

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 30 April 2002
(*Morning*)

Session 1

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SUBORDINATE LEGISLATION COMMITTEE

14th 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

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 30 April 2002

(Morning)

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

The Convener (Ms Margo MacDonald): I welcome everyone to the 14th meeting of the Subordinate Legislation Committee. There are no notifications and there is one apology—from Gordon Jackson. Nothing arises from the minutes of the last meeting, so we can start.

Executive Responses

Loch Ewe, Isle of Ewe, Wester Ross, Scallops Several Fishery (Variation) Order 2002 (SSI 2002/185)

The Convener: Members might remember the order from last week. There was defective drafting in the explanatory note and points 2 and 3 of our letter to the Executive asked for clarification. That must be drawn to the attention of the lead committee.

We asked the Executive three questions and we have had reasonable answers that clarify the order. The response also explains that the Executive has removed the need to involve the Crown Estate commissioners. Although that is a reserved area, because of the neutral effect the committee considers that it is perfectly okay to do that. There is no question of vires.

Little Loch Broom Scallops Several Fishery Order 2002 (SSI 2002/186)

The Convener: A question came up on this order and on the previous one: Ian Jenkins was very concerned about fishermen who might die.

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): I wondered what would happen to an order that named an individual if that individual then died. The Executive has explained that the order would fall and would have to be renewed with a new, named individual. I still wonder what would happen in the interim if fish were being grown and harvested. However, the order is now clarified and the Executive has answered our questions to our satisfaction.

The Convener: What you say is true if it is a small business. However, if it is a small business,

presumably there is not a huge amount of fish being produced. It seems to be an issue where folk have to use their common sense.

We will draw the order to the attention of the lead committee.

Road Traffic (Permitted Parking Area and Special Parking Area) (City of Glasgow) Designation Amendment Order 2002 (SSI 2002/187)

Road Traffic (Permitted Parking Area and Special Parking Area) (City of Edinburgh) Designation Amendment Order 2002 (SSI 2002/188)

The Convener: These are interesting orders. We asked for an explanation because the explanatory notes were—what is the word? They were dense.

Murdo Fraser (Mid Scotland and Fife) (Con): Impenetrable.

Colin Campbell (West of Scotland) (SNP): Incomprehensible.

The Convener: Impenetrable and incomprehensible. We have discovered why that should be the case. Bill Butler has a smile playing on his face—he thought that they were just wee orders to tidy things up. We suspect that the orders are quite important.

Bill Butler (Glasgow Anniesland) (Lab): Indeed.

Colin Campbell: They have goofed.

The Convener: The impenetrable nature of the note meant that it was not immediately obvious that there might have been a hiatus of two years during which people have been paying up for excess parking charges when, perhaps, the statutory instruments were not in place for that to happen. That is only a suspicion.

Colin Campbell: Part of the Executive's response points out that the effect of omitting section 66(2) of the Road Traffic Act 1991 from the designation orders meant that a penalty charge was no longer payable in circumstances where a vehicle was left in a parking place beyond the period of parking that had been paid for. The purpose of the two designation amendment orders is to re-introduce the appropriate section. A gap in the legislation is concealed by all the obfuscation of the explanation.

The Convener: We should ask the Executive if that is the case and we should draw that to the Executive's attention.

Murdo Fraser: Should we not refer the matter to the lead committee and advise its members of our

concerns, given that it is a policy matter and not a matter for the Subordinate Legislation Committee?

The Convener: You are right. I am sorry. I should have said the lead committee. As far as the Executive is concerned, there is no time to do anything about it. However, now that we have spotted the deliberate mistake, it is up to the lead committee to decide how to dispose of the orders. Are we agreed?

Members indicated agreement.

Draft Instruments Subject to Approval

Valuation and Rating (Exempted Classes) (Scotland) Order 2002 (draft)

The Convener: It is interesting that, although the Executive mentioned consultation, it does not say who has been consulted. The order is about the exemption from rates for the new gas pipeline from the Sullom Voe terminal to the Magnus oilfield. There is a statutory requirement to consult, but we do not know who was consulted. We should find out informally. Is that agreed?

Members indicated agreement.

Instruments Subject to Annulment

Home Zones (Scotland) Regulations 2002 (SSI 2002/177)

The Convener: The home zones regulations—ooby dooby dooby!

That was a technical term.

Ian Jenkins: You will have to help us with the spelling.

The Convener: There are serious points on the regulations. Regulations 5, 9 and 14(f)—which raises a question about vires—contain some seriously impenetrable items.

We could say a great deal about the regulations. They deal with the designation of roads as home zones, which can be classified in different ways. The regulations are important, because people must be informed and consulted about home zones, which they must be able to understand. The law must stand up to that, but from our reading of these regulations it does not appear that they meet that aim.

Another peculiar problem with the regulations is that we are not sure how often the consultation is to be repeated. People are informed about a designation in the first instance when a notice is sent out. If they object at that stage, it is not clear whether their objection remains valid or whether they must repeat it.

Bill Butler: I also noticed that we are advised that the instrument is so defective that it ought to be scrapped. Would it be possible for the Executive to start again? We have received page after page of good advice that the instrument may be the worst that we have seen.

The Convener: I do not know whether the instrument is the worst that we have seen, but—

Bill Butler: It is up there—or down there—with the worst, convener.

The Convener: I am not sure about that. Certainly, we should draw the instrument to the attention of the Executive. We should suggest to the Executive that, given that we have raised so many objections, we would have no objection if it were to start again.

Bill Butler: A thorough redraft is required.

The Convener: All right. Is the committee so minded?

Members indicated agreement.

**Registration of Fish Farming and Shellfish
Farming Businesses Amendment
(Scotland) Order 2002 (SSI 2002/193)**

The Convener: This order raises the question of whether we should send a nice wee letter to the Executive asking where it would like to insert new paragraph 3, because each part of schedule 3 already contains a paragraph 3. Although we should definitely send a letter, I do not think that we need to write formally, because the problem that we found does not negate what the Executive is trying to do—it simply has to decide in which part of schedule 3 it wishes to put the paragraph. Is that correct?

Murdo Fraser: Our letter will have to be more than informal because the principal order will not make sense if it contains two paragraph 3s.

The Convener: Therefore, the drafting is defective, and our practice in relation to defective drafting has been to write formally to the Executive.

**Animals and Animal Products
(Import and Export) (Scotland)
Amendment (No 2) Regulations 2002 (SSI
2002/196)**

The Convener: As Brian Fitzpatrick missed the rest of the meeting, perhaps he would like to give us an exposition of these regulations.

**Brian Fitzpatrick (Strathkelvin and Bearsden)
(Lab):** No. I decline.

**Instruments Not Subject to
Parliamentary Control**

**Food Protection (Emergency Prohibitions)
(Amnesic, Paralytic and Diarrhetic
Shellfish Poisoning) (Orkney) (Scotland)
Revocation Order 2002 (SSI 2002/197)**

**Food Protection (Emergency Prohibitions)
(Amnesic Shellfish Poisoning) (West
Coast) (No 12) (Scotland) Revocation
Order 2002 (SSI 2002/198)**

The Convener: These orders deal with all the shellfish poisoning.

The Food Protection (Emergency Prohibitions) (Amnesic, Paralytic and Diarrhetic Shellfish Poisoning) (Orkney) (Scotland) Revocation Order 2002 (SSI 2002/197) contains a minor typo. Other than that, no points arise—the orders are a couple of Norways.

I thank members for their attendance, although, without stressing the point too much, some were here for longer than others.

Meeting closed at 11:29.

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