

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 25 February 2003  
*(Morning)*

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

Applications for reproduction should be made in writing to the Licensing Division,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The  
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now  
trading as The Stationery Office Ltd, which is responsible for printing and publishing  
Scottish Parliamentary Corporate Body publications.

---

## CONTENTS

Tuesday 25 February 2003

Col.

<b>DELEGATED POWERS SCRUTINY</b> .....	1243
Homelessness etc (Scotland) Bill: as amended at Stage 2 .....	1243
<b>EXECUTIVE RESPONSES</b> .....	1245
SFGS Farmland Premium Scheme 2003 (draft) .....	1245
Landfill (Scotland) Regulations 2003 (draft) .....	1246
Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003 (draft) .....	1246
National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2003 (SSI 2003/55) .....	1246
Registration of Foreign Adoptions (Scotland) Regulations 2003 (SSI 2003/67) .....	1247
Road Traffic (Permitted Parking Area and Special Parking Area) (Aberdeen City Council) Designation Order 2003 (SSI 2003/70) .....	1247
Road Traffic (Parking Adjudicators) (Aberdeen City Council) Regulations 2003 (SSI 2003/71) .....	1249
Parking Attendants (Wearing of Uniforms) (Aberdeen City Council Parking Area) Regulations 2003 (SSI 2003/72) .....	1249
Taxi Drivers' Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2003 (SSI 2003/73) .....	1249
Sea Fish (Prohibited Methods of Fishing) (Firth of Clyde) Order 2003 (SSI 2003/79) .....	1250
Tobacco Advertising and Promotion Act 2002 (Commencement No 4) (Scotland) (Amendment and Transitional Provisions) Order 2003 (SSI 2003/80) .....	1250
<b>DRAFT INSTRUMENT SUBJECT TO APPROVAL</b> .....	1251
Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (draft) .....	1251
<b>INSTRUMENTS SUBJECT TO APPROVAL</b> .....	1252
Fishing Vessels (Decommissioning) (Scotland) Scheme 2003 (SSI 2003/87) .....	1252
Sea Fishing (Transitional Support) (Scotland) Scheme 2003 (SSI 2003/92) .....	1252
<b>INSTRUMENTS SUBJECT TO ANNULMENT</b> .....	1253
Surface Waters (Fishlife) (Classification) (Scotland) Amendment Regulations 2003 (SSI 2003/85) .....	1253
National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2003 (SSI 2003/86) ....	1253
Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (Scotland) Order 2003 (SSI 2003/88) .....	1253
Births, Deaths, Marriages and Divorces (Fees) (Scotland) Amendment Regulations 2003 (SSI 2003/89) .....	1253
<b>INSTRUMENTS NOT SUBJECT TO PARLIAMENTARY CONTROL</b> .....	1254
Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 11) (Scotland) Order 2002 Revocation Order 2003 (SSI 2003/81) .....	1254
Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 13) (Scotland) Order 2002 Partial Revocation (No 2) Order 2003 (SSI 2003/90) .....	1254
<b>INSTRUMENTS NOT LAID BEFORE THE PARLIAMENT</b> .....	1254
Standards in Scotland's Schools Etc Act 2000 (Commencement No 6) Order 2003 (SSI 2003/84) .....	1254
Bluetongue (Scotland) Order 2003 (SSI 2003/91) .....	1254

---

# **SUBORDINATE LEGISLATION COMMITTEE**

## **8<sup>th</sup> Meeting 2003, Session 1**

### **CONVENER**

\*Margo MacDonald (Lothians) (Ind)

### **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 25 February 2003*

*(Morning)*

[THE CONVENER *opened the meeting at 11:35*]

**The Convener (Margo MacDonald):** I welcome everyone to the eighth meeting of the Subordinate Legislation Committee in 2003. Apologies have been received from Bill Butler and Brian Fitzpatrick. An attempt was made to get Jackie Baillie as a substitute, but she also found it impossible to get to the committee this morning. However, everyone has observed the proprieties, there are enough of us and, as Murdo Fraser has pointed out, it is the quality that is present this morning.

### Delegated Powers Scrutiny

#### Homelessness etc (Scotland) Bill: as amended at Stage 2

**The Convener:** We raised a couple of questions on two amendments to the delegated powers in the bill, which were made at stage 2. One amendment restricted the power of referral, under section 7. We asked what the Executive's intentions were. The Executive has told us that it considers that it may not be appropriate to require an affirmative debate on every exercise of the power. Remember that this was an open power that the Executive gave itself and, as a matter of principle, the committee does not approve of such powers; we prefer that the Parliament decides. However, the Executive says that it is considering lodging an amendment at stage 3, which would provide a choice of procedure. I presume that we just have to wait and see what the Executive says.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** We should examine carefully the wording of the draft provision when it appears. The issue is whether the Executive should decide whether the procedure is affirmative or negative. While we recognise that there are cases when the affirmative procedure might seem to be too bothersome, nevertheless we want at least to examine the idea that the Executive will make up its own mind about whether to submit an order to parliamentary scrutiny. It is a wee bit dodgy in principle, although in practice it might not be a wicked plot.

**The Convener:** Actually, in this case the practice is probably all right, but we are not willing to allow this to go through on the nod, because it could be a bad habit that the Executive is getting into.

The question on section 8 concerned a regulation-making power, which was inserted by a lead committee amendment. We were unsure about whether that is the best way to draft a regulation.

**Murdo Fraser (Mid Scotland and Fife) (Con):** The Executive has suggested that it will lodge an amendment to section 8, so all that we can do at this stage is draw the Executive's response to the attention of the Parliament.

**The Convener:** Okay.

## Executive Responses

### SFGS Farmland Premium Scheme 2003 (draft)

**The Convener:** Now, remember this scheme? Brian Fitzpatrick is not with us today, but he was the only member, if I recall, who objected to having Scotland in the title—no, that was another instrument; it was not this one.

**Ian Jenkins:** In this case, we objected to the fact that SFGS—which stands for Scottish forestry grants scheme—is a series of initials and there is no explanation of what it means.

**The Convener:** Yes, it was me who objected that it was bad manners to use the initials without explanation; it was not Brian Fitzpatrick.

We raised three points with the Executive. We requested further information regarding compliance with European Community requirements. We asked if the Executive had asked about that, and it said that it had.

We pointed out to the Executive a failure to comply with proper legislative practice under points 2 and 3, and what we considered to be defective drafting under point 4.

**Ian Jenkins:** We recognise that the Executive has produced broadly satisfactory explanations on points 1, 2 and 3, but the response to point 4, on defective drafting, still raises some issues. The Executive says that it has drafted in a particular drafting style, but our legal advisers feel that style should not take precedence over substance.

**The Convener:** We said that. Convenience in drafting should not be as important as the legal effect.

**Ian Jenkins:** And we all know that Bennion, in “Statutory Interpretation”, makes it clear that it is a drafting error that can have serious consequences.

**Colin Campbell (West of Scotland) (SNP):** You took the words right out of my mouth.

**The Convener:** That is what Bennion said the last time I talked to him.

**Murdo Fraser:** Did you enjoy the end of chapter 3? I thought that it was a good cliffhanger.

**The Convener:** We like happy endings. Old Bennion can be relied upon.

We are having a little joke about this, as we tend to do in this committee, but it is quite a serious issue. It is not for us to work out whether in this particular case there would be any adverse consequences, but we have drawn the matter to the Executive's attention.

### Landfill (Scotland) Regulations 2003 (draft)

**The Convener:** There are a couple of issues that we could draw to the attention of the lead committee and the Parliament.

**Ian Jenkins:** We asked for explanations on points 1 to 3, which have been supplied by the Executive, and we can probably broadly accept them. However, point 4 involves the difference between the Scottish way of doing things and—

**The Convener:** The inferior English way of doing things.

**Colin Campbell:** No, their way is sloppier. We insist on notification within seven days, when they say just “as soon as ... possible”, which is a pretty elastic definition.

**The Convener:** I thought that our way of doing things was superior.

On the question of how we deal with partnerships under Scots law as legal entities in their own right, there is a definite legal difference, and the regulations do not recognise that.

**Murdo Fraser:** We need to tell the lead committee and the Parliament.

**The Convener:** Okay.

### Road Traffic (Vehicle Emissions) (Fixed Penalty) (Scotland) Regulations 2003 (draft)

**The Convener:** The Executive has acknowledged the defective drafting points that we brought to its attention. We also brought the Executive's attention to what we considered to be an unusual use of the powers. The issue was how a local authority would know if a vehicle was about to pass through its jurisdiction. You know all about this, Murdo.

**Murdo Fraser:** That is right. We questioned how a local authority would know that cars were about to pass through. The Executive said that the authority could be testing outwith its boundary, which seems rather presumptuous. That may be an unusual use of the powers.

**The Convener:** We will draw that to the attention of the Parliament.

### National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2003 (SSI 2003/55)

**The Convener:** We will start with the best bit first. The Executive is considering consolidation, because this area is a bit of a minestrone.

There is a question of failure to comply with proper legislative practice, which is addressed by points 2 and 4 of members' papers. Defective drafting is dealt with under points 1 and 3.

We are probably content with what the Executive has said about the regulations, apart from its response to our third question. Members will recall that we also asked it about the somewhat confusing reference to "condition" in relation to the definition of "locum practitioner".

11:45

**Ian Jenkins:** People might feel that there is a bit of ambivalence about which "condition" or "conditions" are being referred to as far as locum practitioners are concerned. Apparently, the legislation stipulates two conditions, one of which must be satisfied. However, that is not clear from the way in which the regulations have been drafted.

**The Convener:** We can draw the matter to the attention of the lead committee and the Parliament and point out that the regulation is still not very clear.

### **Registration of Foreign Adoptions (Scotland) Regulations 2003 (SSI 2003/67)**

**Murdo Fraser:** We pointed out that the regulations contain defective drafting. However, the Executive has not acknowledged that the wording of regulation 4(4) does not seem quite correct.

**Colin Campbell:** It is very grateful for our comments, though.

**Murdo Fraser:** It did feel that other wording might have been more appropriate.

We also asked why the regulations refer to "adoptive father and mother" rather than to "adoptive parents".

**The Convener:** The Executive gave a good explanation for that, which I found entirely reasonable. However, I am not sure at all about the Executive's response to our first question. Nevertheless, we will draw the attention of the lead committee and the Parliament to the responses.

### **Road Traffic (Permitted Parking Area and Special Parking Area) (Aberdeen City Council) Designation Order 2003 (SSI 2003/70)**

**The Convener:** Oh, here's the doozie. Again, we asked about defective drafting and failure to follow legislative practice in this designation order. Indeed, the Executive has acknowledged that it contains some drafting errors. I wonder whether the clerk can remind me how long we have to make comments on the order.

**Alasdair Rankin (Clerk):** The 20-day period will be up in two days' time.

**The Convener:** Does any member have any suggestions about what we can do about the bad drafting of this order?

**Colin Campbell:** What can we do within such a time scale?

**Murdo Fraser:** All that we can do is raise the issue in our report and say that, as far as we are concerned, the order is defectively drafted. It is too late to go back to the Executive, which has already provided its explanations, although we regard them as generally unsatisfactory.

**The Convener:** Some of the responses are unsatisfactory and some are not. We will do what Murdo Fraser has suggested. To be quite honest, I think that the situation is unsatisfactory. After all, this is such bread-and-butter stuff.

**Murdo Fraser:** The Executive has done this before. This is another case of where it has simply used a style that it has used previously.

**The Convener:** It comes on top of similar instruments in relation to Perth and Kinross, Glasgow and Edinburgh. We picked out mistakes in those instruments and asked the Executive to rectify them. However, it looks as though the Executive has just replicated them.

**Ian Jenkins:** We also raised a fairly serious problem about paragraph 6 of schedule 2. Although it modifies section 82 of the Road Traffic Act 1991, it does not modify section 82(6) to change the reference to "Minister of the Crown" to "the Scottish Ministers". If such a change is not made, it throws the operation of some mechanisms into doubt. It has been suggested that, if that is the case, it will not be possible to make this a statutory instrument in legal terms.

**The Convener:** Well, it will have a knock-on effect on the instruments that we are about to discuss.

**Ian Jenkins:** I am sorry—that is right. If the change is not made in this instrument, there is a question whether the subsequent instruments are statutory instruments. We need to make that clear in some way. I realise that the issue is very technical; however, we are worried that allowing the designation order to go forward as it is will throw the status of any subsequent legislation on this matter into doubt.

**The Convener:** There are two or three reasons why we need to raise the matter. We are bound to keep coming up against such cases where acts and regulations made in the Westminster Parliament that already apply in Scotland have to be changed if we introduce new legislation. As a result, it is much better to have a consistent approach to the matter. Any regulations do not require to be made in the form of a statutory instrument; however, if they must be made as a statutory instrument, it has to be done properly.

**Ian Jenkins:** But the designation order in question is a statutory instrument. The point is whether the regulations that we will come on to discuss will be statutory instruments.

**The Convener:** That is what I mean.

**Road Traffic (Parking Adjudicators)  
(Aberdeen City Council) Regulations 2003  
(SSI 2003/71)**

**The Convener:** Members should bear in mind what we have already said about the potential impact on the regulations of the designation order that we have just discussed. We asked the Executive some additional questions about a failure to follow proper legislative practice and an unusually limited use of powers. We will draw the Executive's response to the attention of the lead committee and Parliament.

**Parking Attendants (Wearing of Uniforms)  
(Aberdeen City Council Parking Area)  
Regulations 2003 (SSI 2003/72)**

**The Convener:** We asked the Executive about defective drafting in the explanatory note.

**Colin Campbell:** We will draw that to the attention of the lead committee.

**Ian Jenkins:** In any case, it will not affect the working of the regulations themselves.

**The Convener:** The Executive has already undertaken to amend the reference in question on the website.

**Taxi Drivers' Licences (Carrying of Guide  
Dogs and Hearing Dogs) (Scotland)  
Regulations 2003 (SSI 2003/73)**

**Murdo Fraser:** We raised the question of whether the regulations should be made available free of charge, given that they replace an earlier, erroneous instrument. If there is time, I think that we should ask the Executive about that.

**The Convener:** The Executive should make the regulations available free of charge, and we will ask it to do so. After all, it has acknowledged that the situation is due to a mistake on its part.

Members will recall that we raised the question of what might be written on the dogs' vests. The Executive initially seemed to imply that it should be the name of the charity that trained the dog. It is now saying that that need not be the case.

**Ian Jenkins:** The Executive has widened the references to charities.

**The Convener:** That is fair enough. Can we say to the Executive that we note its intention, but that its drafting could be less ambiguous?

**Members indicated agreement.**

**Sea Fish (Prohibited Methods of Fishing)  
(Firth of Clyde) Order 2003  
(SSI 2003/79)**

**Colin Campbell:** We should bring this order to the attention of the lead committee, because it contains defective drafting.

**The Convener:** I agree—the Executive has said so. Was it you or Ian Jenkins who picked up the difference between “species” and “specified”?

**Colin Campbell:** It was not me—it must have been Ian.

**The Convener:** He spotted it right away.

**Ian Jenkins:** In any case, the Executive has acknowledged the defective drafting, which it plans to correct as soon as possible.

**Tobacco Advertising and Promotion Act  
2002 (Commencement No 4) (Scotland)  
(Amendment and Transitional Provisions)  
Order 2003 (SSI 2003/80)**

**Ian Jenkins:** We have again pointed out something that the Executive has recognised as a valuable point and which it is moving to correct. It has sent us a helpful response recognising that there are defects to be addressed and saying that it will do so as quickly as possible.

**The Convener:** Okay. Nevertheless, that could have been serious.



## Draft Instrument Subject to Approval

### Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003 (draft)

**Murdo Fraser:** There are quite a number of errors in the order.

**Colin Campbell:** Indeed. In paragraph 8 of schedule 1, the word “plan” is a bit odd. It probably should have been “place”, because section 1 of the Abortion Act 1967 makes provision for the secretary of state to approve places, but makes no mention of plans.

**The Convener:** That might well be true. We can ask about that; it might simply be a wee typo.

**Murdo Fraser:** In subparagraph 2 of the table in schedule 2, there is a reference to

“approval under section 9 of the 2000 Act”.

However, that does not appear to be the relevant provision. We should ask the Executive to confirm whether it is correct.

**Ian Jenkins:** In subparagraph 10 of the same table, the word “Service” appears to be missing after the words “Financial Ombudsman”. It should be there, and we could ask the Executive why it is missing.

**Colin Campbell:** I have just been wondering whether in paragraph 20 of part 2 of schedule 4 on page 14, the reference might be to—

**The Convener:** I wondered too, whether the reference was to section 128(5)—

**Colin Campbell:** —of the Local Government etc (Scotland) Act 1994. *[Laughter.]*

**The Convener:** Yes.

**Murdo Fraser:** Yes, because section 128(4) is about appointments to the office of principal reporter, whereas section 128(5) covers the appointment of those assisting.

**Colin Campbell:** We have an incredible amount of knowledge here.

**The Convener:** And so accurate. This is pretty important stuff, because it is about folk who are unsuitable for working with children.

**Ian Jenkins:** There are also one or two minor drafting errors, but we do not have to elaborate on them at this stage. They could go in an informal letter.

**The Convener:** We have read the Executive's mind and picked out what could well be typos, about which we will inform the Executive.

## Instruments Subject to Approval

### Fishing Vessels (Decommissioning) (Scotland) Scheme 2003 (SSI 2003/87)

12:00

**The Convener:** Murdo, have you had a chance to look at the instrument? This is your area.

**Murdo Fraser:** There is an important point about self-incrimination. Paragraph 14(6)(a) of the scheme appears to contain no qualification regarding “legal privilege” and no protection regarding self-incrimination. That is quite serious. We have to ask the Executive why it has drafted the scheme in that way.

**Ian Jenkins:** A similar matter arises in relation to the next instrument.

### Sea Fishing (Transitional Support) (Scotland) Scheme 2003 (SSI 2003/92)

**The Convener:** In the definition of vessel capacity units, there are two interpretations of the value of “P”.

**Colin Campbell:** One should be sufficient.

**The Convener:** It should be. We can certainly ask the Executive for an explanation.

**Murdo Fraser:** Presumably, the first “P” should be “B”.

**The Convener:** We do not have to guess. We will just say that it seems that there are two definitions of “P” and ask the Executive which it would like to use.

## **Instruments Subject to Annulment**

### **Surface Waters (Fishlife) (Classification) (Scotland) Amendment Regulations 2003 (SSI 2003/85)**

**The Convener:** Oh, good grief. Regulation 1 contains a definition of “the 1997 Regulations” but those regulations are only referred to once.

**Murdo Fraser:** Why is the definition required? That seems unnecessary.

**The Convener:** We have said this sort of thing to the Executive before. We do not need definitions of the title, just of the words. We would not call that defective drafting, just poor-quality drafting.

**Ian Jenkins:** Inelegant.

**Colin Campbell:** Spot the English teacher.

### **National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2003 (SSI 2003/86)**

**Colin Campbell:** There are no problems with the regulations.

**The Convener:** Yippee.

### **Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (Scotland) Order 2003 (SSI 2003/88)**

**Colin Campbell:** There are no points to raise.

### **Births, Deaths, Marriages and Divorces (Fees) (Scotland) Amendment Regulations 2003 (SSI 2003/89)**

**The Convener:** Hatches, matches and dispatches.

**Colin Campbell:** There are no points to raise.

## **Instruments Not Subject to Parliamentary Control**

### **Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 11) (Scotland) Order 2002 Revocation Order 2003 (SSI 2003/81)**

### **Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 13) (Scotland) Order 2002 Partial Revocation (No 2) Order 2003 (SSI 2003/90)**

**Colin Campbell:** There are no points to raise on the orders.

**The Convener:** No; the Executive got them right—it gets them right every time.

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

### **Standards in Scotland's Schools Etc Act 2000 (Commencement No 6) Order 2003 (SSI 2003/84)**

**Murdo Fraser:** There are no points of substance on the order. However, a small point is that sections 32 to 37 of the Standards in Scotland's Schools etc Act 2000 are individually identified, whereas an abbreviated reference is used for sections 56 to 59. It would be preferable to take a more consistent approach.

**The Convener:** Once again, we prefer instruments to be elegant.

**Colin Campbell:** And consistent.

### **Bluetongue (Scotland) Order 2003 (SSI 2003/91)**

**The Convener:** The next piece of nonsense is the Bluetongue (Scotland) Order 2003. I know that we are not a subject committee and that we are not supposed to have any views on the order. However, here is one view: why is the committee dealing with the order when no animals have bluetongue in Scotland and nobody reckons that it will appear here in a great hurry? We have an awful lot of work to do, so I wonder why the order has been loaded on to us.

**Colin Campbell:** The order is probably pre-emptive.

**The Convener:** I have no doubt that it is and I am sure that it represents good planning, but we have already complained that the officers who

service the committee are up to their necks in extra work.

**Murdo Fraser:** Is the source of the order not a European Union directive that we are obliged to implement in Scots law?

**The Convener:** Yes.

**Murdo Fraser:** The directive should have been implemented by 1 January 2002.

**The Convener:** That is right.

**Murdo Fraser:** Its implementation is running late.

**The Convener:** That is the point. Why are we bothering now?

**Murdo Fraser:** We do not want to fall out with the nice Europeans.

**The Convener:** You might not want to; you might know some nice Europeans.

That was just a small gripe on my part that the order was an additional piece of work. We have managed to do without implementation of the directive since January 2002, when it was meant to be implemented. We have struggled through a whole year without it.

**Colin Campbell:** However, are we not legally out of step?

**Murdo Fraser:** We are.

**Ian Jenkins:** Anyway, the order is here and we need to deal with it.

**The Convener:** The order has flaws. Article 5 says:

"No animal shall be vaccinated against bluetongue",

but does not say on whom the duty of compliance falls. If somebody vaccinated an animal against bluetongue, who would be to blame? We need an explanation of that.

We also need an explanation of article 8(1)(f), which says that carcasses are to be

"destroyed, buried or disposed of in such manner as an inspector may direct."

**Ian Jenkins:** That does not seem sensible, because a Council directive has specified what should be done in such a situation. It is doubtful whether the inspector has much leeway. Perhaps we could ask why the order does not refer to the Council directive, because the directive appears to have a locus in the decision-making process.

**Colin Campbell:** Perhaps it is presumed that the inspectors know about that directive.

**The Convener:** There is no provision in the order to reflect section 72(a) of the parent act—the Animal Health Act 1981. It is not clear whether

such a provision is needed in addition to section 73 of that act.

**Ian Jenkins:** Usually, a belt-and-braces approach is taken and both provisions are reflected.

A central question must be asked about the vires of the instrument, because of the implications for compliance with Community law. That relates to a decision of the Privy Council in *R v The Lord Advocate*.

**The Convener:** I think that the case involved somebody called Rourke.

**Ian Jenkins:** We should ask the Executive whether the vires is secure.

**The Convener:** Okay. I thank the committee for its forbearance and I hope that next week's agenda is not as long, interesting and turgid.

*Meeting closed at 12:08.*



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Tuesday 4 March 2003**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

#### PRICES AND SUBSCRIPTION RATES

##### DAILY EDITIONS

*Single copies: £5*

*Meetings of the Parliament annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

*Single copies: £3.75*

*Special issue price: £5*

*Annual subscriptions: £150.00*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

**The Stationery Office Bookshop**  
71 Lothian Road  
Edinburgh EH3 9AZ  
0131 228 4181 Fax 0131 622 7017

**The Stationery Office Bookshops at:**  
123 Kingsway, London WC2B 6PQ  
Tel 020 7242 6393 Fax 020 7242 6394  
68-69 Bull Street, Birmingham B4 6AD  
Tel 0121 236 9696 Fax 0121 236 9699  
33 Wine Street, Bristol BS1 2BQ  
Tel 01179 264306 Fax 01179 294515  
9-21 Princess Street, Manchester M60 8AS  
Tel 0161 834 7201 Fax 0161 833 0634  
16 Arthur Street, Belfast BT1 4GD  
Tel 028 9023 8451 Fax 028 9023 5401  
The Stationery Office Oriel Bookshop,  
18-19 High Street, Cardiff CF1 2BZ  
Tel 029 2039 5548 Fax 029 2038 4347

**The Stationery Office Scottish Parliament Documentation**  
Helpline may be able to assist with additional information  
on publications of or about the Scottish Parliament,  
their availability and cost:

**Telephone orders and inquiries**  
**0870 606 5566**

**Fax orders**  
**0870 606 5588**

**The Scottish Parliament Shop**  
George IV Bridge  
EH99 1SP  
Telephone orders 0131 348 5412

[sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers