

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 25 April 2000
(Morning)

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CONTENTS

Tuesday 25 April 2000

Col.

NATIONAL PARKS (SCOTLAND) BILL	155
ABOLITION OF FEUDAL TENURE ETC (SCOTLAND) BILL: STAGE 2	157
REGISTERED ESTABLISHMENTS (FEES) (SCOTLAND) ORDER 2000 (SSI 2000/67)	157
NON-DOMESTIC RATES (LEVYING) (SCOTLAND) REGULATIONS 2000 (SSI 2000/92)	158
FOOD SAFETY (GENERAL FOOD HYGIENE) (BUTCHERS' SHOPS) AMENDMENT (SCOTLAND) REGULATIONS 2000 (SSI 2000/93)	158
TOWN AND COUNTRY PLANNING (FEES FOR APPLICATIONS AND DEEMED APPLICATIONS) (SCOTLAND) AMENDMENT REGULATIONS 2000 (SSI 2000/DRAFT)	159
ENVIRONMENTAL PROTECTION (DISPOSAL OF POLYCHLORINATED BIPHENYLS AND OTHER DANGEROUS SUBSTANCES) (SCOTLAND) REGULATIONS 2000 (SSI 2000/95)	159
DESIGNATION OF NITRATE VULNERABLE ZONES (SCOTLAND) REGULATIONS 2000 (SSI 2000/96)	159
RADIOACTIVE SUBSTANCES (BASIC SAFETY STANDARDS) (SCOTLAND) REGULATIONS 2000 (SSI 2000/100)	160
CENSUS (SCOTLAND) REGULATIONS 2000 (SSI 2000/102)	160
REPAYMENT OF STUDENT LOANS (SCOTLAND) REGULATIONS 2000 (SSI 2000/110)	160
ROAD TRAFFIC REDUCTION ACT 1997 (COMMENCEMENT) (SCOTLAND) ORDER 2000 (SSI 2000/101)	160

SUBORDINATE LEGISLATION COMMITTEE

13th Meeting 2000, Session 1

CONVENER

*Mr Kenny MacAskill (Lothians) (SNP)

DEPUTY CONVENER

*Ian Jenkins (Tw eeddale, Ettrick and Lauderdale) (LD)

COMMITTEE MEMBERS

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

*Trish Godman (West Renfrew shire) (Lab)

*Bristow Muldoon (Livingston) (Lab)

David Mundell (South of Scotland) (Con)

*attended

CLERK TEAM LEADER

Alasdair Rankin

ASSISTANT CLERKS

Alistair Fleming

Anne Peat

LOCATION

Committee Room 3

Scottish Parliament

Subordinate Legislation Committee

Tuesday 25 April 2000

(Morning)

[THE CONVENER *opened the meeting at 11:30*]

National Parks (Scotland) Bill

The Convener (Mr Kenny MacAskill): Good morning and welcome to the 13th meeting of the Subordinate Legislation Committee in 2000. We have received apologies from David Mundell.

The first item on the agenda is the delegated powers scrutiny of the National Parks (Scotland) Bill, on which we have had the benefit of legal briefing in our informal session. Some points arise, particularly in response to sections 2 to 4, on how national parks will be designated in due course.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I have two points, which I think fall within the remit of this committee. Both relate to the designatory powers under section 5 of the bill.

First, section 5 should be considered with section 2, which sets out the procedures on the reports that may require to be made on national park proposals. Section 2(9) states:

"The Scottish Ministers must publish a report made to them under this section."

Would it be helpful if there were also a requirement that the report be laid before Parliament?

My second point is on section 5(3)(a), which provides for a minimum period of six weeks between the publication of a report made under section 2 and the laying of a draft designation order by the Executive under section 5. It appears to me that six weeks is a short period, during which the communities in any area to be designated as a national park would have to consider the terms of the report. From the submissions that have been made by the public on the bill, there are already grounds to believe that such matters will be controversial. So far as setting the boundaries of a national park is concerned, the inclusion, or exclusion, of certain areas is one of the most controversial aspects of the bill.

I am aware that many people in the Cairngorm area did not receive the draft bill and consultation

document until well into the consultation period, which was much longer than six weeks. There was also a feeling within my constituency that it takes a while to crank up the consultation procedure, setting up local meetings, advertising them in the local paper and ensuring that people feel that they are being consulted, that their views are of value and that they have an opportunity to participate in local meetings. One must also consider matters in the light of advice that people receive at such meetings.

I am sorry to be so long-winded on our first day back, convener, but, all in all, I would prefer a period of six months rather than one of six weeks, given that Scotland has waited about 50 years for the establishment of national parks. Within my constituency, the feeling is, "Let's get it right. Let's not rush it through". A period of six months would allow ample opportunity for proper consultation.

Trish Godman (West Renfrewshire) (Lab): I agree in principle with Fergus Ewing that six weeks is not long enough, particularly if there is a holiday period during that time. Although I am not sure about a period of six months, I will go along with the rest of the committee if members think that such a period is appropriate. As Fergus Ewing said, we have waited for some time for national parks, so we should get right whom we consult and how we consult them.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): I agree. Community councils in rural areas do not always meet every fortnight, or anything like so regularly, as it is not that kind of set-up. An extension to the period of six weeks is certainly required. Six months is a starting point and should be considered, but it seems sensible to have a period of longer than six weeks.

The Convener: Shall we approach the Executive on those points? We want all papers to be laid, so that everyone is aware of the full report, and the six-week period must be extended. Six months may be too long, on the basis that this is a democracy and perhaps an elected Government has the right to try to get its legislation through. However, the six-week period is too short and we believe that it must be extended to allow for representations and for all interested bodies to meet.

We discussed other matters in relation to the National Parks (Scotland) Bill. I believe that Fergus Ewing wanted some changes to section 28 to be considered.

Fergus Ewing: It would be useful to have some clarification as to what exactly the Executive envisages by its reference in section 28(4) to "modifications" in applying sections 2 to 6.

The Convener: Certainly.

We also discussed section 29. Trish, do you wish to comment?

Trish Godman: Section 29 needs to be tidied up, as its provisions are very wide.

The Convener: We appreciate that maritime matters may be more complicated because of international and European issues but, as things stand, section 29 appears to give almost unfettered discretion as to what the Executive could proceed with.

Fergus Ewing: The provisions seem to be as opaque as the sea itself. It is surprising that there is no specific reference to those who would require to be consulted in respect of the designation of a marine area as a national park, notably all those who earn their livelihood from any area that would be subject to a proposal to designate, and fishermen in particular.

The Convener: We also seek clarification on section 32, which appears to duplicate the provisions in section 31.

Fergus Ewing: It is interesting that, in the memorandum, there is an explanation by the Executive of the various sections that contain delegated powers, but I can see no reference to section 32. That strengthens the argument for going back to the Executive to seek such an explanation of section 32(2).

The Convener: We will seek clarification on that.

Abolition of Feudal Tenure etc (Scotland) Bill: Stage 2

The Convener: The next item is the delegated powers scrutiny of the Abolition of Feudal Tenure etc (Scotland) Bill, as amended. We wrote to the Executive about the bill and have received a response. Is that response acceptable to members? Fergus, are there further points that you wish to canvass with the Executive or to draw to Parliament's attention?

Fergus Ewing: I would prefer to take that matter to avizandum, should that be within my competence.

The Convener: In that case, we will simply note the Executive's response and the bill will proceed through the remaining parliamentary stages.

Registered Establishments (Fees) (Scotland) Order 2000 (SSI 2000/67)

The Convener: We now move on to Executive responses, the first of which is its response to our comments on SSI 2000/67, where we raised the

problem for establishments registered on 17 October 1988, which may or may not affect many people. It appears from the Executive's response that the order contains some defective drafting. Should we draw that to the attention of Parliament?

Members indicated agreement.

Non-Domestic Rates (Levying) (Scotland) Regulations 2000 (SSI 2000/92)

The Convener: The second Executive response concerns SSI 2000/92. I believe that Fergus Ewing canvassed this matter, which has been responded to, although not necessarily satisfactorily.

Fergus Ewing: Indeed, convener. The point that I raised was that councils have estimated that the yield of non-domestic rating income this year will be £1,662 million, whereas the Government estimated last year that the yield would be £1,473 million, which is a margin of error of 13 per cent. The Executive's response seems to be that that is just part of the system, which I find somewhat surprising. However, I do not know whether this committee can make further comment, other than to ask that the matter be drawn to the attention of the Parliament.

The Convener: Certainly.

Food Safety (General Food Hygiene) (Butchers' Shops) Amendment (Scotland) Regulations 2000 (SSI 2000/93)

The Convener: The next item is the Executive's response to our comments on SSI 2000/93. We raised various matters with the Executive, including some policy matters. Bristow, do you wish to comment on the response, as there are some issues that we will wish to draw to the attention of Parliament?

Bristow Muldoon (Livingston) (Lab): Some of the comments that we raised strayed into policy areas, but perhaps we should draw the attention of the lead committee, or Parliament, to the inconsistent use of the word "proprietor" and the potential confusion with the term "holder of licence" in the regulations. The Executive's response is not clear about why that wording was used.

We should also draw to the attention of the lead committee whether the regulations are as clear as they could have been. That probably strays into policy issues, but we should certainly ask the lead committee to consider whether the regulations are

clear enough to be understood by the businesses that are intended to apply them. Beyond that, we should note the fact that there is a twin-track process in the rest of the UK, but that those regulations have not yet been implemented.

The Convener: We shall draw that to the attention of the Parliament.

Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment Regulations 2000 (SSI 2000/draft)

The Convener: We will now consider draft affirmative instruments. No substantive points have been raised on the instrument before us, but it was suggested that we might wish to inquire whether any outside bodies were consulted on the draft regulations, apart from the Executive's in-house lawyers. Do members agree to seek clarification on whether the Royal Town Planning Institute and other bodies such as the Convention of Scottish Local Authorities were consulted?

Members indicated agreement.

Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Regulations 2000 (SSI 2000/95)

The Convener: The next item on the agenda is consideration of negative instruments. There are no points on SSI 2000/95, unless members wish to raise points now.

Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2000 (SSI 2000/96)

The Convener: We had some minor discussion about these regulations. Does anyone wish to comment on the code that aims to reduce pollution, which is referred to in the regulations? There appears to be some difficulty in identifying the relevant parts of the code.

Trish Godman: That part of the regulations should be clarified.

The Convener: If we are not clear, presumably farmers and others will not be clear either. We shall seek clarification on that point.

Radioactive Substances (Basic Safety Standards) (Scotland) Regulations 2000 (SSI 2000/100)

The Convener: Do members wish to raise any points about these regulations? No general points were raised, although a question was raised about the system of negative procedure.

Ian Jenkins: It seems to be open to the Executive to adopt different procedures. Perhaps we should ask the Executive why it has chosen to follow this particular procedure.

The Convener: One would have thought that it would take quite some time to consider basic safety standards, rather than rushing them through, but doubtless we will receive clarification.

Census (Scotland) Regulations 2000 (SSI 2000/102)

The Convener: There are no points to raise under these regulations.

Repayment of Student Loans (Scotland) Regulations 2000 (SSI 2000/110)

The Convener: There appear to be various problems with these regulations.

Bristow Muldoon: We should ask the Executive about that part of the regulations in which Scottish ministers appear to be given powers to instruct the Inland Revenue about the collection of student loan payments. I would like to ask the Executive from where those powers are derived and whether, under devolution, the Scottish ministers hold such powers. It may well be the case that such delegated powers exist, but it is not clear from where these powers are derived.

The Convener: There is also a question about the reference in regulation 14 to "further notice" under regulation 13, although regulation 13 does not appear to make any provision for the serving of notices.

Road Traffic Reduction Act 1997 (Commencement) (Scotland) Order 2000 (SSI 2000/101)

The Convener: The final agenda item is instruments not subject to parliamentary control. SSI 2000/101 contains a minor typographical error, which we will draw to the attention of the Executive in the usual way.

Meeting closed at 11:46.

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