

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 2 October 2001
(Morning)

Session 1

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SUBORDINATE LEGISLATION COMMITTEE

27th Meeting 2001, Session 1

CONVENER

*Ms Margo MacDonald (Lothians) (SNP)

DEPUTY CONVENER

*Ian Jenkins (Tw eeddale, Ettrick and Lauderdale) (LD)

COMMITTEE MEMBERS

Bill Butler (Glasgow Anniesland) (Lab)

*Colin Campbell (West of Scotland) (SNP)

*Murdo Fraser (Mid Scotland and Fife) (Con)

Gordon Jackson (Glasgow Govan) (Lab)

Bristow Muldoon (Livingston) (Lab)

*attended

CLERK

Alasdair Rankin

ASSISTANT CLERKS

Ruth Cooper

Alistair Fleming

LOCATION

Committee Room 3

Scottish Parliament

Subordinate Legislation Committee

Tuesday 2 October 2001

(Morning)

[THE CONVENER *opened the meeting at 11:25*]

Interests

The Convener (Ms Margo MacDonald): I welcome everyone to the 27th meeting in 2001 of the Subordinate Legislation Committee.

I also welcome Murdo Fraser, the new committee member. In accordance with the Parliament's standing orders, I invite him to declare any interests that he considers relevant.

Murdo Fraser (Mid Scotland and Fife) (Con): I have three interests to declare. First, I am employed as a part-time associate partner with the firm of Ketchen and Stevens in Edinburgh, for which I receive a remuneration of approximately £1,000 per month. Secondly, I own a half-share in a small flat in Edinburgh, which is worth approximately £50,000. The flat generates a rental income of £4,500 per annum. Thirdly, I am a member of the Law Society of Scotland.

The Convener: Thank you. Now that the formality of the declaration is over, I welcome Murdo Fraser and say to him that I hope that he is as good as the man that he replaces—Mr Mundell was an ornament to the committee.

Murdo Fraser: A hard act to follow.

The Convener: I would say. Gosh, this guy knows how to put things nicely.

Executive Responses

Parole Board (Scotland) Rules 2001 (SSI 2001/315)

The Convener: I take it that last week's minutes are as read. Item 2 on the agenda is the Executive's response to the eight points that we raised on the rules. Does anyone want to pick up anything from the Executive's response?

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): We raised several points on defective drafting, which we can note on the way past. I would, however, like to draw attention to the point that we raised about the meaning of rule 12(3), which could have been made clearer. We also had a quibble about the wording of that rule, as it includes phraseology from English law. We are advised that we should be wary of that.

The Convener: To make the point clear for our new member, the phrase in question is

"by certificate under his hand".

We thought that the word "signed" would have been easier and more suitable. We continue to advise the Executive that the encroachment of such phraseology is not something that we view with tremendous pleasure.

Colin Campbell (West of Scotland) (SNP): It is a threat to the integrity of Scots law.

Ian Jenkins: I hope that it is not as serious as that. We want to resist such phraseology for stylistic reasons. Our legal advice is that the phrase in question is a "term of art"—I like that description. However, the use of such phrases should be resisted.

The Convener: The Executive denied that that was the case, but let us not pursue the point.

Colin Campbell: Let us not labour it.

Ian Jenkins: We also questioned whether rule 22(3) is an unduly limited use of the power. The Executive has failed to include an obligation to give reasons to the party concerned for a decision to refuse representation. We should draw that point to the attention of the lead committee and of the Parliament.

The Convener: That point relates to the previous one that we are to draw to the attention of the Parliament and of the lead committee. However, this point is more substantive, as it is important for good legislation to include the reasons for decisions. We will draw this to the attention of the lead committee. Is that agreed?

Members indicated agreement.

11:30

The Convener: Is there anything else?

Colin Campbell: There was defective drafting, due to the failure to provide adequate footnotes to rule 14.

The Convener: The Executive said that it accepts that that was a mistake. It has pleaded guilty, so perhaps we will not demand its head.

Colin Campbell: No, but what will the Executive do about that in future?

The Convener: There was a noticeable difference in the drafting and explanatory notes this week. We will get to the good bit later, when we have to congratulate the Executive on some of the material that it has sent us.

Instruments Subject to Approval

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 7) (Scotland) Order 2001 (SSI 2001/322)

The Convener: There is nothing substantive on the order, but the committee may wish to offer to explore, with the Executive, whether the procedure for imposing such controls could be improved. Because of the nature of the topic and the structure of the Scottish fishing industry, any number of these orders and amendments have to be produced. They are time consuming, but that is not to say that they are necessarily a bad thing. They are necessary for the fishermen, whose livelihoods are at risk. However, there may be a better way to impose controls, so perhaps the committee would be minded to ask the Executive whether we could explore, with the Executive, the possibility of amending the procedures for imposing the necessary controls.

Colin Campbell: So we are talking about situations that are straightforward and routine, with nothing controversial or novel—situations that, like this, are repetitive.

The Convener: The orders are repetitive, but the Executive may come back to us and say, “Yes, the process appears to be repetitive, but the actual detail is not; it is different in every case.” The wee boxes that appear in those grids are all different. However, it may be possible to do something, so we can offer to discuss the matter with the Executive.

Instruments Subject to Annulment

Highlands and Islands Agricultural Programme and Rural Diversification Programme (Scotland) Amendment Regulations 2001 (SSI 2001/319)

Colin Campbell: I read the explanatory note to the regulations on the train and thought it was a model of clarity.

The Convener: We should congratulate the Executive on its explanatory note to the regulations, because I for one understood it.

Colin Campbell: I understood it as well.

The Convener: It was well written and nice and clear—just the way it should be done. There was a small typo, but it is a bit mean to do anything other than say, “We noticed that you made a wee typing error.” No substantive points arise on the regulations. Is that agreed?

Members indicated agreement.

Building Standards (Scotland) Amendment Regulations 2001 (SSI 2001/320)

The Convener: There are a number of recommendations that we might make. Does anyone wish to pick up on them?

Ian Jenkins: There are two points. First, a reference to section 2(4) of the parent act is missing from the preamble. We wonder why that should be the case. It is just a minor point, but it is one that we should ask about. Secondly, we have talked previously about consolidation. This is the sixth amendment of the regulations. Are there any proposals for consolidation?

The Convener: Did you read this explanatory note on the train, too, Colin?

Colin Campbell: Absolutely. The explanatory note was informative and comprehensible, but the rest of the instrument was dire.

The Convener: The regulations have a minor typographical error—we could mention that in an informal letter. We should also draw the Executive’s attention to, and ask for an explanation of, the fact that section 2(4) of the parent act has not been included as an enabling power. Is that agreed?

Members indicated agreement.

Farm and Conservation Grant Amendment (Scotland) Regulations 2001 (SSI 2001/321)

The Convener: Should we send the Executive a bouquet of flowers or deepest congratulations on the quality of the explanatory note?

Colin Campbell: We could send some other sort of agricultural produce.

The Convener: No substantive points arise on the regulations.

Ian Jenkins: The Executive will become big headed.

Housing (Scotland) Act 2001 (Registered Social Landlords) Order 2001 (SSI 2001/326)

The Convener: Questions may be raised about the time scale in the order. The committee may wish to ask the Executive to confirm that the enabling powers will be commenced on or before the instrument comes into force on 1 November. Are members agreed?

Members indicated agreement.

The Convener: The committee may want to request informally that the Executive reconsiders the drafting of the title.

Ian Jenkins: I suspect that there is probably no sensible alternative, but the question is worth asking. We have asked before.

Colin Campbell: There is probably a formula for the title.

The Convener: We have sent a letter to the Executive on the general point, although we have not referred to this particular instance. Perhaps the Executive will think that we are nagging if we draw the matter to its attention. Are members agreed that we should mention informally to the Executive the drafting of the title, which we noticed could be shortened?

Members indicated agreement.

Committee Reports

The Convener: Agenda item 5 is approval of committee reports.

If the committee does not have time to consider reports, it would be advisable for the convener to approve them and sign them off. Time scales can be tight. If reports have sensitive points, I will consult Ian Jenkins—the deputy convener—and take the clerk's advice. A mechanism is needed to ensure that we get things signed off in time. Are members agreed?

Members indicated agreement.

The Convener: Have we beaten the record for the length of the meeting?

Alasdair Rankin (Clerk): We have beaten your record.

The Convener: We can only improve. I thank members for attending.

Meeting closed at 11:39.

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