

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 11 December 2001
(Morning)

Session 1

£5.00

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SUBORDINATE LEGISLATION COMMITTEE

35th Meeting 2001, Session 1

CONVENER

*Ms Margo MacDonald (Lothians) (SNP)

DEPUTY CONVENER

Ian Jenkins (Tweeddale, 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

WITNESSES

Paul Parr (General Register Office for Scotland)
Kay McCorquodale (Scottish Executive Finance and Central Services Department)

CLERK

Alasdair Rankin

SENIOR ASSISTANT CLERK

Steve Farrell

ASSISTANT CLERKS

Alistair Fleming

LOCATION

Committee Room 3

Scottish Parliament

Subordinate Legislation Committee

Tuesday 11 December 2001

(Morning)

[THE CONVENER *opened the meeting at 11:18*]

Delegated Powers Scrutiny

The Convener (Ms Margo MacDonald): Good morning and welcome to the 35th meeting in 2001 of the Subordinate Legislation Committee.

Marriage (Scotland) Bill

The Convener: We start this morning with the Marriage (Scotland) Bill. We have two witnesses to address us on matters of concern that we raised with the Executive.

I welcome the witnesses and ask them to tell the committee who they are. If they also want to make an initial short statement, that will be fine with us.

Paul Parr (General Register Office for Scotland): I am Paul Parr, from the General Register Office for Scotland. I am head of the registration branch at the GROS.

Kay McCorquodale (Scottish Executive Finance and Central Services Department): I am Kay McCorquodale from the office of the solicitor to the Scottish Executive.

Paul Parr: I have a brief statement. The Subordinate Legislation Committee asked for the Executive's views on the balance that is struck between the Marriage (Scotland) Bill and the draft regulations that the registrar general published on 14 November. The deputy registrar general's letter of 6 December set out the response to the committee.

In summary, the Executive considers that the bill does not change substantive marriage law, such as the entitlement to marriage or how people change their marital status, but simply amends marriage law that relates particularly to the place where civil marriages may take place.

The regulations made under the bill will set out the procedures to be followed and the matters to be taken into account by local authorities when considering an application for approval of a place as a location for civil marriage. The Executive considers it appropriate that those procedural matters, which might be subject to future change,

should be governed by statutory instrument, rather than be described in the bill.

The Convener: Your last remarks relate to our concerns. We think that immutable facts are involved, which should be included in the bill. However, we will deal with that point later.

The committee thought that this was an Executive matter, so we wrote to the Executive. However, we received a response from the General Register Office for Scotland.

Paul Parr: Yes. The General Register Office for Scotland is an associated department of the Executive and is part of the Scottish Administration. We have policy responsibility for registration matters, in particular marriage law procedures that include where a registrar may or may not carry out a civil marriage. That is the focus of the Marriage (Scotland) Bill and of the draft regulations.

Beyond that, the Executive as a whole, but particularly the justice department, has responsibility for family law matters and overall responsibility for marriage law. However, we work particularly closely with the Executive, especially the justice department, because the effects of substantive changes to marriage law feel their way through into registration procedures.

The Convener: Yes, I think that I understand. However, the GROS is still an agency, no matter how closely it works with Executive departments.

Paul Parr: We are not an agency, but an associated department that reports directly to the justice department.

The Convener: So the GROS is an extension.

Paul Parr: Effectively.

The Convener: Thank you. In your opening remarks, Mr Parr, you referred to the definition of the word place, which seems to be at the heart of the bill. The list in the draft regulations of what is considered to be a place seems to cover every eventuality, so why was that definition not included in the bill?

Paul Parr: The definition in the draft regulations is a guide for local authorities, who will ultimately have to approve a location for civil marriages, and for the registrar, who will have to identify in a marriage schedule the location at which the marriage occurs.

The definition of the word place is fairly broad, as it is defined as a place that can be identified by numbers or in words. The definition is deliberately kept broad because that is effectively the rough remit that a local registrar would follow when describing the location of a civil or religious marriage in a marriage schedule and, ultimately, in the record.

There is no definition of the word place in the Marriage (Scotland) Act 1977. We felt that, to provide flexibility, it was appropriate to include such a definition in the regulations to the Marriage (Scotland) Bill, so that, after the procedures are in place, local authorities or registrars could tell us whether an amendment was required because of practical issues that arose over time.

Murdo Fraser (Mid Scotland and Fife) (Con): When the matter was originally raised with the Executive, the committee's point was that because the definition of place is so broadly drawn, there is no practical reason why that definition could not appear in the bill.

Paul Parr: I understand that viewpoint. We in the Executive and the GROS can, within certain bounds, describe what location might be appropriate for a civil marriage. However, to return to what I said earlier, in some future circumstances local authorities or local registration officers will probably come back to us to say that the description is not adequate or may need to be amended. We prefer that the definition of place be retained in secondary legislation to allow speed of amendment if necessary.

Colin Campbell (West of Scotland) (SNP): Is that to allow you, with the benefit of experience, to eliminate certain places?

Paul Parr: We may eliminate places or extend the list.

The Convener: There is also the question of what constitutes a religious place. You have to go into that.

Kay McCorquodale: One of the reasons that we felt it appropriate to keep the definition in the regulations as broad as possible is that the procedure is ultimately governed by local authorities. Keeping the definition broad gives those local authorities the discretion to decide whether a place is appropriate. It provides a local democracy element. If we put a definition of place in the bill, were we to decide, because of representations in future, that the definition should be amended to include or exclude certain locations, that amendment would require primary legislation.

The Convener: That would require primary legislation, but putting the definition in secondary legislation allows local authorities to take the initiative if they notice that the situation in their area is changing.

Kay McCorquodale: Exactly.

The Convener: Murdo, you look worried.

Murdo Fraser: I do not think that that is quite right. I understand the point that is being made. Flexibility on place is necessary. The point that I

was trying to make is that the definition of place in the regulations is already so wide that there would seem to be no harm in putting it in the bill. It is difficult to see how you would want to amend that definition.

Paul Parr: I understand that view. It may be difficult at this time to come up with a reason why the definition may change or need to be changed. The GROS works in partnership with local authorities and local registration offices around the country to provide a registration service. Although we can give some instruction on matters that relate to registration, as we do regularly to local registrars, we try not to be prescriptive unless it is necessary. We try to have a partnership and listening role for the local registrars. Although we might now conveniently set a definition of the word place in the bill, that may need to change in response to whatever the local registrars say to us over time.

It may be that the description is sufficiently broad, as you suggest, to go into the bill. However, the Executive has taken the view that to have it in secondary legislation would be more convenient for future amendment. That would allow us to respond quickly to the representations of local authorities or local registrars if the circumstances arose in which we needed to do so.

The definition covers simply the word place. It does not extend to cover "approved place". The local democracy of local authorities will decide what places may be approved for marriage. If the committee has any concern about that, we can certainly discuss it.

The Convener: Are you satisfied with that, Murdo?

Murdo Fraser: I understand the point.

The Convener: I do not know whether the difference is one of style or of substance. We will discuss it when we discuss our report on the bill.

On a similar theme, the granting of approvals does not seem likely to be subject to much change. As the conditions are important and permanent, why are they unsuitable for primary legislation?

11:30

Paul Parr: We have convened a working group, which consists of the GROS, the Convention of Scottish Local Authorities and the Association of Registrars of Scotland, to examine the draft regulations and guidance that were published when the bill was introduced. We do not think that the draft regulations are set in stone yet—we are responding to the working group with some flexibility. It met first on 6 November and meets again tomorrow. We are taking on board drafting

suggestions from local authorities, registrars and COSLA. We anticipate that, if the approval process as described in the draft regulations is fluid now, it will be fluid at some point in the future and should be described in the regulations.

The Convener: Are you saying that the draft regulations might change?

Paul Parr: The draft regulations will almost certainly change. They were published only for guidance at the introduction of the bill.

The Convener: Are there discussions on what is a seemly place for a wedding?

Paul Parr: The decision on what is a seemly and dignified place will ultimately be made by a local authority. That is local democracy in action. We will allow the Comhairle nan Eilean Siar to take its decision about what is a seemly and dignified place and we will allow an authority in the Lothians to take such a decision. We do not envisage that those decisions would necessarily be the same.

The Convener: Is that not also a point of principle? Should not that be in primary legislation?

Paul Parr: The real point of principle in the bill is to allow registrars to conduct a civil marriage outwith their offices. That is the essence of the bill. The approval process is essentially delegated to local authorities for them to decide what places in their local area are or are not suitable.

The Convener: That idea appeals, but I suspect that the committee will want to discuss later the delegation of that power to local authorities.

Proposed new section 18A(2)(i) of the Marriage (Scotland) Act 1977 establishes a right of appeal to the sheriff on local authority decisions under the regulations. In general, the committee needs convincing that something as important as a right of appeal should be contained in subordinate rather than primary legislation.

Paul Parr: We take the view that the regulations provide a holistic mechanism for local authorities to consider applications for a venue and to review those decisions if necessary, in response to any view by the applicant. Ultimately, the regulations allow for an appeal in the event of the local authority's decision being questioned. We take the view that it is holistic to keep the application and appeals procedures in the one legislative vehicle.

The Convener: It appears to be holistic, but you could have turned that round and put all those provisions in primary legislation.

Paul Parr: I understand that. However that would have put into primary legislation a highly detailed procedure that might in future require

amendment at a more flexible pace than primary legislation would allow.

The appeal procedure set out in the draft regulations is fairly broad-brush. The working group to which I referred earlier also raised that issue. We are responding to the views from the working group on how to focus the appeal procedure more closely on the application procedures that are set out in the draft regulations. The appeal provision in the draft regulations is likely to change because of the view that is emerging from the working group. That view is likely to focus more closely on points of law arising from local authority procedures, rather than the appeal provision as it is currently drafted in regulation 16, which is fairly broad.

Murdo Fraser: I understand your point about wanting to keep the information needed by local authorities in the regulations, but there is an important point of principle in relation to appeals to the sheriff. Normally, such rights of appeal would appear in primary legislation, not in subordinate legislation. The right of appeal would be secured if it were in the bill. If that right is in subordinate legislation, it could be made to disappear by subsequent subordinate legislation. Having that right of appeal is a fundamental part of the bill. In other bills, it is surely customary to have such a right as part of primary legislation.

Paul Parr: I acknowledge that view, but the Executive takes the other view, as stated in our letter to the committee. We prefer the approach of having all the procedures and appeal provisions set out in one mechanism.

The Convener: There is a difference between the procedure for an appeal, which should be subordinate legislation, and the right of appeal, which is different. We did not understand why the bill does not recognise that the procedure for appeal could be detailed in subordinate legislation, and that the right to appeal could be in the bill.

Paul Parr: I recognise your view, but the view that we are taking is as we have already stated. As the provision stands in the draft regulations, it is subject to amendment. However, at the moment, I cannot say what the changes will be. There is probably nothing further that I can add at this time.

The Convener: You will obviously keep us informed if the regulations change.

Paul Parr: Of course. That is the intention. We will publish an up-to-date version of the draft guidance and regulations on the GROS website, as we have already done. We will keep those up to date throughout the process of the bill and through the consideration by the COSLA and GROS working group.

The Convener: It is not that the committee is luddite, but a letter would be nice.

Paul Parr: Exactly so. We will certainly inform you.

The Convener: The proposed new subsection 18A(2)(m) of the Marriage (Scotland) Act 1977 confers on the Registrar General of Scotland a duty to issue guidance. The powers and duties to issue guidance are unlikely to change. Do you agree with that? Those powers are routinely found in primary legislation. Why do you want to do it differently in the bill?

Paul Parr: That goes back to what I said earlier. We see those procedures as one package. If the guidance provision stood alone in the bill, it would be isolated from the rest of that package. In extreme circumstances, that could lead to the guidance provision being in the bill, but no other regulations being made. That would leave nothing for the guidance to refer to. That is an extreme position.

I reinforce what I said earlier. We see the guidance as part of the overall package of the procedures relating to the approval of places. The Registrar General has already provided a draft of the guidance for Parliament's information and for debate among those who are going to be affected by it.

The Convener: Your approaches to those issues seem to be hanging together. It might be that we cannot reach agreement.

Finally, there is no formal provision for consultation. Speaking for the Executive, would you have any difficulty with the insertion of a statutory requirement to consult on the regulations and guidance?

Paul Parr: Do you mean in the bill?

The Convener: Yes.

Paul Parr: That issue was not raised in your letter.

The Convener: No. We are just asking nicely.

Paul Parr: The Executive is certainly keen on consultation and we have consulted on the draft bill and on the draft regulations in the white paper that was published in June. We are still consulting on the draft regulations and the draft guidance. However, I have not had the opportunity to raise the issue of having a provision for consultation in the bill. If the committee is minded to propose that, we will consider it. I cannot give the committee an answer at the moment.

The Convener: That is okay. Will you consider it and let us know the result of your deliberations?

Paul Parr: Certainly.

The Convener: There are no further questions. Thank you. I am sorry we could not agree on more than we did, but it was still very nice to see you.

Paul Parr: Thank you.

The Convener: Before we move on to the other delights in store today, can we agree on our report following the evidence from the GROS?

Colin Campbell: I thought that we were all deeply entrenched in that discussion.

The Convener: We are just taking different approaches.

Bristow Muldoon (Livingston) (Lab): I do not have a problem with the degree of subsidiarity that is being offered to local authorities to define place. I agree with other members that the right of appeal should be defined in the bill and do not see any problem in that. I suspect that the right of appeal will not be exercised all that often, but there is no problem with having the bill recognise that right. Perhaps the procedure for appeals should be dealt with in the regulations.

The Convener: The right of appeal might be exercised, at least until things settle down. There are questions about what is a seemingly place and what constitutes a religious place. When one considers the regulations, the matter can come down to when the place was last used as a place of worship, or it might be a tourist attraction, for example. There is scope for appeal.

Bristow Muldoon: Maybe.

Colin Campbell: The right of appeal is an important principle anyway, without going into the nitty-gritty and small print of how to go about an appeal. I think it is an important principle to have in the bill.

Bill Butler (Glasgow Anniesland) (Lab): I agree with Colin Campbell. The right of appeal should appear in the bill. For the life of me, I cannot see why the Executive cannot disentangle the right of appeal from the procedure. We were getting the holistic approach, but common sense should be regarded and I do not see any reason why the two cannot be disentangled. We should make that point.

The Convener: That point will definitely be made. There are a number of other points bound up with the definition of place. When is a place not a place?

Murdo Fraser: The bill is all part of a trend. More and more primary legislation is being reduced and, increasingly, the Executive is seeking to use subordinate legislation, presumably because it is less hassle and it saves parliamentary time. We will end up getting one-line bills that say, "Section 1: Scottish ministers can do whatever they like."

The Convener: That would not be a great change.

Murdo Fraser: As we heard from the witnesses, that is the approach that the Executive wants to take. I do not think that that is a helpful development.

The Convener: No.

11:45

Bill Butler: I am not convinced by what Murdo Fraser says. I was reasonably content with what Mr Parr said about place, in so far as I understood it, not being a lawyer. He seemed to be saying that it is more convenient to have a definition of place not in the bill but in subordinate legislation, because the Executive will have to see from experience what amendments might be made in future. That makes it easier to amend. I do not see any difficulty with that. I hope that I am saying the right thing.

The Convener: You are not saying anything wrong at all. It is just a difference in approach. The ability of this Parliament to make primary legislation is a principle that the committee can support or can decide is not worthy of support to any great extent. Perhaps we should guard that ability, because some other subordinate legislatures do not have it.

Bristow Muldoon: I am sure that all members would defend the Scottish Parliament's right to make primary legislation, and I do not think that the Marriage (Scotland) Bill alters that in any shape or form. We are not talking about the right to get married or a definition of who can get married. All that we are talking about are the places in which people can get married. Flexibility could be useful in that area.

Although there is subsidiarity to allow local authorities to make decisions according to how they see their local areas, if it became the case that, in practice, some local authorities were quite flexible and others were pretty inflexible, it could be useful to have that power in subordinate legislation. That would allow the Executive to tighten up the regulations.

If some local authorities were allowing virtually no civil marriages outside registry offices, while other local authorities were quite imaginative about the places that they deemed seemly, the Executive could use that power to nudge those authorities back into line.

I am not concerned about that. A definition of who has the right to get married is a different issue, but we are merely talking about the places where people can get married.

The Convener: I do not want to be pejorative about any of our local authority areas and what

they might or might not describe as a seemly and suitable place for a marriage.

Colin Campbell: It could be a map reference.

Murdo Fraser: I am just looking at the definition in the draft regulations. It says:

"place' means any place whose position within the Registration District can at the relevant time be suitably defined in words or figures for the purpose of recording where the marriage was solemnised and, without prejudice to the foregoing generality, includes any premises ... buildings, temporary structures, enclosures and similar structures, land (including any land covered with water in so far as within the jurisdiction of the registration district) and any vessels or vehicles".

In other words, it covers absolutely everything.

The Convener: Could you get married on the Clyde ferry?

Colin Campbell: As long as it is within the jurisdiction of either Glasgow or Renfrewshire, yes.

Murdo Fraser: The regulations say that ministers may amend the kinds of places where approval may be granted.

The Convener: That should be in the bill.

Murdo Fraser: I do not see why that definition of place cannot appear in the bill. It catches everything anyway.

The Convener: I honestly think that the Executive has got a bit hung up on the new trend of subsidiarity, to use Bristow Muldoon's word. Another guy used that word to great effect once, as I remember—Sillars v Gillespie, 1988.

Colin Campbell: Is there some sort of family connection there?

The Convener: I do not see why that definition should not be in the bill. Do members want to press the Executive on that point?

Bill Butler: I will not go to the wall against what Murdo Fraser is saying, if we can be certain that the definition covers every eventuality. I know that Murdo read out the definition and it may cover every eventuality, but Mr Parr seemed to suggest that it might not.

The Convener: It could be amended, though. The committee could just say, "No, we would prefer you to do it this way. That would make for better legislation." Can we not tell the Executive that?

Colin Campbell: I think that we should.

The Convener: Why not? Let us say that, and let us throw in the right of appeal as well. We are sure about that.

Mr Parr said that he would come back to us on the question of the statutory requirement to

consult on regulations and guidance. Guidance is part and parcel of the bill. We should include guidance with the right of appeal and the definition of place. It all hangs together; it is holistic.

Bill Butler: It certainly is.

The Convener: We shall write to the Executive saying that. We shall also report to the lead committee, which might well agree with us on those points.

I see that I have been sent a note about Sillars v Gillespie.

Bristow Muldoon: We preferred the rematch in 1992. [*Laughter.*] That was Davidson v Gillespie.

The Convener: I remember that. It was a knockout.

Scottish Public Sector Ombudsman Bill

The Convener: The next item is the Scottish Public Sector Ombudsman Bill at stage 1. A one-stop-shop public sector ombudsman will take over from the Scottish Parliamentary Commissioner for Administration and the health service, housing association and local government ombudsmen. The new ombudsman's responsibilities will also include the relevant functions of the Mental Welfare Commission and investigating complaints against Scottish Enterprise and Highlands and Islands Enterprise. The bill implements an obligation under section 91 of the Scotland Act 1998 and will replace the relevant transitional order.

Do members want to raise any points about the bill? It appears to be settled law, so scope is limited. Do we need to take any action?

Members: No.

The Convener: As we are going to be complaining about the Executive's approach to the Marriage (Scotland) Bill, perhaps we should say that we can readily approve as entirely suitable the use of orders in council as the form of delegated legislation for the purposes of the Scottish Public Sector Ombudsman Bill and for the reasons given by the Executive.

Are members content with the powers in section 3(2), on persons liable to investigation?

Members *indicated agreement.*

The Convener: Are members also content with the powers in section 6(2), on the application of section 5 to certain tribunals?

Members *indicated agreement.*

The Convener: There may be questions about section 8(2), on excluded matters. Section 8 of the bill introduces schedule 4 which lists matters that the ombudsman is specifically excluded from

investigating. The minute one sees that, one starts to become suspicious. Does that provide an opportunity for some future, and possibly wicked, Administration to undercut the very purpose of the bill? At present, the bill appears to strike a fair balance between public and private interests. Could subsequent subordinate legislation upset that balance? Is this an appropriate use of delegated powers? Use of the affirmative procedure is required, but would primary legislation be more appropriate?

Murdo Fraser: I think that there must be flexibility and that it is not inappropriate to use the affirmative procedure.

The Convener: We will ask for clarification on consistency with the Freedom of Information (Scotland) Bill, as a slight inconsistency might exist. European Convention on Human Rights compatibility questions also arise. We will ask for clarification on those points in our letter.

Section 23(2) deals with modification of enactments. We are familiar with that provision and it is suggested that we take no point on it.

Section 24(2) is on consequential provisions. There is a question on whether the relevant commencement order is required at all. Apart from that, no points arise on that section.

Section 25(1) has been properly drafted and no points arise.

Executive Responses

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Amendment (No 3) Regulations 2001 (SSI 2001/435)

The Convener: Members will recall the instrument from last week's meeting. We asked a couple of questions about the regulations because we thought that there was defective drafting in regulation 2(3)(c) and a failure to follow good drafting practice in schedule 1.

Our first question was about defective drafting in regulation 2(3)(c). The difference between the committee and the Executive was 0.03, as far as I can make out. However, the Executive says that the reference to "0.02 ⁽³⁷⁾ ⁽³⁹⁾" of mg/kg of Spiroxamine in milk and dairy produce is substituted with a reference to "0.02 ⁽³⁷⁾", as footnote (39) refers to liver and kidney. I have not the faintest idea what that means. Does anyone?

Colin Campbell: Part of the problem is that the Executive did not read our question properly. Its response does not answer the question that we asked—it has come up with the wrong answer.

The Convener: Perhaps we could say to the Executive informally that it would help if it read our questions.

Colin Campbell: In a nice way.

The Convener: Yes.

Bill Butler: We could draw the attention of the lead committee and the Parliament to regulation 2(3)(c).

The Convener: I think so.

Bill Butler: I do not see why the lead committee and the Parliament should not enjoy defective drafting as much as we do.

Colin Campbell: They could not enjoy it as much as we do.

The Convener: Bill Butler is absolutely right. We will draw that to the attention of the lead committee and Parliament.

We also asked why the European Community directives could not be listed in tabular form, as that would make the information easier to read. The Executive's response is that it does not agree with the committee. I suggest that we draw that point to the attention of the lead committee, as people who have to read the regulations must be able to understand them. At present, the format is not user-friendly.

National Health Service (Superannuation Scheme, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2001 (SSI 2001/437)

12:00

The Convener: We raised six points on the regulations with the Executive. Its responses are a bit hard to follow. Do members want to raise points on them? Should we draw the attention of the lead committee and the Parliament to regulations on the grounds that they fail to comply with proper drafting practice?

Colin Campbell: Yes.

The Convener: This goes back to what we have said about having user-friendly instruments. We should draw the six points to the attention of the lead committee and Parliament. The response from the Executive is not very satisfactory. The one instrument amends three different instruments. The instrument shows why the Executive should not do that. It is extremely difficult to follow.

Beef Special Premium (Scotland) Regulations 2001 (SSI 2001/445)

The Convener: We asked four questions on the regulations. We should draw the regulations to the attention of the lead committee and Parliament, because there is an unusually limited use of the power in the regulations and there is a question of compliance with the European convention on human rights. The Executive has acknowledged that there was defective drafting in relation to the second and third points that we raised. The regulations fail to comply with good drafting practice.

Murdo Fraser: The important point is the third one about complying with the ECHR on self-incrimination. It raises what is known as a devolution issue.

The Convener: Yes. I now know what a devolution issue is. I know even more about the failure to mention that you do not have to incriminate yourself by giving evidence. This important point must be drawn to the attention of the lead committee. It will probably deal with the issue.

We asked why the definitions of European Community legislation contained in regulation 2(1) were not consigned to a schedule in a more user-friendly form. We will point that out to the lead committee.

**Community Care (Direct Payments)
(Scotland) Amendment Regulations 2001
(SSI 2001/447)**

The Convener: We asked the Executive why the explanatory note does not comply with the guidance on drafting of statutory instruments. The Executive said just what it had said in the first place. Do we agree to draw to the attention of the lead committee the fact that the explanatory note is insufficiently informative?

Members *indicated agreement.*

Instruments Subject to Approval

**Food Protection (Emergency Prohibitions)
(Amnesic Shellfish Poisoning) (West
Coast) (No 14) (Scotland) Order 2001
(SSI 2001/451)**

The Convener: No points arise on the order.

**Instruments Subject to
Annulment**

**Sea Fishing (Enforcement of Community
Satellite Monitoring Measures) (Scotland)
Order 2000 Amendment Regulations 2001
(SSI 2001/448)**

The Convener: Mair fish. There are a few wee typos. We can draw that to the Executive's attention in an informal letter.

**Inshore Fishing (Prohibition of Fishing for
Cockles) (Scotland) Amendment Order
2001 (SSI 2001/449)**

The Convener: Did you know that you cannot go and gather cockles in the Solway firth?

Colin Campbell: Is that because they are radioactive?

The Convener: Presumably.

Murdo Fraser: It is not because they are radioactive but because we need to rejuvenate the cockle stocks.

The Convener: Gosh, he is terrific.

Colin Campbell: A real enthusiast.

The Convener: It is good that they are not radioactive.

Bill Butler: The committee is extremely grateful for that insight.

Murdo Fraser: During the spatting season—

The Convener: Do cockles do that sort of thing?

Murdo Fraser: Apparently so.

Bill Butler: I do not think that anything arises on that.

The Convener: Indeed, things are going fine in the cockle kingdom.

**Miscellaneous Food Additives
(Amendment) (No 2) (Scotland)
Regulations 2001 (SSI 2001/450)**

The Convener: No points arise on the regulations.

**Plant Protection Products Amendment
(No 3) (Scotland) Regulations 2001
(SSI 2001/454)**

The Convener: There have been some serious breaches of the 21-day rule. We have to ask the Executive for an assurance that no one has been prejudiced because of the way in which it has been done.

**Import and Export Restrictions
(Foot-and-Mouth Disease) (Scotland)
(No 3) Amendment Regulations 2001
(SSI 2001/455)**

The Convener: The only point that might arise is that the instrument does not give an indication of the subject matter of the individual regulations amended, as required by good drafting practice. There is nothing wrong with the instrument, it is just that it does not say what it is about. We can deal with it through a nice letter.

Bill Butler: A very nice letter.

The Convener: We can write and say that we want to know what it is about. Is that agreed?

Members *indicated agreement.*

Meeting closed at 12:09.

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