

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 28 November 2000  
(*Morning*)

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## SUBORDINATE LEGISLATION COMMITTEE

34<sup>th</sup> 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 28 November 2000*

*(Morning)*

[THE CONVENER *opened the meeting at 11:18*]

**The Convener (Mr Kenny MacAskill):** Good morning and welcome to the 34<sup>th</sup> meeting of the Subordinate Legislation Committee. Apologies have been received from Ken Macintosh, Ian Jenkins and Fiona McLeod.

#### Abolition of Poidings and Warrant Sales Bill

**The Convener:** The first item on the agenda was to have been the scrutiny of delegated powers in the Abolition of Poidings and Warrant Sales Bill. Due to the lodging of a further amendment by the Executive, that scrutiny will no longer be necessary, although we may want to comment on the amendment in the light of Tommy Sheridan's evidence. Does anyone want to comment?

**Bristow Muldoon (Livingston) (Lab):** The committee should welcome the Executive amendment, which accords with the general views that the committee expressed last week—that the subordinate legislation that was previously provided for was too broad. Without delving into policy issues, we should welcome the fact that the committee's views seem to have been acknowledged.

**The Convener:** I am happy to go along with that. We can pass on that comment in our report.

#### Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc Rules) Amendment (No 2) (Administration of Justice (Scotland) Act 1972) 2000 (SSI 2000/387)

**The Convener:** The second item on the agenda is a response from the Lord President's office. We raised a point about the reference to unaccompanied women in new rule 3.1.11(3)(b), and a point was also raised on a previous matter, concerning equivalent rules that mention women exclusively. We have received a response asking about our jurisdiction. We are meeting the Sheriff

Court Rules Council informally next week.

**Trish Godman (West Renfrewshire) (Lab):** We need to raise the matter informally with the SCRC. The rule is singling out women in this instance, but other vulnerable groups could be discriminated against. The matter needs clarification.

**The Convener:** Presumably, we can pass on our views to the Justice and Home Affairs Committee—I am advised that we should not do that. We can raise the matter, and our remit in such issues, which the SCRC seems to be questioning, at the private meeting next week.

#### Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 5) (Scotland) Order 2000 (SSI 2000/409)

**The Convener:** No points arise on the order.

#### Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2000 (SSI 2000/draft)

**The Convener:** The next item is draft affirmative instruments.

Although the regulations will result in a significant change in fees, an explanation for that has been given. I will do a Fergus Ewing and say that I am always surprised that packaging waste appears to be a reserved matter, although responsibility for recycling is devolved. Not having control over packaging creates difficulties dealing with recycling that cannot be resolved.

#### Local Authorities (Goods and Services) (Public Bodies) (No 2) (Scotland) Order 2000 (SSI 2000/403)

**The Convener:** No points arise on the order.

#### Prohibition of Fishing with Multiple Trawls (No 2) (Scotland) Order 2000 (SSI 2000/405)

**The Convener:** Similarly, no points arise on the order, except in relation to the definition of the Sound of Jura, which we discussed previously.

**Trish Godman:** I do not think that we will get any further on that point; we will have to let it go.

**Education (Provision of Information as to Schools) (Scotland) Amendment Regulations 2000 (SSI 2000/406)**

**The Convener:** Various points have been brought to our attention on the regulations, in particular in relation to their drafting. The legal advice that we have received has dealt with the principal regulations.

**Bristow Muldoon:** We have been advised that there are significant deficiencies in the drafting of the regulations. As amended, regulation 3(2) of the principal regulations specifies 15 September in each year as the date by which the information that is specified in the paragraphs of the schedule must be provided. Regulation 2(2) of the amendment regulations purports to substitute for the words "paragraphs 2, 3, 4, 5, or 7" in regulation 3(2) of the principal regulations, the words "paragraphs 5 or 7". However, regulation 3(2) does not contain a reference to paragraph 5 of the schedule; it refers to paragraph 6.

Regulation 3(3) of the principal regulations gives 30 October as the date by which the information that is specified in paragraph 5 of the schedule must be provided and therefore appears to be in conflict with the proposed amendment to regulation 3(2), which specifies 15 September.

Furthermore—I thank Margaret Macdonald for her excellent work on the regulations—the proposed amendment to regulation 3(2) seems to remove the requirement to provide the information specified in paragraph 6 by a particular date. It would be interesting to know if that is the intention.

Finally, statutory instrument 1993/1605 appears to have been amended by statutory instrument 1994/351. That seems to be a relevant amendment, yet it is not referred to in the footnote. We would like an explanation for that.

**The Convener:** That was a full, concise and helpful resumé of the advice that we received. Clearly, more than just a minor drafting error has occurred, so we will await the Executive's response.

**Education (School and Placing Information) (Scotland) Amendment Regulations 2000 (SSI 2000/407)**

**The Convener:** Again, there appear to be significant problems resulting from the drafting of the regulations, such as the labelling of columns as left and right rather than numbering them, which is the standard practice. There is also a tautology—I always take an interest in those. The words omitting and substituting, which appear in

regulation 2(3), do not stand well together. Regulation 3 appears to be wrongly drafted, and there are typographical errors in regulation 2(2). We should doubtless draw those points to the attention of the Executive and await its response.

**Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (Scotland) Revocation Order 2000 (SSI 2000/402)**

**Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 2) (Scotland) Partial Revocation (No 4) Order 2000 (SSI 2000/404)**

**Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (Orkney) (Scotland) Partial Revocation Order 2000 (SSI 2000/413)**

**Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (Orkney) (No 4) (Scotland) Revocation Order 2000 (SSI 2000/414)**

**The Convener:** No matters arise on the instruments.

**Act of Sederunt (Ordinary Cause Rules) Amendment (No 2) (Pension Sharing on Divorce etc) 2000 (SSI 2000/408)**

**Act of Sederunt (Rules of the Court of Session Amendment No 7) (Pension Sharing on Divorce etc) 2000 (SSI 2000/412)**

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

**Europe Familiarisation Scheme**

**The Convener:** The final item on the agenda is the European Parliament study visit. Having attended the relevant meeting of the conveners group, and having discussed the matter at the Local Government Committee, Trish Godman may

wish to comment. The conveners group appears to be suggesting that the committee does not require to have a representative on the visit.

**Trish Godman:** I think, convener, that you can put a good case for our sending a representative. Other committees are in the same position—we in the Local Government Committee had to put our case, but there was no difficulty with that. I think that the matter could be taken to the next meeting of the conveners group, next Tuesday.

**The Convener:** Do we agree that we will suggest that a representative from the committee should go to the European Parliament and to the Commission, given our interaction with European regulations?

**Trish Godman:** Yes, absolutely.

**The Convener:** If it is decided that we can nominate someone, we can discuss next week who that person should be.

*Meeting closed at 11:27.*





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