

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 18 January 2000  
*(Morning)*

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## SUBORDINATE LEGISLATION COMMITTEE

2<sup>nd</sup> 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 18 January 2000

(Morning)

[THE CONVENER opened the meeting at 11:15]

#### Deputy Convener

**The Convener (Mr Kenny MacAskill):** Good morning. The first item on the agenda is the choice of deputy convener. According to the regulations, the nominee should come from the Liberal Democrats. I understand that Ian Jenkins is willing to accept the nomination.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** I am, with some trepidation.

**The Convener:** Are we agreed that Ian Jenkins should be the deputy convener?

*Ian Jenkins was elected deputy convener by acclamation.*

#### Delegated Legislation

**The Convener:** The second item is delegated legislation relating to the forthcoming budget bill. We have had a substantial brief from the legal advisers on how that might be dealt with, as there are various options. I suggest that we put the matter on the agenda for next week. In principle, we are willing to consider the bill at stage 1 if there is sufficient time for those who will be advising us. Failing that, we will consider the bill at stage 2.

We should simply make it clear to the Executive that we are happy to work with ministers as best we can and in whichever way is best for all parties. We will see what options are made available and whether those advising us feel that they have sufficient time for us to deal with the matter next week. Failing that, we could perhaps give the matter some consideration.

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

**The Convener:** We will now consider the Executive's responses to the points that were raised last week, the first of which relates to SSI 1999/171. It has been suggested that we should

refer our discussions and the further memorandum that we have received from the Executive to the European Committee for its information. Is that agreed?

*Members indicated agreement.*

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

**The Convener:** Fergus Ewing is not here, but he raised a point about consultation and we have had a request on the matter. It may be appropriate for us to draw to the attention of the lead committee and the Executive our view that consultation should be taken on board.

**Ian Jenkins:** The committee's view is that the expectation of consultation that exists has not been fulfilled in this case. That is also the legal advice that we have been given. Consultation is a key principle to which the committee should want to draw attention. I suggest that we draw to the attention of the Parliament the committee's request and the reasons for it. We can tell Parliament what the Executive said and let members think about it.

**The Convener:** That seems appropriate. We are trying from the outset to lay down guidelines and markers so that people understand the parameters within which we operate. If we believe that consultation is appropriate, we should encourage Parliament to draw the Executive's attention to that fact. Is it agreed, therefore, that we shall notify the lead committee?

**Bristow Muldoon (Livingston) (Lab):** The Executive has indicated in its response that a certain degree of consultation did take place. It would be fair for us to ask that, as a general principle, that be indicated in the subordinate legislation that comes to us.

**The Convener:** That is fine.

*Members indicated agreement.*

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

**The Convener:** The next matter is the Sale of Dogs (Identification Tag) (Scotland) Regulations 1999 (SSI 1999/177), which could have been taken together with the Breeding of Dogs (Licensing Records) (Scotland) Regulations 1999 (SSI 1999/176). It is my fault that it was not. Are we agreed that the response will be dealt with in the same way?

*Members indicated agreement.*

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

**The Convener:** Various questions were raised about these regulations. It appears that there may still be some matters that we need to bring to the attention of Parliament and the lead committee. The Executive's response to question 2 in terms of definitions is outstanding; the confusion has not been clarified. We should draw to the attention of the lead committee that there appears to be confusion in the use of various words, particularly "occupier".

**Bristow Muldoon:** In its answer to question 1 the Executive says that the UK Administration communicated its intentions to the European Commission on 2 December 1999. Last week we raised the concern that, given the significance of the regulations in connection with the whole issue of exporting beef to the European Community, it may not be satisfactory just to send a letter to the Commission without any indication from it that such a method of proceeding is acceptable. We hope it is, but it would be good practice for the Commission to indicate whether the way the UK Administration is proceeding is correct.

**The Convener:** That is a valid point. Just as we are trying to work out procedures between the Executive and ourselves, procedures can be worked out between it and Europe.

Another point raised with us was the penalties in regulation 8(3). Again, perhaps that should be brought to the attention of the lead committee.

It was also drawn to our attention that the style is following English drafting and that may not be justified. It might be better for some consideration to be given to having all matters drafted in a similar style, for our benefit and that of our successors, rather than some taking an English line but not others. We might suggest that, although probably nothing can be done about it at present, laying down a marker might be appropriate. Is that something else we should draw to the Executive's attention?

**David Mundell (South of Scotland) (Con):** We have said before that we do not believe in drafting for drafting's sake and that it should be innovative, rather than following previously used styles.

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

**The Convener:** We raised various points on SSI 1999/187 but those on penalties, style and European convention on human rights considerations are still outstanding. Again it is

suggested that we report that to the lead committee.

**Ian Jenkins:** The legal briefing was full and interesting. There is drafting that does not do what is intended. We should sympathise with the Executive in dealing with European regulations but also with lay people who have to interpret them. When farmers get such legislation it must be very difficult for them.

**David Mundell:** User-friendly guidance is to be welcomed. After we discussed it last week, I met a number of farmers who clearly found the regulations incomprehensible. As we said, if half a page of text is needed to describe a sheep, then there must be something wrong.

**The Convener:** Presumably our response can give credit for the guidance but note our concern on style and in regard to the clarification on penalties that is still needed.

## **Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Regulations 2000 (SSI 2000/Draft)**

**The Convener:** That is the only affirmative instrument. No points arise.

## **Scotland Act 1998 (Agency Arrangements) (Specification) (No 2) Order 1999 (SSI 1999/3320)**

**The Convener:** Although some points have been raised, they do not seem of sufficient significance for us as a committee to raise them. We have previously said that typographical errors and other minor matters can be dealt with in other ways.

## **Shetland Islands Regulated Fishery (Scotland) Order 1999 (SSI 1999/194)**

**The Convener:** We had an extensive briefing on SSI 1999/194.

**Bristow Muldoon:** We should raise the point about article 5(9), that

"appears to exclude persons who started fishing for the first time on or after 1 January 1998 from an entitlement to a licence".

Concern has been expressed that it could be in breach of the ECHR. That should be drawn to the attention of the Executive.

We should also question article 6 on tolls for fishing. It is unclear whether each person must

pay a toll and also whether the organisations responsible for administering the tolls have the right to vary them with the consent of ministers.

**The Convener:** We need to clarify those matters. No doubt we will be given a full response next week.

**National Health Service (Scotland)  
(Injury Benefits) Amendment (No 2)  
Regulations 1999 (SSI 1999/195)**

**The Convener:** No matters are raised so we will note it.

**Invergarry-Kyle of Lochalsh Trunk  
Road (A87) Extension (Skye Bridge  
Crossing) Toll Order (Variation) Order  
1999 (SSI 1999/196)**

**The Convener:** We have had extensive legal advice on this order. I trust that members agree that there is nothing that we need to raise.

*Meeting closed at 11:27.*





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