

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 26 September 2000
(Morning)

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SUBORDINATE LEGISLATION COMMITTEE

27th 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)

*Mr Kenneth Macintosh (Eastw ood) (Lab)

Bristow Muldoon (Livingston) (Lab)

*David Mundell (South of Scotland) (Con)

*attended

CLERK TO THE COMMITTEE

Alasdair Rankin

ASSISTANT CLERKS

Ruth Cooper

Alistair Fleming

LOCATION

Committee Room 3

Scottish Parliament

Subordinate Legislation Committee

Tuesday 26 September 2000

(Morning)

[THE CONVENER *opened the meeting at 11:15*]

The Convener (Mr Kenny MacAskill): Good morning and welcome to the 27th meeting of the Subordinate Legislation Committee.

Prohibition of Fishing with Multiple Trawls (Scotland) Order 2000 (SSI 2000/226)

The Convener: The first item on the agenda is consideration of Executive responses. At the previous meeting, the committee raised a variety of points on the order, some of which have been answered and some not.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I certainly hope that I would never give the impression that I am obsessed with footnotes. However, given that we have to consider the significance, role and function of footnotes, it might be useful to return to the legal adviser's excellent note and commentary on the subject at next week's meeting.

The Convener: Certainly.

Food Irradiation Provisions (Scotland) Regulations 2000 (SSI 2000/309)

The Convener: The first point that we raised on these regulations related to regulation 6A of the principal regulations. Although the Executive has provided some clarification on that point, our advice is that we should draw the instrument to the attention of the lead committee and Parliament on the ground that it is defectively drafted. The instrument does not contain a clear identification of the person who is to be responsible for a breach of regulation 6A, which might have implications if a penalty is to be imposed.

The Executive has clarified the committee's second point, which related to the use and definition of "ultimate consumer" and "catering establishment" in the regulations. We will provide the lead committee with our points and the Executive's response, which appears to satisfy us.

The committee's third and fourth points on the

regulations relate to defective drafting, which has caused certain ambiguity. The Food Standards Agency's insertions seem to have made matters less clear than before. The advice is to draw the instrument to the attention of the lead committee and the Parliament on the ground of defective drafting.

Our final point on the regulations was simply a matter of clarification for the committee's information, and the Executive's response has provided the necessary clarification. However, I still do not know what MeVs are. Does David Mundell know?

David Mundell (South of Scotland) (Con): No.

The Convener: We can write to the Executive about that.

David Mundell: I will do some research on the matter.

The Convener: That is ideal.

Act of Sederunt (Evidence of Judgments etc) (Human Rights Act 1998) 2000 (SSI 2000/314)

The Convener: The Executive has acknowledged that the preamble to the instrument was defectively drafted and an explanation has now been provided. We will simply let the instrument go forward.

Train Operating Companies (Rateable Values) (Scotland) (No 2) Order 2000 (SSI 2000/Draft)

The Convener: The second item on the agenda is consideration of draft affirmative instruments. No points arise on this order.

Act of Adjournment (Criminal Procedure Rules Amendment No 2) (Human Rights Act 1998) 2000 (SSI 2000/315)

The Convener: The final item on the agenda is consideration of instruments not laid before Parliament. No points arise on this instrument.

Act of Sederunt (Rules of the Court of Session Amendment No 6) (Human Rights Act 1998) 2000 (SSI 2000/316)

The Convener: A matter was mentioned in relation to this instrument. Does any committee member wish to comment on that?

Mr Kenneth Macintosh (Eastwood) (Lab): The instrument seems to create a situation where the commissioners enforcing the instrument cannot enter a building where there is an unaccompanied woman.

The Convener: I think that that advice refers to an instrument further down the agenda. On this instrument, there is probably no requirement to raise matters with the Executive.

Act of Sederunt (Rules of the Court of Session Amendment No 5) (Public Interest Intervention in Judicial Review) 2000 (SSI 2000/317)

The Convener: No points arise on this instrument.

Act of Sederunt (Rules of the Court of Session Amendment No 4) (Applications under s 1 of the Administration of Justice (Scotland) Act 1972) 2000 (SSI 2000/319)

The Convener: This instrument raises a potential problem or ambiguity that Kenny Macintosh mentioned earlier.

Mr Macintosh: As I said before, rule 64.11 creates a rather ambiguous situation where commissioners are not allowed to enter premises where there is an unaccompanied woman. That is a strange classification; it does not include minors or people with learning difficulties, for example. It would be interesting to find out why the stipulation is in legislation instead of in guidance.

David Mundell: The rule seems sufficiently unusual for the committee to ask for an explanation of the thinking behind it.

The Convener: It is a rather strange rule. Furthermore, we should also clarify whether the rule will be applied across the board for similar positions and whether it constitutes a policy shift that affects sheriff officers and other people.

Pollution Prevention and Control Act 1999 (Commencement No 2) (Scotland) Order 2000 (SSI 2000/322)

The Convener: No points arise on this instrument. That brings us rather quickly to a conclusion.

Meeting closed at 11:22.

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