUBORDINATE LEGISLATION COMMITTEE

1st Meeting 2000 (Committee Room 3)

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)

*attended

COMMITTEE CLERK:

Alasdair Rankin

ASSISTANT CLERKS:

Claire Menzies

Anne Peat

Scottish Parliament

Subordinate Legislation Committee

Tuesday 11 January 2000

(Morning)

[THE CONVENER opened the meeting at 11:15]

The Convener (Mr Kenny MacAskill): Good morning and a good new year to everybody. We have no members of the public with us. I intimate apologies from Ian Jenkins, who has another committee meeting that clashes with this one.

Contaminants in Food Amendment (Scotland) Regulations 1999 (SSI 1999/171)

The Convener: I do not know whether the committee wishes to draw any points to the attention of the Executive. There was a delay in bringing the matter to the committee.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): A good new year to everybody.

I wanted to draw the committee's attention to the fact that although there has been a breach of the 21-day rule, the rural affairs department has apologised for that. We are pleased that that department has started the new year in contrite form. It is not an example that has been followed by Susan Deacon, who appears to have signed the regulations.

Perhaps of more importance is the fact that the Executive has had six months to implement these relatively minor regulations. I would like to ask the Executive whether there are any other EU regulations that should have been implemented but have not been and, if so, could they be drawn to our attention as a matter of urgency?

The Convener: Is that agreed?

Members indicated agreement.

Building Standards and Procedure Amendment (Scotland) Regulations 1999 (SSI 1999/173)

The Convener: On SSI 1999/173, it was remiss of me not to mention that it is intended that it will be taken as read that minor typographical errors will be intimated by our clerks directly to the Executive. There are some such errors in this instrument. Is it agreed that we will have those

matters drawn to the Executive's attention and that we do not need to do so formally?

Members indicated agreement.

Breeding of Dogs (Licensing Records) (Scotland) Regulations 1999 (SSI 1999/176)

Sale of Dogs (Identification Tag) (Scotland) Regulations 1999 (SSI 1999/177)

The Convener: Scottish statutory instruments 1999/176 and 1999/177 can be taken together. I believe that Fergus Ewing wishes to raise a point about consultation.

Fergus Ewing: The Executive note indicates that, through the Convention of Scottish Local Authorities, the Executive consulted local authorities on the contents of the regulations. The note does not state that there was any consultation with private sector bodies such as breeders or breeders' associations, although the Executive indicates that local authorities might decide to increase fees to secure implementation of the regulations. The note goes on to say that the Executive thinks that most breeders already comply with the regulations. That raises a question about why breeders should have to pay such fees. That matter should be raised with the Executive and, perhaps, the lead committee.

The Convener: Is that agreed?

Members indicated agreement.

Beef Bones (Scotland) Regulations 1999 (SSI 1999/186)

The Convener: There are various issues with regard to SSI 1999/186. I believe that Fergus has a point to make about European Union clearance.

Fergus Ewing: We have an extremely helpful note from our clerk, which informs us that while the original beef bones regulations were notified to the EU, it is not clear whether that procedure has been followed in respect of the amended regulations. Given the political sensitivity of the issue, I imagine that everyone would agree that it is important to ensure that all technical requirements are observed to the letter. I would hope that the Executive could, therefore, clarify that matter.

I would also like to raise the issue of the mode of drafting. My understanding—from the ministerial statement on the lifting of the beef-on-the-bone

ban—was that the ban was to be lifted with minor exceptions. The way in which the regulations have been drafted suggests that the ban remain in place with minor exceptions. Perhaps, for ease of drafting, the initial regulations have been used as a model and have simply been revised. I wonder whether that is the wrong drafting policy and whether the Executive will review that, especially given the considerable interest in the matter.

The Convener: In regard to regulations 8(3) and 8(4), I would welcome clarification on why there appears to be a limitation on prosecution of three years after commission of an offence. There might be a good reason for that, but it would be useful to know why we are introducing that in the regulations, whether it will be common in related regulations and what the justification is for having a specified limitation as opposed to leaving matters to common law and to normal statutes of limitations.

Trish Godman (West Renfrewshire) (Lab): The regulations seem to be confusing. That might stem from the fact that—as Fergus has pointed out previously—they seem to be the wrong way round. They are certainly confusing and—given the interest in this subject—they must be clarified. The Executive must be told that.

The Convener: We will certainly seek clarification on that.

Hill Livestock (Compensatory Allowances) (Scotland) Regulations 1999 (SSI 1999/187)

The Convener: Do members want to make any points on SSI 1999/187?

David Mundell (South of Scotland) (Con): I would like to echo the point that Trish Godman made on the previous matter. The regulations appear to be incredibly complicated. One must remember that a large number of hill farmers are getting on a bit and it seems overly complex that they should have to examine the regulations and work out whether a particular animal complies with the rules. We should make the general point to the Executive that the people who have to use and apply the regulations should be borne in mind. The regulations could be made simpler.

The Convener: Would Trish Godman like to make a point on that issue?

Trish Godman: No—I agree with David Mundell.

Fergus Ewing: I support everything that David has said and will add that the regulations do not appear to have been accompanied by the relevant EU legislation, which has made it impossible for

our legal advisers to check properly for vires.

There also seems to be no provision for the withholding of or recovery of compensatory allowance, where a person has made a false or misleading statement with a view to obtaining an allowance under the scheme. We are also advised that, in regulation 2, the words

“unless the context otherwise requires”

seem—again—to have been included without purpose.

There seems to be no appeal system included in those regulations. I had understood that the Executive was actively considering and was going to bring forward such a system. It would be bad news for all those affected by the regulations if there was no system of appeal against the regulatory mechanism, which—as David pointed out—has caused a great deal of heartache and financial penalty within farming communities in Scotland.

The Convener: Regulation 21(2) sets a time limit of 12 months for commencement of proceedings after commission of an offence, which is standard for such acts as the Misuse of Drugs Act 1971, but not for the beef bones regulations. It might be useful to have some indication of what the logic is in having a 12-month time limit on offences under the regulations. Is that to be a standard that will be applied across the board for related matters, and if so, why is there a three-year limit on one issue and a 12-month limit on another?

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 2) Revocation (Scotland) Order 1999 (SSI 1999/167)

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 3) Revocation (Scotland) Order 1999 (SSI 1999/168)

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 3) Partial Revocation (Scotland) Order 1999 (SSI 1999/169)

**Food Protection (Emergency
Prohibitions) (Amnesic Shellfish
Poisoning) (West Coast) (No. 4) Partial
Revocation (Scotland) Order 1999
(SSI 1999/170)**

The Convener: These instruments are about amnesic shellfish poisoning matters. No points have been drawn to our attention. Do any members wish to raise points?

Members: No.

The Convener: That concludes the meeting. Thank you very much.

Meeting closed at 11:25.

Members who would like a printed copy of the Official Report to be forwarded to them should give notice at the Document Supply Centre.

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 18 January 2000

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Annual subscriptions: £640

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies: £70

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £2.50

Special issue price: £5

Annual subscriptions: £82.50

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £2.50

Annual subscriptions: £80

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 0171 242 6393 Fax 0171 242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 01232 238451 Fax 01232 235401
The Stationery Office Oriol Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 01222 395548 Fax 01222 384347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers