

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 18 June 2002
(Morning)

Session 1

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SUBORDINATE LEGISLATION COMMITTEE

21st 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)

COMMITTEE SUBSTITUTES

Mr Kenny MacAskill (Lothians) (SNP)

Mr Brian Monteith (Mid Scotland and Fife) (Con)

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*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 18 June 2002

(Morning)

[THE CONVENER *opened the meeting at 11:29*]

The Convener (Ms Margo MacDonald): I welcome everyone to the 21st meeting of the Subordinate Legislation Committee. Apologies have been sent by Ian Jenkins, Gordon Jackson and Brian Fitzpatrick, who has the delight of being in Shetland today, although I think that it is pouring down. We will hear about his jaunt when he gets back.

Colin Campbell (West of Scotland) (SNP): I am sure that we will not.

The Convener: Probably not.

Delegated Powers Scrutiny

Debt Arrangement and Attachment (Scotland) Bill: Stage 1

The Convener: The first item is on the Debt Arrangement and Attachment (Scotland) Bill. Quite a number of points will have to be raised on the bill. We have a note of them, because the work was done before the committee met this morning. I suggest that we ask the Executive to come and explain to us why it favours so much negative resolution. It is an important bill, which changes a lot, and one or two aspects could be made clearer. Are members agreed?

Members *indicated agreement.*

The Convener: We will ask for a witness to come to the committee next week.

Murdo Fraser (Mid Scotland and Fife) (Con): Will we give the Executive a note of the questions that we want to ask?

The Convener: We will give the Executive a note of the sections that we have concerns about, any questions that we have and whether we are querying the Executive's choice of negative resolution.

Executive Responses

Scottish Transport Group (Dissolution) Order 2002 (SSI 2002/263)

The Convener: The order has been in front of the committee before. The intention is that the committee draws the attention of the lead committee to the order, because there is defective drafting. Some people might think that the committee is nit-picking since the Scottish Transport Group is no more, but it is necessary to dissolve such bodies in an orderly, correct and legal fashion. Although the failure to repeal spent references in part of the dissolution order has no practical effect, it is untidy and we do not want that to continue.

Murdo Fraser: We should be grateful to the Executive for apologising in its letter for its errors. We should point out in our report that although the drafting is defective, that is not material.

The Convener: I have said that. The defective drafting has no practical effect. We usually point out such issues to the lead committee. It is good that the Executive admitted that it had not tied up the matter properly.

Instruments Subject to Annulment

Contaminants in Food (Scotland) Regulations 2002 (SSI 2002/267)

The Convener: The regulations—which contain a number of typos—consolidate with amendments regulations made in consequence of EC legislation that controls certain contaminants, such as lead, in food. I am surprised that any lead is allowed in food.

Murdo Fraser: The problem is that lead is everywhere. There is a background level of lead in water.

The Convener: Is there?

Murdo Fraser: Yes, I believe so.

The Convener: Gosh, that is interesting.

Colin Campbell: I thought that water pipes were put in to eliminate lead.

The Convener: I know, but this is about food, Colin.

Colin Campbell: Food and water are often associated in the manufacture of food.

The Convener: Good thinking. There are a number of typos, but the regulations do not appear to give rise to any difficulties. We will note that we have noticed the typos.

National Health Service (General Dental Services) (Scotland) Amendment (No 2) Regulations 2002 (SSI 2002/268)

The Convener: Nul points.

Sheriff Court Fees Amendment Order 2002 (SSI 2002/269)

Murdo Fraser: There is one small spelling error, but it is fine apart from that.

Court of Session etc Fees Amendment Order 2002 (SSI 2002/270)

Colin Campbell: No points arise in relation to this instrument.

The Convener: It is allied to the previous one.

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Amendment Regulations 2002 (SSI 2002/271)

The Convener: Apparently, there are discrepancies between the tables in the regulations and those on the EU directives but, having tried to plough my way through the tables, I do not know what they are. It is all super-technical and I congratulate whoever made their way through the document.

The regulations amend the provisions of the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Regulations 2000 in the light of new European Commission directives. Although the regulations are technical, they are directly applicable to an important area of policy making. It is worth while recording our thoughts on the matter if we think that there is confusion or that items are missing from the tables. It is unclear where the figures for the maximum residue levels of lambda-cyhalothrin—we miss Ian Jenkins when it comes to pronouncing words like that—in respect of lemons, limes and mandarins come from. There is also a question mark over the source for the levels of azoxystrobin in respect of figs, kiwi fruits and some other fruits.

Murdo Fraser: We should ask the Executive to advise us why there are those discrepancies.

The Convener: We should also ask whether we have been supplied with all the relevant EU documentation, provided that we do not have to carry it home, as it must weigh a ton.

The Executive did not supply a transposition note, but we should thank the Executive for providing copies of the relevant extracts from the tables in previous instruments. That made our checking job a little easier.

Loch Caolisport Scallops Several Fishery (Scotland) Order 2002 (SSI 2002/272)

Colin Campbell: No points arise.

The Convener: A few wee typographic errors, but otherwise not bad.

Act of Sederunt (Fees of Solicitors in the Sheriff Court) (Amendment No 2) 2002 (SSI 2002/274)

The Convener: I think that I pronounced the word “sederunt” differently last week.

There is a small typo, which we will deal with in an informal letter. The instrument is about the fees that solicitors get paid in the sheriff court. I am sure that they are worth every penny of their 4.3 per cent increase.

Adults with Incapacity (Specified Medical Treatments) (Scotland) Regulations 2002 (SSI 2002/275)

The Convener: This is this morning's biggie.

The instrument raises complex issues under articles 3, 8 and 14 of the European convention on human rights. It might be a good idea for us to ask someone from the Executive to come before us to explain the thinking behind the instrument.

Designation of Nitrate Vulnerable Zones (Scotland) Regulations 2002 (SSI 2002/276)

New Water and Sewerage Authorities Dissolution (Scotland) Order 2002 (SSI 2002/277)

The Convener: No points arise on these instruments.

Extensification Payment (Scotland) Regulations 2002 (SSI 2002/278)

The Convener: Does the committee wish to ask the Executive whether there is any provision in the regulations for an appeal against a decision to withhold recovered payments under regulation 8?

Bill Butler (Glasgow Anniesland) (Lab): That would be appropriate.

The Convener: We also need to confirm that, in the definition of Commission regulation 3887/1992, the final reference ought to be to Commission regulation 882/2001 instead of 882/2007. It seems to be a wee mistake.

By the way, Murdo, do you know what the Ran doctrine is?

Murdo Fraser: Sorry, I do not.

The Convener: Apparently, according to expert

opinion, the reason that the scheme is now being embodied in legislation is due to the effect of the rule known as the Ran doctrine. I do not know what that is—I must find out.

Does anyone know what the IACS regulations are?

Murdo Fraser: Yes.

The Convener: What are they?

Murdo Fraser: The integrated administration and control system regulations form a map-based system for paying subsidies to farmers.

The Convener: Is that what they are? That makes everything much clearer.

Also, as Murdo Fraser said in a previous meeting, the phrase “as a debt” in regulation 8 is de trop. However, we cannot do anything much about that. We will have to let it go.

Murdo Fraser: Well, I think that we have made the point before. If we are going to raise the issue anyway, it probably does no harm to throw that additional comment in.

The Convener: Okay. We will ask the Executive about it.

Plant Protection Products Amendment (No 2) (Scotland) Regulations 2002 (SSI 2002/279)

The Convener: No points arise on these regulations.

Act of Sederunt (Fees of Witnesses and Shorthand Writers in the Sheriff Court) (Amendment) 2002 (SSI 2002/280)

The Convener: Apart from a missing footnote, which can be dealt with through an informal letter, no points arise on this instrument.

Gaming Act (Variation of Fees) (Scotland) Order 2002 (SSI 2002/281)

The Convener: No points arise on this order. However, did anyone notice that the fees were reduced for gaming licences last year? We have to ask ourselves whether that is a good or a bad thing—although, fortunately, we do not need to do so as a committee.

Education (Student Loans) Amendment (Scotland) Regulations 2002 (SSI 2002/282)

The Convener: No points arise on these regulations.

Animal By-Products (Identification) Amendment (Scotland) Regulations 2002 (SSI 2002/283)

The Convener: We need more of an explanation about the drafting of new regulation 4(a). Moreover, we should ask whether the Executive has any plans to consolidate the regulations that refer to the Animal By-Products (Identification) Regulations 1995 to reduce the possibility of unfit meat entering the human food chain. This is important stuff.

Eight points have been noted on the drafting of the regulations. As I have said, the main point is the drafting of new regulation 4(a) as inserted in the principal regulations by regulation 2(3). There is some doubt about the meaning of carcase. Now I thought that I knew what a carcase was.

Colin Campbell: I thought that it was a dead body.

The Convener: Well, the difference is between dead chickens and other dead animals. Perhaps we should ask the Executive to clarify the definition for us.

Also, the instrument contains some typos and some of its provisions are contained in lengthy passages of unbroken text that make it difficult to read. The committee has made a point of saying that that is not good-quality drafting. We need to bear in mind that this sort of instrument should be more consumer friendly—if one can talk about such a thing in the context of carcasses and unfit meat—so that it can be more easily read by those whom it affects.

If there are no other comments on the instrument, let us move on.

Food (Control of Irradiation) Amendment (Scotland) Regulations 2002 (SSI 2002/284)

11:45

The Convener: We are heartily pleased that there will potentially be less food poisoning in future. Do we thank the EU for that?

Murdo Fraser: Are you sure that we want to do that?

Colin Campbell: Perhaps we should.

The Convener: No, we will not, but we are no doubt glad of the provision. Apart from the small typo in new paragraph 9(4), no points arise on the instrument.

Feeding Stuffs Amendment (Scotland) Regulations 2002 (SSI 2002/285)

Murdo Fraser: No points of substance arise on the instrument, but it contains a number of typos.

Teachers' Superannuation (Scotland) Amendment Regulations 2002 (SSI 2002/288)

The Convener: The principal regulations have been amended umpteen times—15 times, I think. We shall ask the Executive whether it has any plans to consolidate them.

Bus Service Operators Grant (Scotland) Regulations 2002 (SSI 2002/289)

The Convener: We have a small quibble about the instrument's title, as it does not tell the reader what the instrument does. The instrument determines which bus service operators are eligible for grants, but that is not indicated in the title. We can ask the Executive why it could not think up a better name for the instrument.

Have members any other comments?

Murdo Fraser: Regulation 2 states that "local service" is defined

"in section 2 of the Transport Act 1985",

but "local service" is defined in section 48(1) of the enabling act. There seems to be an inconsistency.

The Convener: We should draw that to the Executive's attention and ask whether that was intended.

Travel Concessions (Eligible Services) (Scotland) Order 2002 (SSI 2002/290)

Bill Butler: The instrument seems fine.

Home Zones (Scotland) (No 2) Regulations 2002 (SSI 2002/292)

Murdo Fraser: This replaces the draft that we saw a few weeks ago that was full of mistakes. We should be pleased with the Executive for correcting them all.

The Convener: The Executive should be pleased with us for pointing them out. We should all be pleased with each other.

Bill Butler: Mutual pleasure, convener.

The Convener: Bill Butler has hit on it. We should have "Mutual Pleasure" emblazoned above the door of the Subordinate Legislation Committee room.

Advisory Council (Establishment) (Scotland) Regulations 2002 (SSI 2002/293)

The Convener: A couple of points can be made. We should perhaps ask the Executive to explain the power that authorises regulation 4. Given the terms of the enabling act, we should ask the Executive to explain the purpose of the provision.

We should also ask by what route the convener of the council appears—in other words, who appoints the convener.

Instruments Not Laid Before the Parliament

Transport (Scotland) Act 2001 (Commencement No 3 and Transitional Provisions) Order 2002 (SSI 2002/291)

The Convener: There is a wee bit of confusion, so we should perhaps ask the Executive for clarification. I think that the order is meant to bridge the previous order and the incoming order, but it does not actually do that. We should ask the Executive to confirm what its intention was.

Annual Report

The Convener: Is that us?

Alasdair Rankin (Clerk): No. We still have the annual report to consider.

The Convener: Gosh, imagine forgetting the annual report. Members have before them the draft of the annual report. Does anyone wish to query or add anything or even congratulate our clerk?

Colin Campbell: It is an excellent summary of all the work and detail that the committee has been through. It is precise, concise, succinct—shall I stop there?

The Convener: We do not think that any other committee's annual report will be shorter, so we are really pleased.

If there is nothing else, I thank members for their attendance. See you next week.

Meeting closed at 11:50.

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