

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 16 April 2002  
(*Morning*)

Session 1

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# **SUBORDINATE LEGISLATION COMMITTEE**

## **12<sup>th</sup> Meeting 2002, 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)

\*Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab)

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

\*Gordon Jackson (Glasgow Govan) (Lab)

\*attended

### **THE FOLLOWING ALSO ATTENDED :**

Ms Sandra White (Glasgow) (SNP)

### **CLERK TO THE COMMITTEE**

Alasdair Rankin

### **SENIOR ASSISTANT CLERK**

Steve Farrell

### **ASSISTANT CLERKS**

Joanne Clinton

Alistair Fleming

### **LOCATION**

Committee Room 3

## Scottish Parliament

### Subordinate Legislation Committee

*Tuesday 16 April 2002*

*(Morning)*

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

**The Convener (Ms Margo MacDonald):** I welcome everyone to the 12<sup>th</sup> meeting this year of the Subordinate Legislation Committee. I hope that everyone had a nice break and is thoroughly refreshed. You will need to be for today's agenda. I welcome Ms Sandra White, who has a particular point of interest in one of today's agenda items. I hope that she will not be disappointed to discover that there is not much that we can do about the matter. She will find that out as we go along.

There are no apologies. Before we start on the agenda proper, I inform the committee that Gordon Nabney, who is the Examiner of Statutory Rules in the Northern Ireland Assembly, has expressed interest in how we deal with subordinate legislation. Our legal adviser has been in conversation with Mr Nabney, as has the committee clerk, who would like to add to what I have said.

**Alasdair Rankin (Clerk):** The Northern Ireland Assembly handles subordinate legislation a bit differently from us. I understand that the Assembly's standing orders provide that statutory instruments, which the Assembly calls statutory rules, go in the first instance to the lead committee. However, the lead committee has the power to refer the instruments to the Examiner of Statutory Rules, who is a parliamentary official and a legal officer of the Assembly. He would write a report for the Assembly.

There is a big difference, therefore, between how the Scottish Parliament and the Northern Ireland Assembly handle the technical scrutiny of subordinate legislation. Members might be interested to discuss that with Gordon Nabney, if the committee is minded to invite him here. The committee might also be interested in wider aspects, such as scrutiny of bills in the Northern Ireland Assembly compared with this committee's technical scrutiny of bills. It would also be educational for Mr Nabney to see how this committee handles its scrutiny of subordinate legislation. That might begin a process of thinking about how such scrutiny is done here and comparing it with how such scrutiny is handled in the Assembly.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** What would be proposed? Would Mr Nabney sit in on a meeting and then talk to us about it afterwards?

**Alasdair Rankin:** He would observe a meeting of the Subordinate Legislation Committee. After the meeting's close, there would be an option for an informal discussion with him.

**Colin Campbell (West of Scotland) (SNP):** That seems reasonable, does it not?

**The Convener:** It seems reasonable. We might want to reciprocate, but we will see what the weather is like. Perhaps the clerk can write to Mr Nabney.

Gordon Jackson has just come in. You have missed the chance of a big foreign trip, Gordon, but do not worry.

**Gordon Jackson (Glasgow Govan) (Lab):** That is not like me. It is the story of my life on this committee.

**The Convener:** It is still very nice to see you.

## Draft Instruments Subject to Approval

### Air Quality (Scotland) Amendment Regulations 2002 (draft)

**The Convener:** We have noticed minor drafting errors in the regulations, which are mainly typos. We could tell the Executive about that by informal letter, if that is all right with the committee.

**Ian Jenkins:** That sounds okay.

## Instruments Subject to Annulment

### Less Favoured Area Support Scheme (Scotland) Regulations 2002 (SSI 2002/139)

**The Convener:** These regulations are a bit more problematical. Four main points arise. Regulation 2(1) appears authoritatively to define the phrase "usual good farming practices", but elsewhere the regulations appear to depart from that definition, which causes confusion. We must ask the Executive why it chose to confuse the issue by having what appear to be two definitions of "usual good farming practices" in the regulations.

The second point that arises is important. Regulation 13 confers powers of entry and inspection, but there is nothing to say what would happen if a person failed to allow an inspector

access to records. Would that be a criminal offence? We must ask for an explanation.

The third point that arises concerns whether functions that are to be carried out by United Kingdom ministers on behalf of Scottish ministers should be regulated by order in council. The Subordinate Legislation Committee has said previously that that is a preferable way of doing things. Indeed, some Executive departments do follow that procedure. We can clarify whether the Executive has a policy on the matter, whether it is up to different Executive departments to decide how they will expedite matters, or whether there is just an ad hoc arrangement—which some might describe as, “as it comes up their humph.” I would not say that, of course. However, we shall ask for an explanation of the matter. Did I hear Murdo Fraser say something?

**Murdo Fraser (Mid Scotland and Fife) (Con):** I concur with your suggestion.

**The Convener:** Oh, that is good.

**Colin Campbell:** He is being agreeable.

**The Convener:** Another point arises on regulation 23, which provides for a review of decisions of Scottish ministers under the regulations. Other decisions are dealt with under generic regulations and there seems to be a difference, for example, between the Executive departments responsible for agriculture and for the environment as to how to deal with the regulations. Again, we could ask the Executive to explain why there should be such a difference.

**Ian Jenkins:** Regulation 23(2) requires that somebody who intends to ask for a review of a decision must apply to do so within 60 days of the date of the decision. However, they might not be told of the decision until 58 days after it has been made. Ministers are not obliged to communicate their decision within a particular time scale, which would provide a safety net for an appeal to be made. That position ought to be clarified and firmed up so that people can have a fair chance of putting in their appeal on time.

**The Convener:** Do you concur with that, Murdo?

**Murdo Fraser:** Absolutely.

**The Convener:** Good. The regulations breach the 21-day rule, but the explanation for that seems to be reasonable.

### **Combined Police Area Amalgamation Schemes 1995 (Amendment) (Scotland) Order 2002 (SSI 2002/140)**

**Colin Campbell:** There is a breach of the 21-day rule.

**The Convener:** But it was not a breach of the peace.

**Bill Butler (Glasgow Anniesland) (Lab):** The order seems fine, otherwise.

**The Convener:** Right. Thank you.

### **Combined Fire Services Area Administration Schemes (Variation) (Scotland) Order 2002 (SSI 2002/141)**

**The Convener:** As with the previous order, there is a breach of the 21-day rule.

**Ian Jenkins:** We should say that we are not happy with the breaches of the 21-day rule in this and other instruments. There might be reasons for individual instruments making such a breach. However, when we stand back and look at the matter, we can see that breaches of the 21-day rule should not be happening as often as they do.

**The Convener:** I love him when he is fired up. You are absolutely right, Ian.

### **Police Act 1997 (Criminal Records) (Scotland) Regulations 2002 (SSI 2002/143)**

**The Convener:** A couple of wee points arise. The regulations prescribe the fees payable for the issue of a certificate. Such a certificate might be sought by people who work with children. The Executive said that people who work in the voluntary sector would be able to obtain such a certificate without cost but, unfortunately, the regulations do not say that.

**Colin Campbell:** They should say that because it was a big issue at the time.

**The Convener:** We shall therefore write to the Executive to ask it to clarify the situation. Although the Executive might say that an amendment is under way, we should ensure that the thing is fixed because it is an important matter.

The same issue arises over the level of the fee. Section 118(2) of the Police Act 1997 states that the certificate will not be issued unless the applicant pays “the prescribed fee”, but no such fee has been prescribed in the regulations. We therefore need to ask the Executive for an explanation. Our English counterparts have drawn our attention to a similar shortfall in the English regulations.

Apart from the fact that there are some minor typos as usual, which we shall mention to the Executive informally, no other points arise on the regulations.

**Producer Responsibility Obligations  
(Packaging Waste) Amendment (Scotland)  
Regulations 2002 (SSI 2002/147)**

**The Convener:** Now then, it is possible that spin-doctors have got loose.

**Colin Campbell:** Surely not on the 1 per cent, Margo?

**The Convener:** The regulations and the Executive note state that the target for the recovery of packaging waste is 59 per cent, while the explanatory note has rounded up the figure to 60 per cent. The difference is only 1 per cent, but the figures should be consistent and correct, should they not?

**Bill Butler:** Absolutely.

**Murdo Fraser:** It is probably just a typing error.

**The Convener:** No, not from 59 to 60. If it was from 59 to 69, yes. I think that they have simply rounded up the figure. We should tell them that at least we noticed the error.

**Murdo Fraser:** Do you suspect that dark forces are at work?

**The Convener:** I think so. They simply wanted to have a nice round figure, but we do not want that in subordinate legislation.

**Food (Figs, Hazelnuts and Pistachios from  
Turkey) (Emergency Control) (Scotland)  
Regulations 2002 (SSI 2002/148)**

**The Convener:** The food. For this lot of regulations, the question arises why section 13 of the Food Safety Act 1990 was not used instead of section 2(2) of the European Communities Act 1972.

**Gordon Jackson:** And the answer is?

**The Convener:** I do not know. That is what we shall ask the Executive.

**Gordon Jackson:** I thought that this was a quiz.

**The Convener:** Well, you are not scoring very highly this morning. I thought that you would have known the answer.

In the dim and dark old days, when we were told that joining the European Union would be good for us, we were told that domestic legislation would always be used as a first preference. Does anyone remember that? I see Bill Butler nodding fondly.

**Bill Butler:** It was called the Common Market at that time, in 1975.

**The Convener:** That is what we were told. Even in the late 1980s, the big kick was—not transubstantiation, but—

**Murdo Fraser:** Subsidiarity.

**The Convener:** That is right. Why cannot we have a bit of subsidiarity in the drafting of the regulations? We should ask about that, because it keeps coming up.

**Ian Jenkins:** As long as they save me from all the poisons in the Turkish hazelnuts, pistachios and figs, I am not sure that I am bothered under which act the regulations are made.

**The Convener:** As far as the consumer is concerned, you are absolutely right that it makes no great difference. However, as far as the quality and consistency of the body of our legislation is concerned, we should ask whether it is advisable to jump immediately to the EU legislation.

**Ian Jenkins:** You are quite right, Margo.

**Gordon Jackson:** I look forward to asking the woman in Safeway for a Turkish health certificate. I tell you that it will not go down well.

**The Convener:** “Are thae things Turkish, hen?”

**Food (Peanuts from China) (Emergency  
Control) (Scotland) Regulations 2002  
(SSI 2002/149)**

11:30

**The Convener:** Here is even worse. The same points that were made about the previous regulations also apply to these. Also, in both sets of regulations, the purpose of regulation 4(3) appears not to be relevant.

**Ian Jenkins:** I am sorry but you have lost me.

**The Convener:** Let me take advice from the legal adviser.

Having taken advice, I would say that this is a serious issue and that we should find out about it. Regulation 4(3) obliges food authorities to give assistance to the Scottish ministers and the Food Standards Agency

“for the purpose of carrying out their duties under section 13 of the Act”—

that is, the Food Safety Act 1990—

“in connection with the regulations.”

However, section 13 of that act imposes duties on the Food Standards Agency and the ministers only in relation to orders made under that section. The current regulations are made not under section 13 of that act but under section 2(2) of the European Communities Act 1972. Therefore, the intention of regulation 4(3) is not clear. Those comments apply both to the Food (Peanuts from China) (Emergency Control) (Scotland) Regulations 2002 and to the Food (Figs, Hazelnuts and Pistachios from Turkey) (Emergency Control) (Scotland) Regulations 2002.

We might get a good laugh about it, but the matter is quite serious because folk are adversely affected if the controls are not in place.

**National Health Service (General Medical Services and Pharmaceutical Services) (Scotland) Amendment (No 2) Regulations 2002 (SSI 2002/153)**

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** The regulations seem fine.

**The Convener:** Great. I hope that Ian Jenkins has noted that they breach the 21-day rule.

**Aberdeen City Council and Aberdeenshire Council Boundaries (Blackburn) Amendment Order 2002 (SSI 2002/154)**

**Argyll and Bute Council and West Dunbartonshire Council Boundaries (Ardoch Sewage Works) Amendment Order 2002 (SSI 2002/155)**

**Glasgow City Council and Renfrewshire Council Boundaries (Braehead) Amendment Order 2002 (SSI 2002/156)**

**City of Edinburgh Council and West Lothian Council Boundaries (West Farm, Broxburn) Amendment Order 2002 (SSI 2002/157)**

**The Convener:** Here is the bit that Sandra White is interested in. It may also be of interest to Gordon Jackson.

**Colin Campbell:** And to Colin Campbell.

**The Convener:** Yes. I realise that there is great interest in at least one of the orders—the one that deals with West Lothian Council. Sorry, that was an in-joke. However, this committee is not the place to examine the policy of transferring a place from one council to another; we can only ensure that it is effected legally and in an orderly fashion.

My only comment is that there is some confusion in the instruments, because the explanatory notes refer only to the transfer of areas “between” councils and do not specify from which council land is being transferred. It would be better if they had done so. We should draw that to the attention of the Executive. That is all I will say. Does anyone else want to say anything?

**Ms Sandra White (Glasgow) (SNP):** I thank the convener for allowing me to speak even before the committee members. I sent the convener a letter asking whether I could attend to speak about my concerns and she replied that I could speak only about the technicalities. I have since phoned and met representatives of Glasgow City Council, who

also picked up on the technicality that was mentioned, which is that the order does not stipulate from which council the land is being transferred. The concern that Glasgow City Council and I have is that the transfer might affect future regeneration in the Glasgow area. Glasgow is regenerating and the council is worried that the transfer will affect future regeneration and development.

Another worry is the well-known Govan initiative, through which many people are employed in Braehead, and which is run by Glasgow City Council. Given the Government’s social inclusion policy, it is of great concern that the Govan initiative might fall if it is transferred to Renfrewshire Council.

I have other concerns, but this committee is probably not the right one in which to raise them. The main concerns are the Govan initiative and the related employment issues, future redevelopment on the Clyde and the fact that the Local Government Boundary Commission for Scotland is considering such a great swathe of land only in terms of geography and its historical links with Renfrewshire Council. I have worked closely with both councils and I understand why they are both putting forward their cases. They are right to do that, but I believe that Glasgow City Council has a good case for keeping Braehead in its boundaries.

I thank the convener for allowing me to make a statement.

**The Convener:** I thank you for your attendance and interest. It is wonderful to get a glimpse of the parallel universe of policy land.

**Gordon Jackson:** I say for the record that I do not disagree with Sandra White’s points. I did not speak because I believe that the Subordinate Legislation Committee does not have anything to do with her points. I mean no criticism to Sandra, but this committee has to do with the technicalities of subordinate legislation. As luck would have it, the one instrument that I do not like is the one that the Executive seems to have got right. That is the way things are.

I have lodged a motion to annul the Glasgow City Council and Renfrewshire Council Boundaries (Braehead) Amendment Order 2002, which will be heard by another committee in the next couple of weeks. Obviously, I agree with Sandra White’s comments, because I have lodged a motion to annul the order. However, the matter cannot be dealt with in this forum; I think that I will have to go to the Local Government Committee to fight the good fight.

**Colin Campbell:** I put it on record that, as a regional list MSP for the West of Scotland, I have an interest in the matter, but that this committee is



not the place to discuss it.

**The Convener:** I am glad that we have agreed not to discuss the matter.

**Bill Butler:** We are taking your lead on that, convener.

**The Convener:** When the real fight takes place, if Sandra White and Gordon Jackson need reinforcements, the committee will be right behind them.

We will informally ask the Executive to make the explanatory notes on the orders a bit clearer. It is interesting that Glasgow City Council noticed that point.

**Brian Fitzpatrick:** I doubt that the council was confused.

**The Convener:** Confused in this committee? No.

### **Plant Health (Great Britain) Amendment (Scotland) Order 2002 (SSI 2002/164)**

**The Convener:** The order is another example of one that should perhaps have been made by order in council.

**Ian Jenkins:** We could call this order a Desmond because it is made under section 2(2).

**Murdo Fraser:** We will soon have to publish a glossary of in-terms that the committee uses.

**Ian Jenkins:** The order takes us back to the point that the convener raised about whether section 2(2) of the European Communities Act 1972 should be used instead of section 13 of the Food Safety Act 1990.

**The Convener:** The order is connected to plant health, but it is the same difference. The Executive chose to use section 2(2) of the European Communities Act 1972, rather than powers in the Plant Health Act 1967.

Another problem is that the Executive chose the wrong type of instrument. The instrument should be an order in council or regulations, but it is an order. We must ask for an explanation of that because the use of different formats is confusing.

### **Scottish Water (Rate of Return) (Scotland) Order 2002 (SSI 2002/165)**

**The Convener:** Because I am not an accountant, I am not certain whether my concerns about the order are relevant or important. I do not know to what the term “net operating assets” in article 3(b) of the order refers. I hope that some members of the committee will know and will put my mind at rest. If no members immediately recognise the term and say that it is commonly used, it will need further explanation from the

Executive. Do not put on that look, Brian; the matter is important because it is about money.

**Brian Fitzpatrick:** I was thinking about my professional indemnity insurance—I will not give my view on the matter.

**The Convener:** I think that you are allowed to give your view in the committee. Nobody will hold it against you.

**Murdo Fraser:** Is professional indemnity insurance still available? I ask because I do not have it.

**Colin Campbell:** Another problem is that the order contains a definition of “accounts direction”, but that does not appear elsewhere in the order. Why is that definition given?

**Ian Jenkins:** That question is especially relevant because there is no definition of “net operating assets”. Some questions must be asked and a wee bit of tweaking needs to be done.

**The Convener:** Article 3 defines “average net assets”, but it is not entirely clear from the wording what that means. As the order involves Scottish Water, everyone is watching like a hawk, so it is reasonable that there should be proper definitions. We will ask the Executive to clarify the issues that have been raised.

### **Water Industry (Scotland) Act 2002 (Consequential and Savings Provisions) Order 2002 (SSI 2002/166)**

**The Convener:** There are around six questions to be asked about the order. Once again, there is a fair amount of confusion.

**Ian Jenkins:** The first point is that articles 8(4)(a)(ii) and 8(4)(b) refer to

“sub-paragraph (1) of paragraph 1 of the said schedule 4”,

but there does not appear to be such a subparagraph. We must ask how the problem has arisen and to which subparagraph those articles refer.

**The Convener:** The order refers both to “the authority” and to “the water authority”. It is not clear whether those are exactly the same or whether there is confusion. The situation is certainly confusing for readers and it must be explained.

**Colin Campbell:** There are no footnotes for the orders referred to in article 8(4)(a)(iii).

**The Convener:** Also, article 7(2)(a) substitutes for a definition of “charges scheme” a definition of “charge scheme”, but that term does not appear in the instrument that is amended. The point appears niggardly, but if we are talking about money that is to be paid by the public or by businesses, the

order must be exact and consistent and people must be able to understand it. There are inconsistencies in the definitions and descriptions.

**Ian Jenkins:** There is another point of style. The order refers to

“Schedule 10 of the 1994 Act”,

but the legal adviser suggests that it should be a schedule “to” the act. The order is not phrased correctly.

**The Convener:** I am not absolutely certain about that, but as we intend to write to the Executive to ask for better definitions, we might as well include that observation.

The order breaches the 21-day rule, but, in this case, that is understandable.

### **Water and Sewerage Charges (Exemption) (Scotland) Regulations 2002 (SSI 2002/167)**

11:45

**The Convener:** There is something odd about the regulations. The enabling act does not appear to allow Scottish Water any discretion in respect of penalties that are applied if a person makes a mistake in spelling their name or address or gives slightly inaccurate information. Is that the Executive's intention?

**Colin Campbell:** That is a bit draconian.

**The Convener:** We must draw attention to regulation 5, which appears to be heavy handed, and ask the Executive if that was its intention.

**Murdo Fraser:** Section 68(2) of the Water Industry (Scotland) Act 2002, which is referred to in the explanatory note as an enabling power, is not cited in the preamble, but, strictly speaking, it should be. We should ask the Executive to let us know why it is not.

**The Convener:** I am advised that there may or may not be a question relating to vires in the degree of sub-delegation to Scottish Water in regulation 8(b). The only problem is whether the wording of the enabling power provides sufficient vires. Do members wish to raise that point?

**Bill Butler:** We should ask the Executive to justify the vires. That would do no harm.

**The Convener:** The regulations also breach the 21-day rule, but apparently, that is reasonable.

### **Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 3) Amendment (No 2) Amendment Regulations 2002 (SSI 2002/169)**

**Ian Jenkins:** No points arise on the regulations.

### **Food (Jelly Confectionery) (Emergency Control) (Scotland) Regulations 2002 (SSI 2002/179)**

**The Convener:** Again, regulations have been made under section 2(2) of the European Communities Act 1972 rather than under the Food Safety Act 1990. There is nothing wrong with the instrument, but why was domestic legislation not used?

### **Scotland Act 1998 (Agency Arrangements) (Specification) (No 2) Order 2002 (SI 2002/800)**

**The Convener:** Members will remember that, just before the recess, we discussed regulations that were changed at Westminster under an agency arrangement, but were not published. Therefore, we could not possibly have known what they said and worked out what we could do. The order relates to an instrument that referred to an SI that was to be made by the UK department, but which in the event was not made.

**Murdo Fraser:** Did we write to the Executive after our previous meeting about that matter?

**The Convener:** Yes.

**Murdo Fraser:** Did we receive a response?

**The Convener:** No. We should send the Executive a postcard this time.

### **Scottish Administration (Offices) Order 2002 (SI 2002/801)**

**Brian Fitzpatrick:** No points arise on the order.

## **Instruments Not Subject To Parliamentary Control**

### **Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (Scotland) Revocation Order 2002 (SSI 2002/152)**

### **Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 4) (Scotland) Revocation Order 2002 (SSI 2002/160)**

**The Convener:** The orders have been lifted just in time for the tourist season. That is good.

## **Instruments Not Laid Before the Parliament**

### **Nurses, Midwives and Health Visitors (Professional Conduct) (Amendment) (No 2) Rules 2002 Approval (Scotland) Order 2002 (SSI 2002/142)**

**Murdo Fraser:** There are some minor typos in the order, but they could be dealt with by informal letter.

**The Convener:** I am surprised that the boys did not mention that the drafting is not gender neutral. The order assumes that all nurses are women. We know that all good nurses are women, but does any member want to make a big issue of that? Let us hear it for men's liberation?

### **Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc Rules) Amendment (No 3) (Adults with Incapacity) 2002 (SSI 2002/146)**

**The Convener:** The next order is the Regulation of Care (Scotland) Act 2001 (Commencement No 2—

**Murdo Fraser:** You missed out an instrument, convener.

**Colin Campbell:** The act of sederunt.

**The Convener:** I am sorry. I did not know how we would be pronouncing that this week.

**Colin Campbell:** No points arise on the instrument.

### **Regulation of Care (Scotland) Act 2001 (Commencement No 2 and Transitional Provisions) Order 2002 (SSI 2002/162)**

**The Convener:** The order appears to be fine, except for the split infinitive, of which there is a nasty example.

**Colin Campbell:** I thought that an English teacher would have picked up on that.

**The Convener:** The sentence is not even in the present tense—it is quite convoluted.

### **Housing (Scotland) Act 2001 (Commencement No 4, Transitional Provisions and Savings) Order 2002 (SSI 2002/168)**

**The Convener:** There is a small typo, but the order is fine.

## **Community Care and Health (Scotland) Act 2002 (Commencement No 1) Order 2002 (SSI 2002/170)**

**Colin Campbell:** No points arise on the order.

**The Convener:** Perhaps we should pat ourselves on the back. It appears that the Executive has taken on board our criticism of the inadequacy of explanatory notes and is doing things better. That is good.

### **Adults with Incapacity (Scotland) Act 2000 (Commencement No 1) (Amendment) Order 2002 (SSI 2002/172)**

**The Convener:** There are no problems with the order, which excludes from commencement certain provisions of the act that were to have come into force on 1 April.

### **Protection of Wild Mammals (Scotland) Act 2002 (Commencement) Order 2002 (SSI 2002/181)**

**The Convener:** I thought that we had heard the last of wild mammals. The order brings the Protection of Wild Mammals (Scotland) Act 2002 into force on 1 August 2002.

**Murdo Fraser:** The instrument is technically correct, but I want to raise a Sandra White point about it. Given that the act might be subject to legal challenge, an instrument bringing the act into effect might be premature at this stage, although, strictly speaking, that is not a matter for the committee.

**Brian Fitzpatrick:** I agree.

**Murdo Fraser:** That is why I referred to the point as a Sandra White point.

**The Convener:** I was extremely understanding about the angst involved in the transfer of an area from one local council to another and I am just as understanding about Murdo Fraser's point. He is worried about people not being able to get to the foxes.

I thank members for attending the meeting this morning.

*Meeting closed at 11:53.*



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