

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 1 May 2001
(Morning)

Session 1

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SUBORDINATE LEGISLATION COMMITTEE

14th 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 1 May 2001

(Morning)

[THE CONVENER *opened the meeting at 11:17*]

The Convener (Mr Kenny MacAskill): As the committee is quorate, we can begin. There are apologies from David Mundell and Margo MacDonald.

Scottish Local Authorities (Tendering) Bill

The Convener: First we consider the delegated powers provisions in the Scottish Local Authorities (Tendering) Bill, which is the shortest bill so far.

No matters arise. The bill is succinct and to the point and there is a logical reason for it. At some stage we probably require to circumvent procedures to get to the necessary position. Anything that gets rid of compulsory competitive tendering—whether through policy or not—seems to me to be worthy of support.

Members *indicated agreement.*

The Convener: We will make no comment, and we will leave the policy to the lead committee.

Foot-and-Mouth Disease (Ascertainment of Value) (Scotland) (No 3) Order 2001 (SSI 2001/130)

The Convener: Next we consider Executive responses.

The committee questioned whether an owner could electronically give notice to Scottish ministers disputing a valuation. It appears that owners can, although that is not mentioned in the order. We can draw that to the lead committee's attention. The problem may simply be the pressure and speed with which matters are being dealt. If the lead committee can get the matter sorted out—or if it is important—it will doubtless be dealt with.

Fisheries and Aquaculture Structures (Grants) (Scotland) Regulations 2001 (SSI 2001/140)

The Convener: Three points were raised on the regulations.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): The committee pointed out an error. Regulation 15 was referred to instead of regulation 14. The Executive has accepted that that is an error.

There were a couple of other drafting errors. The Committee felt that the procedure in regulation 14(5) had not been followed. Regulation 5 contains provisions empowering Scottish ministers to alter their decision after considering representations under that regulation. The subject of our question was the timing of alterations to decisions. I accept the Executive's explanation.

The Convener: There is also the question of appeal. Judicial review is not an appeal—Bristow Muldoon and others have mentioned that before. Basically, the Executive is referring us to judicial review. We can doubtless discuss that with Executive representatives when we meet them on 15 May.

All that we can do now is draw the matter to the lead committee's attention. If the matter is of extreme importance to those receiving grants, the lead committee make take it further. We can simply advise that the committee's position is that judicial review is not an appeal mechanism and leave it to the lead committee to balance the benefits of the regulations against the downside of there not being an easy appeal mechanism. Is that agreed?

Ian Jenkins: There is a European Convention on Human Rights element.

Sex Offenders (Notice Requirements) (Foreign Travel) (Scotland) Regulations 2001 (Draft)

The Convener: We now consider a draft instrument subject to the affirmative procedure.

The points that we have to raise can be dealt with by letter. The problem seems to be one of style and form and is perhaps better dealt with by informal letter. It may transpire from our discussions on 15 May that the Executive does not like that method, but I think that it prefers letters.

**Import and Export Restrictions
(Foot-and-Mouth Disease) (Scotland)
Amendment (No 4) Regulations 2001
(SSI 2001/158)**

The Convener: Next we consider instruments subject to annulment.

There are square brackets in paragraph (6)(b) on page 2 of the regulations. We are not told why they are there. We can raise that point in a letter unless any member feels that we should do so more formally.

**Foot-and-Mouth Disease (Marking of
Meat and Meat Products) (Scotland)
Regulations 2001 (SSI 2001/160)**

The Convener: No points arise on the regulations.

**Plant Protection Products Amendment
(Scotland) Regulations 2001
(SSI 2001/161)**

The Convener: Several matters arose.

Ian Jenkins: The preamble refers to regulation 5 but there does not seem to be a regulation 5. That makes reference to regulation 5 rather difficult. We should point that out to the Executive.

The Convener: Two other matters can be dealt with by letter. Ultra vires matters have been canvassed before in respect of ministers of the Crown. We can discuss whether we can reach any common ground at our meeting with the Executive.

I do not know how members feel about the delay in implementing a directive. It seems that the Executive has got itself into the worst of all worlds. It delayed dealing with the directive in order to do so on a UK basis and then ending up dealing with it on a territorial basis. We have received an explanation and at least the matter has now been dealt with. I understand why the Executive delayed. It had the best of intentions, but things did not work out.

**Milk and Milk Products (Pupils in
Educational Establishments)
(Scotland) Regulations 2001
(SSI 2001/162)**

The Convener: No points arise on the regulations, unless anybody has any comments on Thatcher, milk, or whatever else that they wish to put on the record.

**Town and Country Planning (Limit of
Annual Value) (Scotland) Order 2001
(SSI 2001/164)**

The Convener: No points arise on the order.

**Fees in the Registers of Scotland
Amendment Order 2001 (SSI 2001/163)**

The Convener: Finally, we consider instruments not laid before the Parliament. No points arise on the order.

Meeting closed at 11:24.

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