

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 7 December 2004

Session 2

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## SUBORDINATE LEGISLATION COMMITTEE

### 34<sup>th</sup> Meeting 2004, Session 2

#### CONVENER

\*Dr Sylvia Jackson (Stirling) (Lab)

#### DEPUTY CONVENER

Gordon Jackson (Glasgow Govan) (Lab)

#### COMMITTEE MEMBERS

\*Mr Adam Ingram (South of Scotland) (SNP)

Mr Stewart Maxwell (West of Scotland) (SNP)

\*Christine May (Central Fife) (Lab)

\*Mike Pringle (Edinburgh South) (LD)

Murray Tosh (West of Scotland) (Con)

#### COMMITTEE SUBSTITUTES

Alex Johnstone (North East Scotland) (Con)

Maureen Macmillan (Highlands and Islands) (Lab)

Stewart Stevenson (Banff and Buchan) (SNP)

\*attended

#### CLERK TO THE COMMITTEE

Ruth Cooper

#### ASSISTANT CLERK

Bruce Adamson

#### LOCATION

Committee Room 3



## Scottish Parliament

### Subordinate Legislation Committee

*Tuesday 7 December 2004*

[THE CONVENER *opened the meeting at 10:31*]

### Delegated Powers Scrutiny

#### Edinburgh Tram (Line One) Bill: Preliminary Stage

#### Edinburgh Tram (Line Two) Bill: Preliminary Stage

**The Convener (Dr Sylvia Jackson):** I welcome members to the 34<sup>th</sup> meeting this year of the Subordinate Legislation Committee. I have received apologies from Murray Tosh, and Mike Pringle will be arriving late.

Members will recall that everything that we say about the Edinburgh Tram (Line One) Bill also applies to the Edinburgh Tram (Line Two) Bill. We raised issues about the drafting of section 44(3), which relates to penalty fares. Members will be pleased that the promoter has accepted our concerns and has removed the delegated power under that subsection. If everybody is in agreement about that, we will report the promoter's undertaking to the Parliament.

**Members indicated agreement.**

#### Further and Higher Education (Scotland) Bill: Stage 1

**The Convener:** Item 2 is on the Further and Higher Education (Scotland) Bill at stage 1. We asked the Executive a number of questions about the bill, but we have not received a response. I would stress to Adam Ingram that that is not typical. We hear that there is a lot of continuing discussion on the bill among other parties, too. We can leave the matter until next week. The only problem is that we will require a very quick turnaround: the clerks will have to note our decision and report it straight away to the lead committee. We cannot do anything else. Is that acceptable?

**Members indicated agreement.**

**Mr Adam Ingram (South of Scotland) (SNP):** There is not really an alternative.

**The Convener:** No, there is not.

## Executive Response

### Agricultural Holdings (Forms) (Scotland) Regulations 2004 (SSI 2004/497)

10:33

**The Convener:** Members will recall that we pointed out the lack of any requirement to provide an up-to-date address on the form, as detailed in schedule 2. The Executive does not seem to consider that a problem. However, the Executive will be keeping an eye on the matter and will produce an amendment if there turns out to be an issue.

**Christine May (Central Fife) (Lab):** I note what the Executive has said, but I return to what I said last week: it is important for the effective working of the regulations that there is an up-to-date register. We should report the regulations on the ground that the power is being applied too narrowly. We need to make that point to the lead committee and the Parliament. If there is a way of doing that without impinging on the policy considerations, which are the responsibility of other committees, we should do it.

**Mr Ingram:** I agree with Christine May. It is important to have an up-to-date register. The Executive has been slightly disingenuous in its response.

**The Convener:** It is suggested—and I take my words from the legal brief—that there has been an “unduly limited use of the power”,

as opposed to defective drafting. We should report the regulations to the lead committee and the Parliament on that ground. It is also suggested that we include in our report an extract of the *Official Report* of our meeting on 30 November to highlight our concerns and to ensure that the lead committee is fully informed. Is that agreed?

**Members indicated agreement.**

**The Convener:** We welcome Mike Pringle to the meeting.

**Mike Pringle (Edinburgh South) (LD):** The late Mike Pringle.

**The Convener:** You had said that you might be late, Mike—that is fine.

**Mike Pringle:** Sorry about that.

## Draft Instrument Subject to Approval

### Criminal Procedure (Amendment) (Scotland) Act 2004 (Incidental, Supplemental and Consequential Provisions) Order 2004 (SSI 2004/draft)

10:35

**The Convener:** We now move on to item 4. The draft order before us replaces the defective draft order that we considered last week. The legal advisers have not identified any substantial issues. I suggest that there are no points for us to take further. Is that agreed?

**Members** *indicated agreement.*

## Instruments Subject to Annulment

### Building Standards Advisory Committee (Scotland) Regulations 2004 (SSI 2004/506)

10:36

**The Convener:** We turn to item 5. These regulations replace regulations dating from 1959. The new regulations do not seem to provide the time limit for appointments to membership of the Building Standards Advisory Committee. I seek members' views.

**Christine May:** Both the points that are suggested in the legal brief should be made. First, it is unclear who has responsibility for determining the period of office of committee members. Secondly, we should seek clarification on what that period of office is to be.

**The Convener:** Yes. Is that agreed?

**Members** *indicated agreement.*

**Mr Ingram:** We need to ask the Executive the question.

**The Convener:** It is agreed that we ask the Executive about the two points that Christine May has highlighted.

### Building (Fees) (Scotland) Regulations 2004 (SSI 2004/508)

**The Convener:** The legal advisers have not identified any issues on the regulations.

### Control of Volatile Organic Compounds (Petrol Vapour Recovery) (Scotland) Regulations 2004 (SSI 2004/512)

**The Convener:** The regulations implement a derogation from European legislation so that service stations with an annual throughput of less than 500m<sup>3</sup> will be exempt from the legislation's requirements. No major issues have been identified on the regulations. However, one minor point has been outlined by our legal advisers, and it is suggested that we write an informal letter on the matter. Is that agreed?

**Members** *indicated agreement.*

### Act of Sederunt (Fees of Sheriff Officers) 2004 (SSI 2004/513)

**The Convener:** The legal advisers have not identified any issues on the act of sederunt.

### Water Environment (Register of Protected Areas) (Scotland) Regulations 2004 (SSI 2004/516)

**The Convener:** The legal advisers have not identified any substantial issues on the regulations. However, they do highlight an issue concerning the timing of the regulations: the parent act imposes a duty on the Scottish Environment Protection Agency prior to the coming into force of the regulations. Do members wish to raise the matter with the Executive?

**Christine May:** I do not think that we need to, particularly given that SEPA is a public body.

**The Convener:** There are therefore no points on the regulations.

### Road User Charging (Exemption from Charges) (Scotland) Regulations 2004 (SSI 2004/519)

**The Convener:** We have not identified any substantial issues on the order. However, there is a drafting point concerning regulation 3(b), which we might wish to ask the Executive about. Is that agreed?

**Members** *indicated agreement.*

**Christine May:** When do people have discretion on an obligation, and when do they not?

**The Convener:** Exactly.

## Instrument Not Subject to Parliamentary Procedure

### Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (No 2) (Scotland) Revocation Order 2004 (SSI 2004/510)

10:39

**The Convener:** The legal advisers have not raised any points on the order. Do members have any points to raise?

**Members:** No.

**Christine May:** Not until the order gets to the Parliament.

**The Convener:** Yes—not until it gets to the chamber.

**Mike Pringle:** And then we will get a rant about it.

## Instruments Not Laid Before the Parliament

### Fees in the Registers of Scotland Amendment Order 2004 (SSI 2004/507)

10:39

**The Convener:** No substantial issues have been raised on the order. However, there seems to be an inconsistency between the explanatory note and the principal order online in relation to the amount of the fee.

**Christine May:** I would like to know who is getting the extra £3. Usually, doing things online is cheaper. This is the first instance that I have seen where something is more expensive online.

**The Convener:** We thought that we might informally raise the issue of why the fee is shown as £25 online but is £22 otherwise.

**Members** *indicated agreement.*

### Agricultural Holdings (Scotland) Act 2003 (Commencement No 4) Order 2004 (SSI 2004/511)

**The Convener:** No substantial issues have been raised on the order before us. It is the last Scottish statutory instrument under the Agricultural Holdings (Scotland) Act 2003. We perhaps did not need the big explanatory note that we received, and we might raise that in an informal letter. Is that agreed?

**Members** *indicated agreement.*

### Act of Sederunt (Rules of the Court of Session Amendment No 6) (Miscellaneous) 2004 (SSI 2004/514)

### Act of Sederunt (Fees of Messengers-at-Arms) 2004 (SSI 2004/515)

**The Convener:** No points have been raised on the acts of sederunt.

I thank colleagues very much for their attendance. I look forward to seeing you next week.

*Meeting closed at 10:41.*





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