

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 13 February 2001
(Morning)

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SUBORDINATE LEGISLATION COMMITTEE

6th Meeting 2001, Session 1

CONVENER

*Mr Kenny MacAskill (Lothians) (SNP)

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)

*Gordon Jackson (Glasgow Govan) (Lab)

*Ms Margo MacDonald (Lothians) (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 13 February 2001

(Morning)

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

The Convener (Mr Kenny MacAskill): This morning we can make a prompt start and, presumably, finish early.

Local Government Pension Scheme (Pension Sharing on Divorce) (Scotland) Regulations 2001 (SSI 2001/23)

The Convener: The Executive has responded to our letter on the regulations and acknowledges the points that we raised about defective drafting and the need to draft the instrument in gender-neutral terms. I suggest that the committee draws the lead committee's attention to the regulations on the ground that they required further explanation, which was provided by the Executive. Do members agree?

Members indicated agreement.

Highlands and Islands Enterprise Area of Operation (Scotland) Regulations 2001 (Draft)

The Convener: We have had legal advice to the effect that there is poor drafting in the order. The matter is not crucial. It has been accepted by the Executive and will not interfere with the efficacy of the order. I do not know whether there are any other comments, other than to raise concern about the fact that we are being asked to deal with the order at breakneck pace when it appears that there is little need for urgency.

On Monday, I had the benefit of meeting the chief executive of the Moray, Badenoch and Strathspey enterprise authority. He welcomes the order, but I did not get the feeling that there was a need for it to be processed within 20 days, thereby causing our legal staff great difficulties.

Do we agree to let the instrument proceed and to raise our concern with those forcing us into a rapid pace?

Members indicated agreement.

Civil Defence (Scotland) Regulations 2001 (Draft)

The Convener: Our legal advice notes several points, including a typographical error, that will be dealt with in the usual fashion.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): There are matters to do with sub-delegation in section 3(1) and section 3(2)(a). The word "prescribed" is used in a manner that does not make it clear whether there can be sub-delegation, which causes confusion.

The Convener: Another point is that the enabling powers cited in the preamble are rather obscure. Do we agree to seek a response on those points?

Members indicated agreement.

Environmentally Sensitive Areas (Central Borders) Designation Amendment Order 2001 (SSI 2001/25)

Environmentally Sensitive Areas (Stewartry) Designation Amendment Order 2001 (SSI 2001/26)

Environmentally Sensitive Areas (Argyll Islands) Designation Amendment Order 2001 (SSI 2001/27)

Environmentally Sensitive Areas (Machair of the Uists and Benbecula) Designation Amendment Order 2001 (SSI 2001/28)

Environmentally Sensitive Areas (Shetland Islands) Designation Amendment Order 2001 (SSI 2001/29)

Environmentally Sensitive Areas (Breadalbane) Designation Amendment Order 2001 (SSI 2001/30)

Environmentally Sensitive Areas (Western Southern Uplands) Designation Amendment Order 2001 (SSI 2001/31)

Environmentally Sensitive Areas (Central Southern Uplands) Designation Amendment Order 2001 (SSI 2001/32)

Environmentally Sensitive Areas (Cairngorm Straths) Designation Amendment Order 2001 (SSI 2001/33)

Environmentally Sensitive Areas (Loch Lomond) Designation Amendment Order 2001 (SSI 2001/34)

The Convener: We have worked out a shorthand way of reading out the list of negative instruments: there are 10 environmentally sensitive area designation orders and no points arise on any of them.

Ian Jenkins: I would have liked to hear you read all the titles out, perhaps as a rap or something.

David Mundell (South of Scotland) (Con): Is that a formal motion?

Ian Jenkins: I am sure that Kenny has a great sense of rhythm.

European Communities (Matrimonial Jurisdiction and Judgments) (Scotland) Regulations 2001 (SSI 2001/36)

The Convener: Because of a requirement to ensure consistency in the drafting with the Lord Chancellor's Department, which is implementing the regulations for England and Wales, the instrument is in breach of the 21-day rule. It is strange that, on a matter that is entirely devolved to the Scottish Parliament and on which Scottish legal practice is different, we should have to dovetail with the regulations in England and Wales. Perhaps we could ask why that is necessary.

Our legal advice questions the purpose of the words "in question" and notes that there are inconsistencies in the drafting of certain amendments.

Ian Jenkins: I think the Executive is aware that the situation is complex.

Bristow Muldoon (Livingston) (Lab): We should make the point that, quite apart from the fact that we are dovetailing with the Lord Chancellor's Department, the obligation to introduce the regulations has been known about since May 2000. We should ask why we are running so close to the wire.

The Convener: That is a good point and we have raised similar points before. I know that clarity is important for such regulations. I had difficulty working through the variety of regulations on jurisdiction when I was in private practice. Clear guidance would be beneficial—it would be simpler if such matters were clear to everyone.

Do we agree to proceed in the way that has been outlined?

Members indicated agreement.

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 2) (Scotland) Partial Revocation (No 2) Order 2001 (SSI 2001/24)

The Convener: The final item is an order that is not subject to parliamentary control. No map has been supplied with the order. We will query that omission.

That concludes a session that, for the benefit of new members, is not the record for the shortest meeting of the Subordinate Legislation Committee, but is not far off it.

Meeting closed at 11:21.

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