

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 13 June 2000  
*(Morning)*

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## SUBORDINATE LEGISLATION COMMITTEE

20<sup>th</sup> 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

Ruth Cooper

Alistair Fleming

### LOCATION

Committee Room 3



## Scottish Parliament

### Subordinate Legislation Committee

Tuesday 13 June 2000

(Morning)

[THE CONVENER opened the meeting at 10:25]

#### Transport (Scotland) Bill

**The Convener (Mr Kenny MacAskill):** the committee's 20<sup>th</sup> meeting. Our informal discussions have gone on rather longer than usual. I apologise for the delay. The first matter on the agenda is the scrutiny of the delegated powers provisions in the Transport (Scotland) Bill. We cannot deal with that this morning. There are on-going discussions with the Executive as to just what matters will come before us—what matters will be classified as subordinate legislation. We have had an informal discussion and we feel that it may be best to wait until we have the benefit of the discussions between those representing us and those representing the Executive. We will then reconsider the matter.

#### Docks and Harbours (Rateable Values) (Scotland) Order 2000 (SSI 2000/Draft)

**The Convener:** The second matter on the agenda is Executive responses. On the matter of this instrument we note an apology. All that we want is to emphasise the importance of dating Executive notes. This point was raised by you, Fergus. Do you wish to comment?

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I am pleased that the Executive has acknowledged that the notes should be dated. This statutory instrument and the next both concern the revaluation process and the Executive note should have been dated 30 May 2000. I am satisfied with that.

#### Electricity Lands and Water Undertakings (Rateable Values) (Scotland) Amendment Order 2000 (SSI 2000/Draft)

**The Convener:** No matters arise other than those to which we have already referred.

#### Council Tax (Administration and Enforcement) (Scotland) Amendment Regulations 2000 (SSI 2000/166)

**The Convener:** The third item on the agenda deals with negative instruments, the first of which is SSI 2000/166. No points arise.

#### Transport of Animals (Cleansing and Disinfection) (Scotland) Regulations 2000 (SSI 2000/167)

**The Convener:** The second matter is SSI 2000/167. Various legal points have been raised. Fergus, did you want to mention something?

**Fergus Ewing:** Thank you, convener. We have had an opportunity to look at Council Directive 91/628/EEC of 19 November 1991 which this SSI seeks to implement. Regulation 4(2) of the SSI does not appear to implement the terms of the directive in article 1, subparagraph 2(b). The directive deals with exemptions to the rules for the transportation of animals and lists a number of areas which should be exempt. Those areas have not been clearly reflected in regulation 4(2) of the SSI. Perhaps it would be helpful to the Executive if we were to seek clarification on specific points.

First, the provision regarding pet animals in article 1, subparagraph 2(a) of the directive does not seem to have been translated into regulation 4(2) of the SSI. Secondly, and of particular importance to small farmers and to auction marts in rural Scotland, there is an exemption in the directive that the provision would not apply

to the transport of animals carried out:

- up to a maximum distance of 50 km counted from the start of the transport of the animals to the place of destination, or
- by stock farmers or fatteners using agricultural vehicles or means of transport belonging to them in cases where the geographical circumstances call for non-profit-making seasonal transhumance of certain types of animal.

There is a further provision. I will not test the patience of the committee by reading it out, but these are important matters if you happen to be a small farmer and must transport your beasts to the market. The European rules seem to be more lax than British rules. The complaint of farmers is usually the other way round. As the journalists famously say, I think we should be told.

10:30

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** The Executive is to be congratulated on this consolidation exercise.

**The Convener:** There is a question over regulation 5 and who commits the offence. If a criminal offence is to be created we should know

in what circumstances it is committed and by whom. There is no reference to that in the regulation. Perhaps the Executive could look at that drafting oversight so that the circumstances and nature of the offence are clear.

**National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Amendment Regulations 2000 (SSI 2000/168)**

**Sulphur Content of Liquid Fuels (Scotland) Regulations 2000 (SSI 2000/169)**

**The Convener:** No points arise on the above instruments.

**Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2000 (SSI 2000/170)**

**The Convener:** The last matter under item 3 of the agenda is SSI 2000/170. There was a brief discussion on this. Does anyone wish to flag up any matter?

**Bristow Muldoon (Livingston) (Lab):** It is welcome that the Executive has brought this instrument forward, following the problems with the original regulation that this committee identified. That shows the value of this committee and of its legal advisers in drawing our attention to some of the defects.

We might want to question the Executive on the point that the legal adviser to the Welsh Assembly raised as to whether or not the withdrawal of an orange badge represents a breach of the European convention on human rights. We should draw that to the Executive's attention and ask them to respond to that point.

**The Convener:** Will do.

## Procedure

**The Convener:** The final item on the agenda deals with subordinate legislation procedure and the National Parks (Scotland) Bill. We discussed earlier that an amendment has been lodged in my name. It is not in the committee's name because it is not a matter for the committee as such. The bill will return to our committee once the rural affairs committee has discussed it and we may be able to examine the amendment then. I would like to record my thanks to the staff—legal and clerking—for their support. I could not have done this on my own. The purpose of the amendment is to see if we can introduce into the national parks bill the super-affirmative procedure that was discussed. Please feel free to comment, or we can wait until the bill comes back to us with the Executive response and we can kick it about in a bit more detail.

**Ian Jenkins:** I would like to say on record that we recognise that this is not a party political amendment but an attempt to reflect the view of the committee about the process of legislation. Consultation underlies the wishes of your amendment.

**The Convener:** Thank you. Following last week's mammoth meeting, that brings us to an end.

*Meeting closed at 10:33.*

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