

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 26 June 2001
(Morning)

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2001.

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 26 June 2001

	Col.
CROFTING COMMUNITY DEVELOPMENT SCHEME (SCOTLAND) REGULATIONS 2001 (SSI 2001/208)	542
PUBLIC SERVICE VEHICLES (REGISTRATION OF LOCAL SERVICES) (SCOTLAND) REGULATIONS 2001 (SSI 2001/219)	542
AIR QUALITY LIMIT VALUES (SCOTLAND) REGULATIONS 2001 (SSI 2001/224)	543
GAMING ACT (VARIATION OF FEES) (NO 2) (SCOTLAND) ORDER 2001 (SSI 2001/230)	543
BSE MONITORING (SCOTLAND) REGULATIONS 2001 (SSI 2001/231)	543
INTERNATIONAL CRIMINAL COURT (IMMUNITIES AND PRIVILEGES) ORDER 2001 (DRAFT)	544
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (PARALYTIC SHELLFISH POISONING) (WEST COAST) (SCOTLAND) ORDER 2001 (SSI 2001/237)	544
FOOD PROTECTION (EMERGENCY PROHIBITIONS) (PARALYTIC SHELLFISH POISONING) (ORKNEY) (NO 2) (SCOTLAND) ORDER 2001 (SSI 2001/241)	544
ADOPTION OF CHILDREN FROM OVERSEAS (SCOTLAND) REGULATIONS 2001 (SSI 2001/236)	544
WATER SUPPLY (WATER QUALITY) (SCOTLAND) AMENDMENT REGULATIONS 2001 (SSI 2001/238)	544
PROTECTION OF WRECKS (DESIGNATION) (SCOTLAND) ORDER 2001 (SSI 2001/242)	545
IMPORT AND EXPORT RESTRICTIONS (FOOT-AND-MOUTH DISEASE) (SCOTLAND) (NO 2) AMENDMENT REGULATIONS 2001 (SSI 2001/243)	545
ADOPTION (INTERCOUNTRY ASPECTS) ACT 1999 (COMMENCEMENT NO 6) ORDER 2001 (SSI 2001/235)	546

SUBORDINATE LEGISLATION COMMITTEE

22nd 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 26 June 2001

(Morning)

[THE CONVENER *opened the meeting at 11:16*]

The Convener (Mr Kenny MacAskill): Good morning and welcome to the 22nd meeting in 2001 of the Subordinate Legislation Committee. Today's meeting is our last before the recess.

Before we move on to the formal agenda, I want to note that we had a discussion during our legal briefing about the continuing occurrence of minor errors in the legislation that comes before the committee. Gordon Jackson may have some proposals as to what we should do about that.

Gordon Jackson (Glasgow Govan) (Lab): We are finding lots of errors in legislation. Many of the replies that we receive from the Executive say that we are right and that it has made a mistake and I do not know why that is the case.

Perhaps we should expect a percentage of errors as so many pieces of legislation are drafted. It may be that we are incredibly picky—although that is our job. I have a sneaking feeling that we are finding that more errors occur in the drafting of statutory instruments than might be thought to be appropriate. I am not sure of the answer. Perhaps we could write to the Executive or ask for a meeting. We need to better understand the process and how it works, as that would put our mind at rest.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): Perhaps, in the sort of meeting with the Executive that we had before, we could ask Executive staff to talk to us about the procedures that are involved. On the other hand, we could write to the Executive asking what its scrutiny procedures are when drafting legislation and before it comes to us.

The Convener: The situation is similar to our views on judicial review—we said that it should not be used as the final court of appeal. Similarly, we should not act as the Executive's checking system; it should have one on board.

I suggest that we write to the Executive, on an informal basis, asking about its current methodology for checking draft legislation before it reaches us. Our remit is to look at legislation from the perspective of the Parliament, not to be a checking house for the Executive. If the Executive has problems with resourcing or with its methodology, that can be discussed.

In the first instance, I suggest that we ask the Executive to clarify matters. It needs to iron out the glitches before legislation reaches us. Does that course of action satisfy members?

Gordon Jackson: That would satisfy me. I sound more critical than I want to be. I do not feel well-enough informed to be critical. However, I have a red light in my head alerting me to question why there are so many mistakes—I would like to know the answer.

The Convener: Let us find out how the Executive proof reads and checks its legislation.

Crofting Community Development Scheme (Scotland) Regulations 2001 (SSI 2001/208)

The Convener: Item 1 is the consideration of Executive responses.

We should draw the attention of the lead committee and the Parliament to the fact that we pointed out defective drafting in the regulations, which the Executive has acknowledged. That is the point that Gordon Jackson was making. We will leave it to the lead committee to deal with matters hereafter.

Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001 (SSI 2001/219)

The Convener: We raised two matters with the Executive. It has acknowledged the defective drafting of regulation 14(1)(a)(ii) and has undertaken to lay an amending regulation to correct the defect. We also pointed out the error that was found in the explanatory notes to the regulations. We will draw those defects to the attention of the lead committee. The Executive is to sort out the faults in due course.

Air Quality Limit Values (Scotland) Regulations 2001 (SSI 2001/224)

The Convener: The Executive has acknowledged the issue of defective drafting that we raised on the regulations. As that is the case, I suggest that we draw the attention of the lead committee and of the Parliament to regulation 12 (5).

Gaming Act (Variation of Fees) (No 2) (Scotland) Order 2001 (SSI 2001/230)

The Convener: Bristow Muldoon and I raised the matter at our previous meeting. The Executive has replied to confirm the recommendations that it received from the National Audit Office. We can draw to the attention of the lead committee the question of whether the massive hike in licence fees should have been staged.

Bristow Muldoon (Livingston) (Lab): I agree with the convener. The issue is one of policy and, as such, it is a matter for the lead committee. We must draw the Executive's response to the attention of the lead committee so that it can come to whatever judgment it sees fit.

BSE Monitoring (Scotland) Regulations 2001 (SSI 2001/231)

The Convener: We requested further explanation from the Executive regarding the time scale. We have not had a full answer. However, in the case of matters that are quasi foot-and-mouth, our view is that we are sympathetic to the fact that the Executive has had to work under pressure. We should perhaps point out to the Executive that it would be of benefit for us to have an answer to our question as to what happened and why.

I understand from the clerk that we have time only to draw to the attention of the lead committee that we did not receive an explanation from the Executive. We can leave it to the lead committee to push the Executive on that if it so wishes. We could also write to the Executive asking for an explanation to be given to the lead committee. That would give the lead committee our note and anything further that the Executive might say. The lead committee could also approach any member of the Subordinate Legislation Committee on a private basis.

International Criminal Court (Immunities and Privileges) Order 2001 (Draft)

The Convener: We move on to draft instruments that are subject to approval.

We are advised that the order contains a matter that can be drawn to the attention of the Executive in the normal fashion. If members have no comment to make we will move on.

Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (West Coast) (Scotland) Order 2001 (SSI 2001/237)

Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (Orkney) (No 2) (Scotland) Order 2001 (SSI 2001/241)

The Convener: Item 3 is instruments subject to approval. No points arise on the orders.

Adoption of Children from Overseas (Scotland) Regulations 2001 (SSI 2001/236)

The Convener: Item 4 is instruments subject to annulment.

The regulations breach the 21-day rule and I am curious to know why that is the case. During the legal briefing, we discussed an adoption case that appeared in the newspapers. Given that adoption law is being reviewed, however, we could ask the Executive why it is rushing the regulations, unless it is so that they can be passed contemporaneously with English legislation.

Water Supply (Water Quality) (Scotland) Amendment Regulations 2001 (SSI 2001/238)

The Convener: No points arise on the regulations.

**Protection of Wrecks (Designation)
(Scotland) Order 2001 (SSI 2001/242)**

**Import and Export Restrictions (Foot-
and-Mouth Disease) (Scotland) (No 2)
Amendment Regulations 2001
(SSI 2001/243)**

The Convener: No points arise either on the order or the regulations.

**Adoption (Intercountry Aspects) Act
1999 (Commencement No 6) Order
2001 (SSI 2001/235)**

The Convener: We will draw the Executive's attention to a minor drafting matter, in the usual fashion.

That concludes our agenda and brings the parliamentary term to an end for this committee. I am grateful to members for their assistance and co-operation.

Ian Jenkins: Our thanks to the chair.

Meeting closed at 11:24.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 3 July 2001

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

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

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

Standing orders will be accepted at the Document Supply Centre.

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 Oriel 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