

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 3 December 2002  
*(Morning)*

Session 1

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## SUBORDINATE LEGISLATION COMMITTEE

34<sup>th</sup> Meeting 2002, 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)  
\*Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab)  
\*Murdo Fraser (Mid Scotland and Fife) (Con)  
\*Gordon Jackson (Glasgow Govan) (Lab)

### COMMITTEE SUBSTITUTES

Jackie Baillie (Dumbarton) (Lab)  
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 3 December 2002*

*(Morning)*

[THE CONVENER *opened the meeting at 11:20*]

**The Convener (Ms Margo MacDonald):** I welcome everyone to the 34<sup>th</sup> meeting of the Subordinate Legislation Committee in 2002. We have received no apologies this morning.

Four guests from the Northern Ireland Assembly have joined us; they are staff members of the Social Development Committee. You are very welcome. As you have been sent to this committee, we assume that you are being punished for something that you did in Northern Ireland. We call this committee the gulag—but it is a nice, friendly one. You have not picked a vintage day—we have had better days, when we have dealt with amnesic shellfish and things. However, we will try not to disappoint.

### Delegated Powers Scrutiny

#### Homelessness etc (Scotland) Bill: Stage 1

**The Convener:** Item 1 deals with the Homelessness etc (Scotland) Bill, which is at stage 1. We raised a couple of points about the bill with the Executive. One was about delegated powers; the other was a more general point of information. The Executive has effectively said game, set and match to the Subordinate Legislation Committee: it has agreed with us. We must thank the Executive for its response.

### Executive Response

#### Tobacco Advertising and Promotion Act 2002 (Commencement) (Scotland) Order 2002 (SSI 2002/512)

**The Convener:** There is a technical question of whether or not the order takes the correct form. We need only draw the Parliament's attention to the matter. We asked why the order was made as a statutory instrument, when that may not have been required.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** It seems that everyone knows that there is a technical flaw in the instrument, although it still works.

**The Convener:** Do we really want to enter into the detail of this?

**Members:** No.

**The Convener:** I thought not. In any case, I can tell members that the cause was not enforcement. In other words, it was not in relation to enforcement, but to timing, that the Executive introduced the order. We will draw the matter to the Executive's attention.

### Draft Instrument Subject to Approval

#### Proceeds of Crime Act 2002 (Cash Searches: Constables in Scotland: Code of Practice) Order 2002 (draft)

**Colin Campbell (West of Scotland) (SNP):** The draft order seems okay.

**The Convener:** No points arise on the order.

### Instruments Subject to Annulment

#### Act of Sederunt (Fees of Sheriff Officers) 2002 (SSI 2002/515)

**Bill Butler (Glasgow Anniesland) (Lab):** This act of sederunt seems fine, convener.

#### Potatoes Originating in Egypt (Scotland) Amendment Regulations 2002 (SSI 2002/518)

**The Convener:** We have a difficult one here.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The regulations seem fine, convener.

**The Convener:** We do not have a matter of policy with which to concern ourselves with regard to the regulations, but I do not think that these Egyptian potatoes are anything like as good as they used to be. Gordon Jackson will know.

**Colin Campbell:** You have silenced him, convener.

#### Seeds (Miscellaneous Amendments) (Scotland) Regulations 2002 (SSI 2002/520)

**The Convener:** We need to give some attention to these regulations. Have you given them much attention, Murdo?

**Murdo Fraser:** No, convener, but I can read, so I will do that. There are a number of problems with the regulations. We should ask the Executive why regulation 2(4)(b) purports to insert paragraph (1A)

after paragraph (1) of regulation 9 of the Cereal Seeds Regulations 1993, as amended, when it appears that there is already a regulation 9(1A) in the 1993 regulations. There appears to be a drafting error there on the part of the Executive.

**Ian Jenkins:** A similar comment applies to regulation 3(4)(b).

**The Convener:** Regulation 2(5) inserts new regulation 9B into the Cereal Seeds Regulations 1993. It might have been clearer if, in that new regulation, the word “supplied” had been inserted after the word “Bulk”—at least I am sure that it would have been clearer to some people.

**Ian Jenkins:** We can ask the Executive to comment on those matters.

**Gordon Jackson (Glasgow Govan) (Lab):** I am curious about the legal brief's final point on the regulations, which says that regulation 2 amends the 1993 regulations to refer to a person who is authorised to take samples, but that the paragraph to which regulation 2 refers—which is paragraph 8A of schedule 5—does not mention the authorisation of people who can do that.

**The Convener:** That is right. That is an important point.

**Gordon Jackson:** That seems a slightly more important point—but perhaps not.

**The Convener:** No, it is. We will ask the Executive to comment on that point.

**Gordon Jackson:** At least we can find out why paragraph 8A is drafted as it is. There might be a reason for that or there might just be a mistake.

**The Convener:** I think that it is just a mistake, but we will ask the Executive anyway.

### **Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Amendment Regulations 2002 (SSI 2002/521)**

**Ian Jenkins:** The Executive has amended the regulations, but has left something in that it should not have.

**The Convener:** We can inquire as to whether this was perhaps a Friday afternoon job.

**Murdo Fraser:** Another point is that although the Executive has amended the regulations it has not picked up all the points that we raised previously.

**The Convener:** We raised loads of points on the regulations, did we not?

**Murdo Fraser:** Yes. It seems to be rather sloppy not to reflect our other comments.

**Gordon Jackson:** It is often the case that an

instrument has many defects, which are supposed to be corrected the next time round. However, when that time comes the defects have not been corrected. That must be a system error. It cannot be the case that individual people are expected to remember to make the corrections. A person cannot remember six months later that corrections must be made to an instrument.

**The Convener:** In this case the time scale involved was only two or three weeks.

**Gordon Jackson:** There should be a computer system that marks on an instrument that certain aspects are due to be corrected before it is resubmitted to the Subordinate Legislation Committee. However, that does not seem to happen. The corrections seem to get missed every time.

**The Convener:** That is a reasonable point, Gordon. Perhaps in our letter to the Executive we will simply comment that we have noticed on other occasions that detailed points that we raised on instruments have subsequently not been dealt with by the Executive, which might be due to pressure of work or a glitch in the system.

**Gordon Jackson:** For example, if the corrections were entered into a computer system at the appropriate time as being required, when the Executive redrafts the regulations someone could press a button and say, “Oh, yeah. Six months ago we put in that these things had to be changed.” However, somehow the system does not operate properly.

**The Convener:** Okay. We will notify the Executive.

Brian Fitzpatrick has joined the meeting. Good morning, Brian.

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** Good morning, madam.

**The Convener:** You have missed the Egyptian tattie, I am afraid.

**Brian Fitzpatrick:** I eat only Scottish produce.

**The Convener:** Aw, well, that is awright—you narrow nationalist. [*Laughter.*]

**Brian Fitzpatrick:** I will not bother—but I will later.

### **Scottish Local Government Elections Amendment Rules 2002 (SSI 2002/522)**

**Colin Campbell:** The rules seem okay.

## **Instruments not Laid Before the Parliament**

### **Act of Sederunt (Fees of Messengers-At-Arms) 2002 (SSI 2002/513)**

### **Act of Sederunt (Rules of the Court of Session Amendment No 2) (Applications under the Protection from Abuse (Scotland) Act 2001) 2002 (SSI 2002/514)**

### **Act of Sederunt (Summary Cause Rules) (Amendment) 2002 (SSI 2002/516)**

**The Convener:** Several acts of sederunt are in front of us today. There are small typos and grammatical errors in them and we should simply draw those to the attention of the Executive.

**Gordon Jackson:** Sure.

**Colin Campbell:** All of them?

**Gordon Jackson:** Yes.

**The Convener:** Yes. That decision would cover all the acts of sederunt before us.

### **Act of Adjournal (Criminal Procedure Rules Amendment No 4) (Extradition) 2002 (SSI 2002/517)**

**Colin Campbell:** No points arise on the act of adjournal.

**Murdo Fraser:** There is one typing error, which can be dealt with by an informal letter to the Executive.

### **Fur Farming (Prohibition) (Scotland) Act 2002 (Commencement) Order 2002 (SSI 2002/519)**

**Gordon Jackson:** No points arise on the order.

**The Convener:** Oh, I think that I have forgotten to deal with an important instrument: the Scottish Local Government Elections Amendment Rules 2002 (SSI 2002/522).

**Colin Campbell:** I think that we dealt with the instrument earlier; I said that nothing arose.

**The Convener:** Right.

Now, since we have finished the agenda so early today, I thought that I would ask members to stay behind and discuss how the Subordinate Legislation Committee might improve the smooth running of the Parliament next time round, because some of us expect to be back. Is that not right, Brian?

**Brian Fitzpatrick:** Yes, some of us do. I look forward to seeing you then, Margo. Poor Kenny—eh?

**The Convener:** I cannot think who you are referring to. However, I will say one thing—

**Colin Campbell:** Are we still in business?

**Brian Fitzpatrick:** Why? Do you want to say something horrible about Kenny MacAskill? That is disgraceful.

**Colin Campbell:** No.

**The Convener:** We are still in business. Seriously, just before I close the meeting, I am going to a meeting of the conveners liaison group this afternoon. We will consider how the work of the Parliament can be improved—we hope—in the next parliamentary session. The Subordinate Legislation Committee's legal adviser and I have discussed any comments that we might have. Therefore, if members have any comments that they would like me to raise at the conveners liaison group, please let me know before I go there this afternoon at four o'clock.

**Murdo Fraser:** Okay.

**The Convener:** With that, I thank you for your attendance. I declare this meeting a record and will see you next week.

*Meeting closed at 11:31.*





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