

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 14 November 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 14 November 2000

Col.

WELFARE OF FARMED ANIMALS (SCOTLAND) REGULATIONS 2000 (SSI 2000/DRAFT)	337
EDUCATION (NATIONAL PRIORITIES) (SCOTLAND) ORDER 2000 (SSI 2000/DRAFT)	338
SCOTLAND ACT 1998 (MODIFICATIONS OF SCHEDULE 5) ORDER 2000 (SI 2000/DRAFT)	338
DAIRY PRODUCE QUOTAS AMENDMENT (No 2) (SCOTLAND) REGULATIONS 2000 (SSI 2000/391)	338
DIVORCE ETC (PENSIONS) (SCOTLAND) AMENDMENT REGULATIONS 2000 (SSI 2000/392)	339
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (AMNESIC SHELLFISH POISONING) (EAST COAST) (SCOTLAND) PARTIAL REVOCATION ORDER 2000 (SSI 2000/381)	339
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (PARALYTIC SHELLFISH POISONING) (ORKNEY) (No 3) (SCOTLAND) REVOCATION ORDER 2000 (SSI 2000/382)	339
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (PARALYTIC SHELLFISH POISONING) (ORKNEY) (No 4) (SCOTLAND) PARTIAL REVOCATION ORDER 2000 (SSI 2000/383)	339
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (AMNESIC SHELLFISH POISONING) (WEST COAST) (No 4) (SCOTLAND) REVOCATION ORDER 2000 (SSI 2000/389)	339
ADOPTION (INTERCOUNTRY ASPECTS) ACT 1999 (COMMENCEMENT No 4) (SCOTLAND) ORDER 2000 (SSI 2000/390)	340

SUBORDINATE LEGISLATION COMMITTEE

32nd Meeting 2000, Session 1

CONVENER

*Mr Kenny MacAskill (Lothians) (SNP)

DEPUTY CONVENER

*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)

COMMITTEE MEMBERS

*Trish Godman (West Renfrewshire) (Lab)

*Mr Kenneth Macintosh (Eastwood) (Lab)

*Fiona McLeod (West of Scotland) (SNP)

*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 14 November 2000

(Morning)

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

The Convener (Mr Kenny MacAskill): Good morning. Welcome to the meeting.

Neither of our two new committee members has yet had an opportunity to declare any interests that they might have. In Ken Macintosh's case, that was because we had not raised the matter. I do not know whether Ken Macintosh or Fiona McLeod wants to make a declaration.

Mr Kenneth Macintosh (Eastwood) (Lab): I have none to make.

Fiona McLeod (West of Scotland) (SNP): I have none to make either.

Welfare of Farmed Animals (Scotland) Regulations 2000 (SSI 2000/draft)

The Convener: The next item on the agenda is draft affirmative instruments. The first one is the Welfare of Farmed Animals (Scotland) Regulations 2000 (SSI 2000/draft). Some matters have been drawn to our attention.

Trish Godman (West Renfrewshire) (Lab): Given that failure to implement a directive on time is an offence in Community law, we should ask the Executive to clarify the point about the timing of the regulations.

Another issue is that people have to pay for the revised draft of the regulations. If a draft is revised it is probably because the Executive made a mistake; or, more to the point, that we pointed out a mistake that the Executive made. We should establish the principle that if someone has bought the original version, the revised draft should always be free of charge.

The Convener: I support that. Those instruments are presumably not usually purchased direct from Her Majesty's Stationery Office, but go to various organisations that are on the mailing list.

Trish Godman: It is unfair if a voluntary organisation has to pay out money again.

The Convener: We can point out that people may have to buy copies of revised regulations. A

method should be found to ensure that those who bought the original draft get the revised draft free of charge.

Education (National Priorities) (Scotland) Order 2000 (SSI 2000/draft)

The Convener: Various points were raised on the order.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): The legal adviser drew drafting problems to our attention. The preamble is perhaps insufficiently precise.

Also, article 3 states:

"The National priorities in education for the purposes of section 4(1) of the Standards in Scotland's Schools etc. Act 2000".

That is not quite accurate; it should state for the purposes of the act.

We should draw those points to the attention of the Executive.

Trish Godman: It would be interesting to know what the Executive means by "lesser used languages."

The Convener: That seems rather inflammatory; it is just as well that Fergus Ewing is not here to comment. Is "lesser used languages" the best definition to provide for Gaelic, given people's sensitivity on the matter?

Scotland Act 1998 (Modifications of Schedule 5) Order 2000 (SI 2000/draft)

The Convener: The point that Trish Godman made on the Welfare of Farmed Animals (Scotland) Regulations 2000 (SSI 2000/draft) about a revised draft being made available free of charge also relates to this order.

Dairy Produce Quotas Amendment (No 2) (Scotland) Regulations 2000 (SSI 2000/391)

The Convener: We now come to negative instruments.

There are some typos in the regulations. The Executive should be asked whether Commission approval has been given, as the regime is based in European Community legislation.

Ian Jenkins: Were there not vires considerations? No; sorry, that is my mistake.

**Divorce etc (Pensions) (Scotland)
Amendment Regulations 2000
(SSI 2000/392)**

The Convener: Do members want to make any comments on the instrument?

Trish Godman: These are the regulations that have a vires problem. Another point is how regulation 3A(2) fits in with regulation 3A(3). The relevant date has been substituted, which is not helpful. That means that there is doubt as to whether it is intra vires.

The Convener: That ties in with my experience as a practising lawyer. The relevant date is critical. Even 12 months—11 months and 30-odd days—could cause changes in some pensions. The relevant date is the relevant date in terms of existing legislation and the case law, so to change the relevant date from a precise date to something far broader is problematic.

I am also curious as to what charges might be brought in, how they will be justified and paid for and how that relates to the regulations. We will seek clarification on those issues.

**Food Protection (Emergency
Prohibitions) (Amnesic Shellfish
Poisoning) (East Coast) (Scotland)
Partial Revocation Order 2000
(SSI 2000/381)**

**Food Protection (Emergency
Prohibitions) (Paralytic Shellfish
Poisoning) (Orkney) (No 3) (Scotland)
Revocation Order 2000 (SSI 2000/382)**

**Food Protection (Emergency
Prohibitions) (Paralytic Shellfish
Poisoning) (Orkney) (No 4) (Scotland)
Partial Revocation Order 2000
(SSI 2000/383)**

**Food Protection (Emergency
Prohibitions) (Amnesic Shellfish
Poisoning) (West Coast) (No 4)
(Scotland) Revocation Order 2000
(SSI 2000/389)**

The Convener: The next item on the agenda is instruments not subject to parliamentary control. No points arise on the instruments.

**Adoption (Intercountry Aspects) Act
1999 (Commencement No 4) (Scotland)
Order 2000 (SSI 2000/390)**

The Convener: The final item on the agenda is instruments not laid before the Parliament. Points were raised on the order.

Trish Godman: We sent the order back because it was a mishmash. It will come into force on 10 November, which is still a delay, although not for substantive policy considerations. We must seek clarification that the public have not suffered undue disadvantage because of that delay. The order certainly needed to be sorted out.

The Convener: The Executive has not revoked the initial faulty order, but has dealt with it in the footnotes and the explanatory note for the new order. If an order is to be superseded because it is patently wrong, there is an argument that it should be revoked so that people are not left to scramble through the mishmash of two orders to work out that the first one is inappropriate and has been superseded. I understand the Executive's position, but the failure to revoke the first order does not make life easier for those who are trying to find out what the situation is.

We should seek clarification as to why the Executive has not revoked the order and if there is a policy about whether there should be revocation in those circumstances.

Meeting closed at 11:23.

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 21 November 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

Meetings of the Parliament annual subscriptions: £500

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: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

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 020 7242 6393 Fax 020 7242 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 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriol Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

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