

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 27 February 2001  
*(Morning)*

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## SUBORDINATE LEGISLATION COMMITTEE

7<sup>th</sup> Meeting 2001, Session 1

### CONVENER

\*Mr Kenny MacAskill (Lothians) (SNP)

### DEPUTY CONVENER

Ian Jenkins (Tw eeddale, 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 27 February 2001*

*(Morning)*

[THE CONVENER *opened the meeting at 11:19*]

**The Convener (Mr Kenny MacAskill):** Good morning and welcome to the seventh meeting this year of the Subordinate Legislation Committee. I am grateful to those who have managed to make their way here; Bristow Muldoon in particular has had a difficult journey. We have just made the quorum for the meeting, but we appreciate why that is, given that others are snowbound in their houses.

#### Civil Defence (Scotland) Regulations 2001 (Draft)

**The Convener:** Our legal adviser has raised various points on the Executive's response to our questions on the regulations. It is suggested that we could draw the Executive's attention, or Parliament's attention, to an insufficiently precise citation of powers. We may prefer to do that informally, as we are talking about a matter of style rather than anything of substance.

**Bristow Muldoon (Livingston) (Lab):** I am happy that we raise the matter informally.

**The Convener:** I feel that we can deal with questions of improper drafting or misspelling in an informal way. Rather than seeking to humiliate anyone, we can simply draw the matter to the Executive's attention and leave it at that—although I do not know whether the lead committee on the regulations will be pleased by an imprecise citation of powers.

**Ms Margo MacDonald (Lothians) (SNP):** We can just ask the lead committee to give the Executive 100 lines.

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

**The Convener:** Various matters were raised with the Executive on the regulations, some of which it has dealt with. However, a matter that remains outstanding is the breach of the 21-day rule. Are we persuaded by the Executive's

explanation that it had to act contemporaneously with the Lord Chancellor's Department? The analogy of the tail wagging the dog is not exact, but I must ask why we cannot go at our own pace when our legal system is entirely separate. That is especially true on matrimonial matters.

**Bristow Muldoon:** I agree. I am not convinced by the argument that we needed to work in co-ordination with the Lord Chancellor's Department. Of course, there should be liaison between the two departments, but I do not think that the two pieces of legislation—ours and Westminster's—had to be introduced at exactly the same time.

**The Convener:** I agree. On issues such as firearms or drugs, for which we have UK policy and legislation, I can understand that doing things contemporaneously would be important. In Scotland, however, the grounds for divorce and the methods by which it is obtained are distinct and different. We should perhaps make that point to the lead committee so that the Executive is made aware that we are not satisfied with its position. On subjects such as matrimonial law we should not necessarily follow the time scales of the Lord Chancellor's Department. We have a separate jurisdiction.

**Ms MacDonald:** I agree. The Executive's reason is not good enough.

**The Convener:** A further point that we raised was that the Executive note that accompanies the regulations is lacking in detail. Executive notes provide a simple précis of the issues, so we should draw attention to the fact that they are important for people who peruse regulations.

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

**The Convener:** No map was provided with the order. It has been acknowledged that that should have been done, and it has now been done. We can draw the lead committee's attention to the Executive's explanation.

**Housing Support Grant (Scotland)  
Order 2001 (Draft)**

**Advice and Assistance (Financial  
Conditions) (Scotland) Regulations  
2001 (Draft)**

**Civil Legal Aid (Financial Conditions)  
(Scotland) Regulations 2001 (Draft)**

**Limited Liability Partnerships  
(Scotland) Regulations 2001 (Draft)**

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

**Housing Revenue Account General  
Fund Contribution Limits (Scotland)  
Order 2001 (SSI 2001/37)**

**Designation of UHI Millennium Institute  
(Scotland) Order 2001 (SSI 2001/39)**

**Non-Domestic Rate (Scotland) Order  
2001 (SSI 2001/44)**

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

**Coffee Extracts and Chicory Extracts  
(Scotland) Regulations 2001  
(SSI 2001/38)**

**The Convener:** There is a minor drafting matter to be raised on the regulations. That can be done in the normal fashion.

**Highland and Islands Agricultural  
Processing and Marketing Grants etc  
(Scotland) Regulations 2001  
(SSI 2001/40)**

**The Convener:** In consideration of the regulations, a question has arisen over an appeal mechanism. It appears that the only ways of appealing are by writing to the minister or by judicial review.

**Ms MacDonald:** We should suggest to the Executive that the regulations have been ill thought out. The regulations are not an improvement on those that they seek to replace. If the previous regulations gave access to a proper appeal procedure, it seems a retrograde step to produce new regulations that do not offer exactly the same access. We should suggest that such an appeal procedure be put in place.

**Bristow Muldoon:** I agree. We should not rely on judicial review to deal with appeals, so it is fair for us to ask the Executive to reconsider the issue.

**The Convener:** Our legal adviser has told us that there are panels of experts who could deal with appeals. The Scottish Land Court is also available. Given that matters will doubtless arise in the agricultural sector that may well result in appeals, the Executive should consider—not only for that sector but for others—a mechanism for appeals other than judicial review or a begging letter to the minister. We can draw that to the attention of the Executive.

That concludes our short agenda. I thank members for coming in. If they had not, we may have had to consider reconvening the meeting later in the week.

*Meeting closed at 11:26.*

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