

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 25 October 2005

Session 2

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SUBORDINATE LEGISLATION COMMITTEE

28th Meeting 2005, 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 Kenneth Macintosh (Eastwood) (Lab)

*Mr Stewart Maxwell (West of Scotland) (SNP)

*Murray Tosh (West of Scotland) (Con)

COMMITTEE SUBSTITUTES

Mr Ted Brocklebank (Mid Scotland and Fife) (Con)

Maureen Macmillan (Highlands and Islands) (Lab)

Stewart Stevenson (Banff and Buchan) (SNP)

*attended

CLERK TO THE COMMITTEE

Ruth Cooper

SENIOR ASSISTANT CLERK

David McLaren

LOCATION

Committee Room 2

Scottish Parliament

Subordinate Legislation Committee

Tuesday 25 October 2005

[THE CONVENER opened the meeting at 10:31]

The Convener (Dr Sylvia Jackson): I welcome members to the 28th meeting this year of the Subordinate Legislation Committee. I have received apologies from Gordon Jackson, who is involved with Pakistan disaster fund work at the mosque in his constituency. Mike Pringle has resigned from the committee, with effect from 24 October. We await the nomination of a new member in his place. I hope that we get somebody soon.

Delegated Powers Scrutiny

Management of Offenders etc (Scotland) Bill: as amended at Stage 2

10:31

The Convener: The delegated powers memorandum to the Management of Offenders etc (Scotland) Bill came rather late. It arrived within the timescale, but the fact that it got to us quite late presented a certain amount of difficulty. However, sterling work has been done, as ever, by our legal team and the clerks. Members will note that a number of issues arise.

The first point concerns section 7, which is headed

“Transfer of functions to community justice authority”.

The bill was amended at stage 2 to include additional functions in orders made under sections 7(1) and 7(2). Section 7(5) was also amended at stage 2 to include a duty on ministers to consult relevant local authorities and the community justice authority, and to obtain agreement with all of them before laying a draft order. We made various points about that at stage 1. We would perhaps have liked some acknowledgement that we did so, but I suppose that we should be happy that our input has been taken on board. Are there any further points?

Mr Stewart Maxwell (West of Scotland) (SNP): I have no further points to make, but I would say that there has been a curious turnaround in the Executive’s position. We argued our point, but we were dismissed out of hand. Then, the Executive went from opposing what we said to not just

agreeing with it, but going further and adopting a very strong position based on the idea that the other bodies concerned effectively have a veto. That is a very different position from the one that the Executive was maintaining not so long ago. It is strange. I would have liked some explanation as to why such a turnaround was made.

The Convener: We have the correspondence that has been going backwards and forwards, but we have not received a fuller explanation of the Executive’s position. I do not see any reason why we cannot ask for that.

Mr Maxwell: It was just curiosity on my part.

The Convener: Is it agreed that we write back to the Executive to request such an explanation? We are obviously happy, at any rate, with the result that has been achieved.

Members indicated agreement.

The Convener: The second point is on section 10A, which is entitled

“Scheme of accreditation and procedure etc of the Risk Management Authority”.

The provision amends section 11 of the Criminal Justice (Scotland) Act 2003, which regulates the accreditation scheme to be put in place by Scottish ministers. It specifies that an order made under section 11 of the 2003 act may authorise decisions and appeals to be taken by committees of risk management authorities. Are we happy with that provision?

Members indicated agreement.

The Convener: I welcome Adam Ingram to the meeting.

We now come to section 11(1B), which amends the Prisoners and Criminal Proceedings (Scotland) Act 1993. It adds new section 1AA, which is headed

“Release of certain sexual offenders”.

Section 11(1B) does not create a new delegated power but, in introducing new section 1AA into the 1993 act, it will have an indirect bearing on a rule-making power in section 20 of that act. However, there do not appear to be any points of concern in relation to that. Do members have any points to raise on the matter?

Mr Maxwell: I have a question. I might be mistaken, but I understood that, under the new rule on early release, sexual offenders were not included—that they were one of the categories to be exempted from the provision. Do I understand correctly that, effectively, certain sexual offenders would in fact be entitled under the early release scheme?

The Convener: We do not know the answer to that question. I think that we should ask the

Executive. There has been a lot of discussion about the matter in the Parliament, so there should be no problem trying to get clarification on it. I propose that we write to that effect.

Mr Maxwell: I presume that it relates to the part of the Management of Offenders etc (Scotland) Bill that provides for home detention curfews. The Minister for Justice came before the Justice 2 Committee, and I understood her to say that sexual offenders would not be considered for release under the home detention curfew.

The Convener: I think that that is right, but there is no harm in getting clarification on the matter.

Mr Maxwell: That would be useful.

The Convener: There are no further points of clarification to raise in our letter on the Management of Offenders etc (Scotland) Bill.

Human Tissue (Scotland) Bill: Stage 1

The Convener: Various issues arise under the Human Tissue (Scotland) Bill that concern delegated powers. We are considering only a few of them today, however. The first relates to section 15, which is entitled

“Restrictions on transplants involving a live donor”.

Section 15(3) gives the Scottish ministers powers to allow sections 15(1)(b) and 15(2)(b) not to apply—that is, for offences not to be committed—when requirements or conditions set out in regulations made under section 15(3) are complied with. There seem to be two issues with that. First, are we content that that is a delegated power? Secondly, if we are content with the power being delegated, should the power be subject to the negative procedure, as it currently is? The issue is sensitive and the power is fairly wide. It might be that we think that the affirmative procedure ought to be used, rather than the negative.

Murray Tosh (West of Scotland) (Con) *indicated agreement.*

The Convener: You are nodding, Murray.

Murray Tosh: I am not aware of any discussion that you may have had on the matter already, but my sense of the briefing notes before us is that there is a bit of a contradiction in what the Executive has been saying, between acknowledging, in one part of the delegated powers memorandum, that the

“Affirmative procedure is used ... where there is significant public interest”—

which will arise in sensitive areas—while proposing that the negative procedure be used in this instance. I think that we should challenge that and suggest that the affirmative procedure is more appropriate.

The Convener: Is the committee agreed on that? You do not seem to be sure, Ken.

Mr Kenneth Macintosh (Eastwood) (Lab): No—I agree that we should make that suggestion. It is simply a question of balance.

The Convener: That is fine. The second area on which there seem to be some questions is section 16, which is entitled

“Records, information etc: removal and use of parts of human bodies for transplantation etc”.

Section 16(1)(a) gives the Scottish ministers powers to make regulations requiring persons to maintain records in connection with the removal of human parts for transplantation and the use or retention of parts.

Section 16(1)(b) gives ministers powers to make regulations requiring persons to make information available to ministers or to a specified body. There do not appear to be any issues in relation to the use of a delegated power or to the fact that the regulations will be subject to the negative procedure. There is, however, a possible issue in relation to confidentiality. It does not seem to be clear that the bill as drafted would provide vires for regulations to cover confidentiality matters. It could be that data protection or freedom of information legislation covers that area. The question is whether we wish to write to clarify the issue. Do members have any other points to make?

Murray Tosh: There is a good argument for raising with the Executive the desirability that the legislation should contain its own cover for confidentiality, rather than rely on other legislation.

Mr Maxwell: There is no doubt that we should write to confirm that.

The Convener: So we will write about the confidentiality issue.

Mr Maxwell: Yes.

The Convener: Section 35 is entitled

“Use of organ no longer required for procurator fiscal purposes”.

Section 35(2)(c) gives ministers the power to specify persons who may give approval to carry out research on an organ removed from a deceased person. While the Executive memorandum states that the intention is that the order will specify that a research ethics committee will be able to provide the approval, the choice of persons is currently left wide open. The intention is there, but is that sufficient?

Murray Tosh: The briefing note asks us two questions: the first is that we should seek clarification from the Executive about how it intends that the section will work; and the second question is whether we feel that the negative

procedure is adequate. I find it difficult to make any informed judgment on the latter point without first getting the information from the Executive about how it sees the section working. We should ask for clarification on that and reserve our position on the other question until we get an answer. The same would apply to section 43(2), where the same issues arise.

Mr Macintosh: I agree. The intention is clear from the policy notes. I do not know what the problem is; it may just be the definition of an ethics committee. If the Executive uses a definition in the policy note I do not see why it cannot allude to that in the bill as an example of somebody who could be appointed. Clarification would be helpful.

The Convener: We will write for clarification on our concern that the choice of person should not be interpreted more widely than is the Executive's intention.

Section 43 is on

"Use of organ removed before day on which section 35 comes into force".

Murray Tosh has made the point that section 43(2) raises the same points as section 35(2)(c), so that has been dealt with.

We have a general point on part 3 of the bill, relating to delegated powers. There do not seem to be any sanctions for failure to comply with the requirements of part 3. Should that point be raised with the Executive?

Members indicated agreement.

The Convener: Section 47 is about the

"Power to prescribe forms and descriptions of persons who may act as a witness".

Section 47(a) gives ministers powers to prescribe the form in which authorisation for certain activities under parts 2 and 3 of the bill can be given by nominees, relatives or persons with parental responsibilities and rights. Section 47(b) gives ministers powers to prescribe persons who are eligible to act as witnesses to authorisation in certain cases. However, it is not clear whether it is mandatory for forms to be used. We may want to ask about that.

Murray Tosh: The briefing note suggests that the opposite is implied in section 47. There appears therefore to be a degree of uncertainty about the intention of the section. We should raise that.

The Convener: Absolutely. Is that agreed?

Members indicated agreement.

The Convener: Essentially it is a drafting point. It is not made clear.

The next item deals with section 48(13), and new sections 8A(2)(a) and 8A(2)(b) of the

Anatomy Act 1984. Members may be interested to note that the code of practice under the section will now be subject to quite a large amount of consultation and agreement by Parliament. It is an issue that the committee is examining as part of its inquiry. Do members wish to raise any further points? As members will have read, there is quite a procedure for that code.

Murray Tosh: It is suggested in paragraph 38 of our legal brief that there is a degree of uncertainty about whether the code will create a criminal offence. It seems to be suggested in new section 8A(7) that failure to comply with the code could establish guilt of a substantive offence. Since we are raising other matters with the Executive we should be absolutely clear on that point as well.

The Convener: Is that agreed?

Members indicated agreement.

10:45

The Convener: Section 50(1) is about the power to give effect to Community obligations. This section allows ministers to amend the act that the bill will become in order to implement any Community obligation of the United Kingdom relating to material that consists of human cells. Ministers have the power to do that under section 2(2) of the European Communities Act 1972. The question might therefore be asked why the Executive needs the section.

Mr Macintosh: I was curious about that. It has been suggested that the 1972 act might be redrafted at some stage. We should clarify that with the Executive.

The Convener: There are a number of other powers in the bill, but there do not appear to be any points concerned with those.

Executive Responses

TSE (Scotland) Amendment (No 2) Regulations 2005 (SSI 2005/469)

10:46

The Convener: We asked the Executive three questions on the regulations. The first point related to new regulation 10A(3)(c), which imposes an obligation on ministers to give written, reasoned notification of a determination under the provision. The committee asked to whom such notice is to be given, and the answer is that it is the occupier of the slaughterhouse.

Mr Maxwell: I have one or two questions about the response. First, it would seem odd to inform the occupier of a slaughterhouse but not to inform the official veterinary surgeon who made the point in the first place. Secondly, in a multiple occupancy slaughterhouse, would all occupiers be informed or just the one with whom the problem lay? When the Executive says occupier, does it mean occupier in the sense of the person who rents the space in the slaughterhouse, does it mean the owner or does it mean both? Although we have been given a direct answer it does not clarify the position particularly well. I am not sure whether there is time to go back to the Executive on that—

The Convener: No.

Mr Maxwell: We should report these questions to the lead committee. We have got an answer, but it has not really cleared things up.

The Convener: I agree with Stewart Maxwell. Are there any other points?

Murray Tosh: I agree that if we do not have time to raise the matter with the Executive we should take the course of action recommended by Stewart Maxwell. However, we should also flag up to the Executive our concerns about the lack of a clear meaning in all this.

The Convener: The clerk recommends that we send the section of the *Official Report* relating to the issue to the lead committee to give it the fullest details possible.

Members indicated agreement.

The Convener: On the second point, the committee asked the Executive to explain why the definition of “relevant bovine animal” in new regulation 10A(9)(b) includes an exception by reference to an instrument that will be revoked by the time this instrument comes into force. Members will see from the Executive’s response that it accepts that that was an error on its part, which it intends to correct.

On the third point, the committee asked for clarification of the phrase “the correct test”, which is used in paragraph 12 of new schedule 1A. As members will see, the Executive is interpreting the correct test as meaning that a test can be linked to the exact carcass that it was performed on.

Mr Maxwell: I accept that, but I am still not happy with the explanation. The words are slightly erroneous. I do not understand what “the correct test” means. It goes without saying that the test should be linked to the animal. It is a slightly odd phrase to use, and the Executive’s answer does not clarify it a great deal. “The correct test” suggests an incorrect test, and it sounds odd.

The Convener: It could be suggested that the Executive has not chosen the right term. However, given that time does not allow us to go back to the Executive, we should pass that comment to the lead committee, saying that even though we have been given an explanation, we have concerns about the use of that term. Is that agreed?

Members indicated agreement.

Pollution Prevention and Control (Designation of Public Participation Directive) (Scotland) Order 2005 (SSI 2005/461)

The Convener: We asked whether the order could be seen as *intra vires* because we were concerned that the enabling power did not cover co-decisions of the European Council and the Parliament. Members will note that the Executive does not share that view. It thinks that the enabling power covers such decisions and that there is not a problem. Do members have further thoughts on that?

Mr Macintosh: We raised the point because it had been an issue for the committee on a previous occasion. We wanted to clarify whether the Executive had been consistent and it has been.

Mr Maxwell: As have we.

The Convener: Are there any further points? I do not think that there is much more that we can do.

Murray Tosh: We have raised the matter in relation to a series of instruments and I assume that we anticipate that the issue will come up again. If we decide to let the matter go in this case, that means that we will be letting it go in all cases, as there is no point in our going through the same dance repeatedly, only to drop our concern at the last minute. If we accept the Executive’s position, we must accept that that will be its general position in subsequent cases in which there are

“co-decisions of the Council and the Parliament”.

The Convener: How could we rectify the situation?

Mr Macintosh: We have accepted the Executive's explanations so far, but we could say that we would prefer it to reconsider its approach of treating co-decisions in the same way that it treats decisions of individual European institutions.

Mr Maxwell: Surely there is not enough time—
[*Interruption.*]

The Convener: Just a minute, Ken. Let Stewart finish.

Mr Maxwell: I seek clarification from Ken Macintosh. Are you suggesting that we should report on the matter in the same way that we reported the last time that it arose and that we should then write to the Executive separately in an effort to progress the general point?

Mr Macintosh: That is right. The Executive is taking an approach to co-decisions that we are slightly uneasy with. We could write to the Executive to say that we accept the position that it has taken on SSI 2005/461 and on the previous order on which it adopted such a position but, in future, we would prefer it to approach co-decisions in a way that we would be more comfortable with. In other words, we could ask it to reconsider its approach.

Murray Tosh: I wonder whether the legal adviser has any helpful suggestions to make to the committee.

The Convener: The legal adviser thinks that it might be difficult to do anything different. We are looking for the position to be made clearer. There is not time to do anything further on SSI 2005/461, but we can ask the Executive whether there is any way in which it could make the general position clearer. Does that fit in with what you are thinking?

Mr Macintosh: Yes.

Murray Tosh: We do not seek only clarification. Ken Macintosh suggested that we ask the Executive to come up with a way of dealing with instruments that relate to co-decisions that would meet our concerns. It is not simply a matter of obtaining clarification; we want to make the request that Ken Macintosh made earlier.

Mr Macintosh: I want to go further than to ask for clarification. The Executive has adopted a certain position so far, but it does not have to maintain that position; in future, it could take a different position on instruments that relate to co-decisions.

The Convener: The legal adviser thinks that that would require a change in primary legislation. I think that we can construct a letter on the issues that have been raised. We can ask the Executive whether the position on instruments that relate to

co-decisions could be made clearer and can mention the points that Ken Macintosh has made.

Mr Maxwell: I have a vague recollection that we had a similar discussion the last time that the issue came to light. The legal adviser is correct to say that a change in primary legislation would be required. The only other way of bringing about change would be through a court challenge. We are simply expressing unease about the fact that the Executive's approach might be open to court challenge. That is all that we are saying.

The Convener: I think that we should send a letter in which we express concern about what could happen and ask whether there are ways of getting round the problem. Changing the primary legislation would be one such way. Is that agreed?

Members indicated agreement.

Draft Instruments Subject to Approval

Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005 (draft)

10:54

The Convener: We move on to agenda item 4. Paragraph 3(5) of schedule 2 to the draft order provides that a transport partnership may determine to amend its standing orders to require that certain specified decisions be determined by a two-thirds majority. However, it is not clear that that meets the requirements of the enabling power, which is contained in section 1(2)(e)(iii) of the Transport (Scotland) Act 2005, which states that

“for the purposes of any decision which is to be determined by a vote”,

the order shall secure that

“the minimum voting capacity of all the councillor members of the Partnership is not less than two-thirds of that of its whole membership”.

The issue is whether those two requirements are compatible.

Murray Tosh: I thought that paragraph 3(5) of schedule 2 to the draft order tended to undermine the conditions that are laid out in section 1(2)(e)(iii) of the 2005 act.

The Convener: That is right. We should ask for clarification of that.

There is a minor point to do with the uncertainty of what “they” in paragraph 4(1) of schedule 2 to the draft order means, which we should also ask about.

Murray Tosh: I do not think that that is a minor point. The use of “they” or any impersonal or non-clear designation in legislation is extremely poor practice, so we should raise the matter formally. A quality assurance procedure ought to be built into the process to ensure that it is always absolutely clear to whom an act or a piece of subordinate legislation is referring.

The Convener: Is that agreed?

Members indicated agreement.

Civil Partnership Act 2004 (Consequential Amendments) (Scotland) Order 2005 (draft)

The Convener: Articles 5 to 7 of the draft order amend the Marriage (Scotland) Act 1977 to equate the position of civil partnerships with that which

applies to marriage as regards relationships between persons within specified degrees of affinity. However, the European Court of Human Rights recently found the United Kingdom’s rules in that respect to be in breach of the European convention on human rights. The legal briefing provides quite a lot of detail on the case in question. We might want to ask the Executive to explain how articles 5 to 7 of the draft order are compatible with the ECHR.

Murray Tosh: The Scotland Act 1998 requires that all our primary legislation should comply with the ECHR, but I understand that, in law, that may not apply to subordinate legislation. Would it be appropriate to ask the Executive whether it accepts that, in practice, it must always ECHR-proof subordinate legislation, given that the draft order appears to seek to introduce into Scottish law a regulation that, in another context, has been found to be incompatible with the ECHR?

The Convener: I assume that subordinate legislation would have to comply with the ECHR.

Murray Tosh: I would have thought so, too, but the draft order seems to be an example of a back-door way of avoiding such compliance. I see that the legal adviser does not agree with me on that, so perhaps we could ask her to advise the committee.

The Convener: Is it agreed that we should ask the Executive that question?

Members indicated agreement.

Murray Tosh: Are we not going to ask the legal adviser for her opinion?

The Convener: As well as the specific point, there is a general issue to ask about.

Instruments Subject to Approval

**Food Protection (Emergency Prohibitions)
(Amnesic Shellfish Poisoning)
(West Coast) (No 12) (Scotland) Order
2005 (SSI 2005/497)**

**Food Protection (Emergency Prohibitions)
(Amnesic Shellfish Poisoning) (East
Coast) (Scotland) Order 2005 (SSI
2005/498)**

**Food Protection (Emergency Prohibitions)
(Paralytic Shellfish Poisoning) (Orkney)
(Scotland) Order 2005 (SSI 2005/506)**

10:58

The Convener: We move on to agenda item 5. No points have been raised on the orders. Do members have any points to raise now?

Members: No.

Instruments Subject to Annulment

**Tryptophan in Food (Scotland)
Regulations 2005 (SSI 2005/479)**

10:59

The Convener: We move on to agenda item 6. The first set of regulations that is subject to annulment consolidates with amendments, and revokes, the Tryptophan in Food (Scotland) Regulations 1990 (SI 1990/1792). It also revokes provisions that amended the 1990 regulations. However, amendments that the Food Safety Act (Consequential Modifications) (Scotland) Order 1990 (SI 1990/2625) made have not been revoked. We might want to ask the Food Standards Agency Scotland why that is the case. Is that agreed?

Members *indicated agreement.*

Murray Tosh: In asking that question, will we ask the FSA specifically whether it is aware that, under our constitutional arrangements, the revocation of redundant orders is expected?

The Convener: Yes.

11:00

Mr Maxwell: This is relevant to much of the work that we have been doing on the tidying up of legislation, and the difficulty that the user has in understanding it. The regulations are a classic example of the Executive doing the wrong thing, in my opinion.

The legal brief says that the Food Standards Agency might have used the English order as the basis for the regulations; that might be the cause of the problem. It is not the first time that this has happened, particularly with the FSA. We have had similar problems before. I do not know whether it is worth writing to the FSA to ask it to explain, but it seems clear that it has just lifted the wording of the English order and that that is why the mistake has happened.

The Convener: We can ask that.

A minor point has also been mentioned in the legal brief. We can take that up in an informal letter.

Quite a few minor points have arisen on the remainder of the instruments that we have to consider today. Are members agreed that we will raise those points in an informal letter to the Executive?

Members *indicated agreement.*

**Reporting of Prices of Milk Products
(Scotland) Regulations 2005 (SSI 2005/484)**

**Removal, Storage and Disposal of
Vehicles (Prescribed Sums and Charges
etc) Amendment (Scotland) Regulations
2005 (SSI 2005/486)**

**Civil Contingencies Act 2004 (Contingency
Planning) (Scotland) Regulations 2005
(SSI 2005/494)**

**Police Pensions (Part-time Service)
Amendment (Scotland) Regulations 2005
(SSI 2005/495)**

The Convener: Are members agreed that no substantive points have arisen on the regulations?

Members *indicated agreement.*

**Salmonella in Broiler Flocks (Sampling
Powers) (Scotland) Regulations 2005
(SSI 2005/496)**

The Convener: I have to declare a wee bit of an interest because I am on the cross-party group on animal welfare and I have raised the issue previously. However, no points have arisen on the regulations.

**Additional Support for Learning Dispute
Resolution (Scotland) Regulations 2005
(SSI 2005/501)**

The Convener: There are no substantive points to make about the regulations, but it is worth saying that the Executive note that accompanies the regulations is detailed and helpful.

Murray Tosh: Give the Executive a pat on the back.

**Animals and Animal Products (Import and
Export) (Scotland) Amendment (No 2)
Regulations 2005 (SSI 2005/502)**

The Convener: No substantive points have arisen on the regulations.

**Food Hygiene (Scotland) Regulations 2005
(SSI 2005/505)**

The Convener: There are a number of issues to consider in relation to the regulations. First, we should ask the Executive to explain the legal basis of regulation 24, given that it provides for a code of practice that has legislative effect, and given the restriction of the enabling power by paragraph 1(c) of schedule 2 to the European Communities Act 1972—section 2(2) of which is the enabling power.

Secondly, we will ask the Executive to confirm that all necessary permissions required under European Community legislation have been obtained in respect of the domestic provisions contained in the regulations, particularly those on the ban on the sale of raw milk. Thirdly, we will ask for confirmation that regulation 23, as drafted, is sufficient to achieve its stated purpose. Members will note that a fuller adaptation of section 9 of the Food Safety Act 1990 has been required when it has been applied for the purposes of other regulations.

Do members have any other points on the regulations, or require any further explanation of the points that we are going to raise?

Members: No.

**Pollution Prevention and Control (Public
Participation etc) (Scotland) Regulations
2005 (SSI 2005/510)**

**National Health Service (Superannuation
Scheme, Injury Benefits and
Compensation for Premature Retirement)
(Scotland) Amendment Regulations 2005
(SSI 2005/512)**

The Convener: No points have arisen on the regulations but the Executive has indicated that it is planning to consolidate them.

Murray Tosh: We have obviously got the Executive rattled.

Instrument Not Subject to Parliamentary Procedure

Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (East Coast) (Scotland) Revocation Order 2005 (SSI 2005/499)

11:04

The Convener: No points have arisen on the order.

Instruments Not Laid Before the Parliament

Act of Adjournal (Criminal Procedure Rules Amendment No 5) (Sexual Offences Prevention Orders) 2005 (SSI 2005/472)

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc Rules) Amendment (Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005) 2005 (SSI 2005/473)

Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (Commencement and Savings) Order 2005 (SSI 2005/480)

11:05

The Convener: No points have arisen on the instruments.

Smoking, Health and Social Care (Scotland) Act 2005 (Commencement No 1) Order 2005 (SSI 2005/492)

The Convener: Do members want to ask the Executive why section 43(4) of the Smoking, Health and Social Care (Scotland) Act 2005—the parent act—has not been cited as an enabling power in the order?

Members *indicated agreement.*

The Convener: There are a number of minor errors in the order; we will raise those in an informal letter.

Civil Contingencies Act 2004 (Commencement) (Scotland) Order 2005 (SSI 2005/493)

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc Rules) Amendment (Mental Health (Care and Treatment) (Scotland) Act 2003) 2005 (SSI 2005/504)

The Convener: No points have arisen on the instruments.

Before we finish the meeting, I remind members that at the next meeting of the committee, on Tuesday 1 November, we will hear evidence on phase 2 of our inquiry from the Scottish Environment Protection Agency, the Food Standards Agency and the Scotch Whisky Association. I am therefore looking for as full a house as possible. The meeting on 8 November will involve taking evidence from committee conveners. We set that up some time ago.

I thank you all for coming and close the meeting.

Meeting closed at 11:07.

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