

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 13 January 2004  
*(Morning)*

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2004.

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 13 January 2004**

**Col.**

<b>DELEGATED POWERS SCRUTINY .....</b>	<b>271</b>
Local Governance (Scotland) Bill: Stage 1 .....	271
<b>INSTRUMENTS SUBJECT TO ANNULMENT .....</b>	<b>273</b>
Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 (SSI 2003/608) .....	273
Title Conditions (Scotland) Act 2003 (Conservation Bodies) Amendment Order 2003 (SSI 2003/621) .....	273
Sea Fishing (Restriction on Days at Sea) (Scotland) Amendment (No 3) Order 2003 (SSI 2003/623) .....	273
<b>INSTRUMENTS NOT LAID BEFORE THE PARLIAMENT .....</b>	<b>274</b>
Homelessness etc (Scotland) Act 2003 (Commencement No 1) Order 2003 (SSI 2003/609) .....	274
Abolition of Feudal Tenure etc (Scotland) Act 2000 (Commencement No 3) Order 2003 (SSI 2003/620) .....	274

---

## SUBORDINATE LEGISLATION COMMITTEE

**2<sup>nd</sup> Meeting 2004, Session 2**

### CONVENER

\*Dr Sylvia Jackson (Stirling) (Lab)

### DEPUTY CONVENER

\*Gordon Jackson (Glasgow Govan) (Lab)

### COMMITTEE MEMBERS

Mr Stewart Maxwell (West of Scotland) (SNP)

\*Christine May (Central Fife) (Lab)

\*Alasdair Morgan (South of Scotland) (SNP)

\*Mike Pringle (Edinburgh South) (LD)

Murray Tosh (West of Scotland) (Con)

### COMMITTEE SUBSTITUTES

Bruce Crawford (Mid Scotland and Fife) (SNP)

Alex Johnstone (North East Scotland) (Con)

Maureen Macmillan (Highlands and Islands) (Lab)

\*attended

### CLERK TO THE COMMITTEE

Alasdair Rankin

### ASSISTANT CLERKS

Joanne Clinton

Catherine Fergusson

### LOCATION

Committee Room 3



# Scottish Parliament

## Subordinate Legislation Committee

*Tuesday 13 January 2004*

*(Morning)*

[THE CONVENER *opened the meeting at 10:30*]

### Delegated Powers Scrutiny

#### Local Governance (Scotland) Bill: Stage 1

**The Convener (Dr Sylvia Jackson):** I welcome members to the second meeting this year of the Subordinate Legislation Committee.

Item 1 is delegated powers scrutiny. This week, we are considering the Local Governance (Scotland) Bill at stage 1. Members will see from their legal brief that the bill contains seven provisions that confer powers on the Scottish ministers to make subordinate legislation. In addition, the bill gives ministers certain direction-making powers.

First, we will consider part 1, "Local government elections". The first order-making power comes under section 1(2). The procedure that is currently proposed for that power is the annulment procedure. Does the committee think that an alternative procedure ought to be suggested?

**Members:** No.

**Mike Pringle (Edinburgh South) (LD):** The proposed procedure is fine.

**The Convener:** The second order-making power comes under section 9(1), which makes further provision about local government elections.

It has been noted that section 42 of the Representation of the People Act 1983 is rather more prescriptive than the power conferred by the bill, which is very much wider. Do members think that the procedures that have been selected for that power are appropriate?

**Gordon Jackson (Glasgow Govan) (Lab):** I think that they are okay.

**Mike Pringle:** I also think that they are okay.

**The Convener:** That is agreed.

Section 10(3)(d) inserts two new subsections into section 28 of the Local Government (Scotland) Act 1973. The new subsections are concerned with empowering the Scottish ministers to make rules in relation to the consideration, for

the purposes of part 1 of the bill, of electoral arrangements for local government areas. That will replace provisions that are currently enshrined in primary legislation with order-making powers. New section 28(1B) of the 1973 act provides for the affirmative procedure to be used, so as to ensure that the substance of the rules will be subject to parliamentary scrutiny and approval. Are we agreed about that?

**Members:** Agreed.

**The Convener:** Section 17, in part 2, is on the

"Pay, pensions etc. of councillors".

It authorises the Scottish ministers to provide for the payment by local authorities of remuneration, allowances and expenses to members of those authorities. There is provision in section 17(4) requiring ministers to consider recommendations by the proposed Scottish local authorities remuneration committee, where relevant, before making regulations under the section. The only substantive matter mentioned in the legal advice is that of whether annulment is the correct procedure. Are we happy to use annulment for the powers?

**Members:** Yes.

**Mike Pringle:** I think that annulment is fine here.

**The Convener:** Section 18(1) concerns "Severance payments for councillors". The issues here are a rerun of those applying to section 17. Is that agreed?

**Members indicated agreement.**

**The Convener:** We come now to part 3, "Miscellaneous and general" provisions. Section 21 is entitled "Ancillary provision". We have raised previously the inclusion of the term "supplemental". I would like to consider section 21 alongside section 23(2), which is on the commencement order.

**Alasdair Morgan (South of Scotland) (SNP):** There is one point that we should raise with the Executive. Although the example that it has supplied to illustrate why it wants to do things in the way that it has was quite persuasive, the fact remains that that is a different way from that which it used in the Criminal Procedure (Amendment) (Scotland) Bill, which we considered last week. It strikes me that, whichever way the Executive or we decide is best, we should at least be using these arrangements consistently and not just doing a pick and mix between one bill and the next. We should ask the Executive why it thought that the arrangement used in the Local Governance (Scotland) Bill was a good one, yet it was apparently not good enough for the bill that we considered last week. Could the Executive

consider at least being consistent from one week to the next?

**The Convener:** Are we agreed on that?

**Members:** Yes.

**The Convener:** I recall from the previous occasion that there were limits on the provision concerned.

## **Instruments Subject to Annulment**

### **Support and Assistance of Young People Leaving Care (Scotland) Regulations 2003 (SSI 2003/608)**

### **Title Conditions (Scotland) Act 2003 (Conservation Bodies) Amendment Order 2003 (SSI 2003/621)**

10:34

**The Convener:** We move now to item 2, which is instruments subject to annulment. No points of substance have been identified on the first two instruments.

### **Sea Fishing (Restriction on Days at Sea) (Scotland) Amendment (No 3) Order 2003 (SSI 2003/623)**

**The Convener:** Are there any points to raise on the order?

**Alasdair Morgan:** Although the subject matter may be of considerable controversy, I do not think that the technicalities are.

**The Convener:** Yes, it is an extremely controversial matter at the moment.

**Mike Pringle:** There are people wanting to commit all sorts of things all over Scotland. That does not sound good at all.

**Christine May (Central Fife) (Lab):** Actually, it is in the waters around Scotland.

**The Convener:** The Subordinate Legislation Committee, however, has no points to raise under its remit.

**Members** *indicated agreement.*

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

### **Homelessness etc (Scotland) Act 2003 (Commencement No 1) Order 2003 (SSI 2003/609)**

### **Abolition of Feudal Tenure etc (Scotland) Act 2000 (Commencement No 3) Order 2003 (SSI 2003/620)**

10:35

**The Convener:** Item 3 is instruments not laid before the Parliament. No points arise on the orders.

That brings us to the end of the meeting, colleagues. Thank you very much.

*Meeting closed at 10:36.*

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 20 January 2004**

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  
0870 606 5566 Fax 0870 606 5588

**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

**RNID TYPETALK calls welcome on**  
18001 0131 348 5412  
Textphone 0131 348 3415

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers