

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 2 May 2006

Session 2

£5.00

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SUBORDINATE LEGISLATION COMMITTEE

14th Meeting 2006, 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)

*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

Murray Tosh (West of Scotland) (Con)

COMMITTEE SUBSTITUTES

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

Maureen Macmillan (Highlands and Islands) (Lab)

Ms Maureen Watt (North East Scotland) (SNP)

CLERK TO THE COMMITTEE

David McLaren

ASSISTANT CLERK

Jake Thomas

LOCATION

Committee Room 4

Scottish Parliament

Subordinate Legislation Committee

Tuesday 2 May 2006

[THE CONVENER *opened the meeting at 11:00*]

Item in Private

The Convener (Dr Sylvia Jackson): I welcome members to the 14th meeting in 2006 of the Subordinate Legislation Committee. I have apologies from Adam Ingram and Murray Tosh. I remind members to switch off their mobile phones and to insert their cards into their consoles.

Item 1 is to ask members if they are content to take in private item 8 and all future consideration of the draft consultation paper on the regulatory framework inquiry. Is that agreed?

Members *indicated agreement.*

Delegated Powers Scrutiny

Legal Profession and Legal Aid (Scotland) Bill: Stage 1

11:00

The Convener: The committee was due to consider the Executive's response to the Legal Profession and Legal Aid (Scotland) Bill. However, the Executive has not managed to meet our timetable for a response, so we will have to consider it at next week's meeting. That might mean that we will have a bit extra to do at next week's meeting but I am sure that we will cope.

Stewart Maxwell is going to ask a question.

Mr Stewart Maxwell (West of Scotland) (SNP): Why did you think that I was going to say something?

Normally we would expect to discuss the response today. Does the Executive having failed to respond to our points within the time available mean that we have lost a week, or will we get an extra week to consider the Executive's response?

The Convener: Do we have enough time?

David McLaren (Clerk): We will discuss the response at next week's meeting, so we will effectively have the same amount of time that we had initially.

Mr Maxwell: If we had discussed the response this week we would have had three weeks to consider it, but if we discuss it next week we will have only two.

David McLaren: The forward programme contains several bills that we have to consider. Each bill is individually timetabled and we have had to amend the timetable to account for the fact that the Executive has not responded.

Mr Maxwell: So originally we had two weeks to consider the responses, and we will still get that.

The Convener: Yes. We have had to stagger the consideration of bills through our timetable. We are still okay.

Adoption and Children (Scotland) Bill: Stage 1

The Convener: The bill is intended to modernise and extend the system of adoption in Scotland. It contains a large number of delegated powers, several direction-making powers, and it seeks to confer powers on the Court of Session to make court rules, and on the Registrar General for Scotland to make instruments.

Section 2, "Local authority plans", provides for the preparation and publication by local authorities

of plans for the provision of adoption services in their area. The Executive considers the list of consultees in section 2(3) to be comprehensive, but a power is taken to add to the list to take account of future developments.

Are there any problems or are we content with the power? Members will see that it is subject to the negative procedure. Are we agreed?

Members indicated agreement.

The Convener: The Executive has given the same rationale for the power taken under section 3, "Assistance in carrying out functions under sections 1 and 2", as for the power we have just considered. However, there is a question whether the regulations should be subject to consultation. Are members content with the power and that it is subject to the negative procedure, or should we ask the Executive to clarify the position on consultation? Stewart Maxwell is nodding.

Mr Maxwell: I have no particular objection to the power, but it would be odd if bodies were just added to the list without any prior consultation. I assume that the Executive will consult, but I think that we should ask it to clarify the point.

The Convener: Are we agreed that we should seek clarification on that point?

Members indicated agreement.

The Convener: The provision in section 5, "Adoption agencies: regulations about carrying out functions", will confer a power on ministers to make regulations for the carrying out of a registered adoption agency's functions. It also provides the power to make regulations on local authorities' functions in relation to adoption. Are we content with the powers and the fact that they are subject to the negative procedure?

Members indicated agreement.

The Convener: Section 6 lists those persons who are eligible for pre-adoption services and the types of services included in that definition. Section 6(4) will confer a power on ministers to add to the list of types of pre-adoption services and a power to modify that list. Are members content with the power and the fact that it will be subject to annulment?

Members indicated agreement.

The Convener: The provision in section 7(4), "Adoption support services", is similar to that in section 6. Are we content with the power?

Members indicated agreement.

The Convener: Section 20, "Restrictions on removal: child placed for adoption with consent", will criminalise any attempt by a parent or guardian to remove a child from prospective

adopters with whom the child is placed by an adoption agency. The regulations that will be made in exercise of the power are likely to be broadly procedural in nature. Are members content with the power and that it is subject to the negative procedure?

Members indicated agreement.

The Convener: We move on to section 23, "Scottish Ministers' power to amend period of time in sections 21 and 22"; there might be a few issues to discuss here.

Section 23 confers a power on ministers to amend the period of five years that is mentioned in sections 21(1)(b) and 22(1)(b), which cover the period in which a child's home has been made with the prospective adopters.

Is it appropriate in principle to delegate a power to amend that five-year period once it has been fixed in the bill? In what circumstances would ministers want to exercise the power? Members will also note that there is no limit on the exercise of the power to increase or reduce the period of five years.

Mr Kenneth Macintosh (Eastwood) (Lab): The provision verges on policy. It is a fairly important point, so we should ask the Executive why, if it has made up its mind that the period is to be five years, it wants the power to change that in future? We should write to the Executive and explore that issue.

The Convener: We are seeking the Executive's justification for wanting the power to change the time limit of five years.

Mr Macintosh: If the Executive is happy with a five-year period at the moment, why does it want the power to change it?

The Convener: Are there any other points? What about the fact that there is no limit on the exercise of the power to increase or reduce the period of five years?

Mr Maxwell: I was going to make the point that Kenny Macintosh has just made. We should also ask similar questions about the lack of a limit; the Executive should either justify that or explain how it will change it. The five-year period is fairly important and it is odd to seek to allow such a core policy to be changed by subordinate legislation. To leave it completely open to change is even odder. We need a full explanation from the Executive.

The Convener: We need to ask the Executive to clarify and justify those two points. Are we agreed?

Members indicated agreement.

The Convener: Section 39, "Information to be kept about adoptions", confers a power to make

regulations for specifying the information that an adoption agency must keep about adoptions, and the form in which it is to be kept. Are members content with the power and that it is subject to the negative procedure?

Members indicated agreement.

The Convener: Section 40, "Disclosure of information kept under section 39", will enable ministers to make regulations subject to annulment that will provide for disclosure of information by adoption agencies to adopted persons and others who are specified in the regulations. The Executive argues that the regulations will be administrative and not controversial. However, our legal advisers argue that the information that might be disclosed is potentially very sensitive, and it raises questions about data protection and a person's right to privacy.

Gordon Jackson (Glasgow Govan) (Lab): The power does seem to be a little more significant than the Executive describes it. I might not be right about that. Perhaps the Executive could give us a fuller explanation about how it envisages using the power. I want to query precisely what the Executive has in mind by pointing out to it that, on the surface, the matter seems to be quite sensitive rather than just a matter of administration.

The Convener: We will seek further clarification from the Executive about how it will use the power. What about the proposed level of scrutiny?

Gordon Jackson: One might follow from the other.

The Convener: I know. Shall we put the two questions together?

Gordon Jackson: Yes; obviously the two matters can be connected.

The Convener: We should tell the Executive that we are concerned about the power and the level of scrutiny to which it will be subject.

What does the committee think about an obligation to consult adoption agencies, given the restrictions and duties that the regulations will place upon them?

Mr Maxwell: Again, much will depend on the Executive's explanation for taking that approach. If we do not agree that information should be released in the way that is proposed we will not think that such consultation should take place. We should ask the Executive about the matter and then decide whether there should be an obligation to consult and, if so, how consultation should take place.

The Convener: The clerks tell me that we will have time to ask further questions after we receive a response from the Executive. Do members

agree to ask the question that Gordon Jackson proposed that we ask?

Members indicated agreement.

The Convener: The provision in section 47, "Post-adoption services", closely mirrors the equivalent provision in section 6, which members thought was okay. Are members content to take the same view on section 47 as they took on section 6?

Members indicated agreement.

The Convener: Section 48 will oblige a local authority to carry out an assessment of needs for post-adoption services when requested to do so. Are members content with the power, which will be subject to the negative procedure?

Members indicated agreement.

The Convener: Section 55 will confer a power on ministers to make regulations that prescribe how a reassessment of needs for post-adoption services is to be carried out. The power is identical to the power in section 48, with which members were content. Are members happy with the power in section 55?

Members indicated agreement.

The Convener: Section 56 will confer a power on ministers to issue directions to a local authority about the implementation of care plans. Although section 56 does not confer a power to make subordinate legislation, it could be argued that it confers a power to make directions that are legislative in character. I invite members' views.

Mr Macintosh: We could ask the Executive whether it will consider laying the directions before the Parliament and about the degree of parliamentary scrutiny that it expects the directions to receive.

The Convener: Do members agree to do that?

Members indicated agreement.

The Convener: Section 58 makes provision for regulations about adoption services and care plans. Are members content with the power, which will be subject to the negative procedure?

Members indicated agreement.

The Convener: Section 60, on searches and extracts, makes provision for

"The terms, conditions and regulations as to payment of fees, form and authentication of documents"

under the Registration of Births, Deaths and Marriages (Scotland) Act 1965 to apply to searches in the proposed new adopted children register. Although there is no delegated power in that regard, the effect of the provision might be to extend the regulation-making power in the 1965 act.

Mr Maxwell: There seems to be confusion about whether the regulation-making power will be extended. We should ask the Executive about the matter.

The Convener: Do members agree to ask the Executive to clarify its intention?

Members indicated agreement.

The Convener: Section 64, "Restriction on bringing children into the United Kingdom", will confer on ministers several powers to make regulations. The regulations will be subject to the negative procedure, with the exception of the first exercise of the power in section 64(8), which will be subject to the affirmative procedure. Are members content with the powers and the procedure that is to be followed? I think that in situations in which subsequent regulations will be less contentious than a first instrument, we have agreed that only the first exercise of the power should be subject to the affirmative procedure.

Mr Maxwell: Perhaps the convener understands the matter more clearly than I do. Why should subsequent regulations be less controversial than the first set of regulations?

Gordon Jackson: Stewart Maxwell is right to suggest that the subsequent exercise of a power is not necessarily less controversial than the first exercise of that power, but I suppose that subsequent exercises of a power tend to tinker at the edges of a matter rather than lay out the broad approach. In theory, subsequent regulations could be contentious. However, normal practice is to put down a marker when a power is first exercised and to make only non-radical changes when it is subsequently exercised.

The Convener: I am trying to ascertain whether the Executive justifies its approach. Paragraph 55 of the delegated powers memorandum says:

"The first exercise of the power will be subject to affirmative resolution procedure, and subsequent exercises of it will be subject to negative resolution procedure. It is considered this degree of parliamentary scrutiny is appropriate. It mirrors the procedure applied to equivalent provisions of the Adoption and Children Act 2002 ... It may be that negative procedure would be appropriate for all exercises of the power but it is noted that following comment by the Committee on Delegated Powers and Regulatory Reform in its 28th Report affirmative procedure was applied to the first exercise of the power under the 2002 Act."

11:15

Mr Maxwell: Can we ask the Executive to explain why the procedure that will be applied to the first exercise of the power should be different from the procedure that will be applied to subsequent exercises of the power?

Gordon Jackson: I have no problem with the provision, but I also have no problem with Stewart Maxwell's suggestion.

Mr Maxwell: I am just curious about the matter.

The Convener: I assume that if the approach is taken in other legislation, as the memorandum says, the Executive will find it easy to justify the approach.

Mr Maxwell: The only explanation in the memorandum is that the approach is used elsewhere, which—to be frank—does not explain anything.

The Convener: We will ask the Executive to justify its approach.

We move on to section 65, "Preliminary order where child to be adopted abroad". Subsection (3) will confer on ministers a power to make regulations to prescribe the requirements that must be met before an order under subsection (1) is made. The power will be subject to the negative procedure. The legal adviser suggests that the committee considers asking the Executive to clarify the intended use of the power.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): We should do that. I am a layman and the Executive's intention was not obvious to me when I read the provisions carefully. I would feel more comfortable if we knew a little about the thinking behind the approach.

Mr Maxwell: In paragraph 80 of the legal brief, the legal adviser asks why the preconditions for the granting of an order are not set out in the bill. Can we ask the Executive that question?

The Convener: In paragraph 81, the legal adviser says that the delegated powers memorandum

"does not give any information about the Executive's plans in this area"—

we will ask about that. The adviser goes on to say:

"this is not an unimportant matter and accordingly before making a decision on the appropriateness of the delegation, the Committee may wish to ask the Executive how it is anticipated that this power is to be used."

Mr Maxwell: It would be useful to seek clarification on the matter and on the specific point.

The Convener: By "specific point", do you mean the issue that is raised in paragraph 80?

Mr Maxwell: Yes.

The Convener: Okay. We will ask the Executive about the issue that is raised in paragraph 80 when we ask about the power in section 65.

Section 66 concerns "Restriction on removal of children for adoption outwith Great Britain". Subsection (4) will confer on ministers a power to modify or disapply the restrictions on taking a child out of the UK that are set out in subsections (1) to

(3). The power will be very similar to the one in section 64(8), which we discussed. Are members content with the power and that the regulations will be subject to annulment?

Mr Maxwell: The approach is similar to the one that we discussed in relation to section 64, whereby the affirmative procedure will apply to the first exercise of the power but not to subsequent exercises of the power. We should ask why that is.

The Convener: We will ask the question that we are asking in relation to section 64.

Section 67, "Regulations under section 64: offences", will make it an offence for a person to bring, or cause another person to bring, a child into the UK without first having complied with the requirements of sections 64(5) or 64(6). The requirements must be fulfilled at the time when the child is brought into the UK

"or before any later time which may be prescribed by regulations made by the Scottish Ministers."

The legal adviser suggests that the power will have an effect similar to that of a Henry VIII power, because it will enable the bill's effect to be altered. The adviser says that there is little background information on the need for the power or the circumstances in which it might be used. Should we ask the Executive about the matter?

Mr Stone: Yes, we absolutely should. I seek reassurance on the matter. The proposed power seems to be fairly draconian, to say the least. I am sure that there is an explanation for the approach and I would like to hear it.

The Convener: We really need to know why the power has been taken and how it is to be used.

Members indicated agreement.

The Convener: Are we content with the power in section 68, "Declaration of special restrictions on adoptions from abroad", which is subject to the negative procedure?

Members indicated agreement.

The Convener: Section 69 places a duty on ministers to review the restricted countries list and to revoke an order under section 68(3) if they no longer have reason to believe that practices in a country make it contrary to public policy to bring children to the UK for adoption. Are there any issues about the power?

Gordon Jackson: It just cancels the previous power—unless I have not understood.

The Convener: Are we happy that it is subject to the negative procedure?

Members indicated agreement.

The Convener: Are members content with the powers under section 70, "The special

restrictions", which are subject to the negative procedure?

Gordon Jackson: They relate to the procedure to be followed rather than the criteria to be followed—if members follow me.

The Convener: Is there anything in particular?

Gordon Jackson: No. I am just saying that it is a procedural matter, rather than being about substantive criteria.

The Convener: Yes. Are we content with the power under section 71, "Imposition of extra conditions in certain cases", which is subject to the negative procedure? Do any points arise?

Gordon Jackson: No—these are sensible things.

The Convener: Section 72 confers on ministers a power to charge a fee to adopters for services provided in relation to adoptions. It is not a delegated power, but there is a question whether the power to charge fees should be prescribed in a Scottish statutory instrument to allow some parliamentary scrutiny.

Gordon Jackson: I agree with that. Provisions involving charging should be put in SSIs when charges are made or changed. As the legal brief points out, court fees are determined in that way. I cannot see any reason why such provisions would not go in an SSI. It is not something that will be argued about or fought over.

Mr Maxwell: I knew that court fees were decided in that way. Does anybody have any knowledge about how other fees are set?

Gordon Jackson: Licensing fees?

The Convener: There are certainly some examples of SSIs being used for fees.

Mr Maxwell: It seems to be more normal to have them determined in SSIs. Gordon Jackson is right. That is what we usually have.

Gordon Jackson: We should ask.

Mr Maxwell: Yes, I think that we should ask.

The Convener: Let us ask the Executive to explain why the power to charge is not prescribed in an SSI.

Gordon Jackson: We will not die in a ditch over it, but we should ask.

The Convener: Are we content with the power under section 73, on the meaning of "overseas adoption", and on its being subject to the negative procedure?

Members indicated agreement.

The Convener: Section 75, entitled "Section 74: supplementary provision", allows the Court of

Session, on an application, to annul a European convention on human rights adoption or an overseas adoption.

Gordon Jackson: Again, it is about procedure rather than substance. Is that right?

The Convener: I think so, but it is suggested that we ask the Executive why it has not been conferred on the court itself to regulate the procedure by means of court rules. Shall we ask that question?

Gordon Jackson: Sure.

Mr Maxwell: Particularly as that approach is used elsewhere in the bill. It is interesting.

The Convener: Does the legal brief cover that?

Mr Maxwell: Yes.

The Convener: Where is it being used elsewhere?

Mr Maxwell: The brief does not say where, but paragraph 108 explains that that approach is used in other sections of the bill. We should ask why different approaches are being used. There is no explanation of that.

The Convener: We will ask for clarification on that. Basically, it is a procedural matter, as you said.

Are we content with the powers under section 77, "Adoption allowances schemes", which is subject to the negative procedure?

Members indicated agreement.

The Convener: The provisions in section 78, "Disclosure of medical information about parents of child", are similar to those in section 40. They confer on ministers a power to make provision for the disclosure of information about the health of the natural parents of a child who is to be or has been adopted. That is a sensitive matter.

Mr Macintosh: As the legal brief says, there is a lot of detail involved, so it is probably appropriate for the provisions to be dealt with as subordinate legislation. There are some major policy issues to be discussed. At the very least, we should draw the lead committee's attention to the provisions. When the Joint Inspection of Children's Services and Inspection of Social Work Services (Scotland) Bill was going through recently, we had a huge debate about the disclosure of medical information. No matter how guarded and protected medical information is, the basic principle that medical notes are private could be progressively undermined.

It is a sensitive point and, given that sensitivity, we should, in addition to flagging up the policy issues to the lead committee, ask the Executive if the annulment procedure is the best one to use.

Any changes to be made in future, which are the concern for us, might be more suitably subject to the affirmative procedure at the very least.

Mr Stone: I echo what Ken Macintosh has said. I have colleagues—not on the committee—who would be anxious about this aspect of the bill. For the sake of good governance, we need to inquire and probe a bit more on this point. I agree with Ken entirely about the sensitivity of the matter.

The Convener: We will ask for further justification of the decision.

Mr Stone: I am not trying to rock the boat, but I think that we should ask about that.

The Convener: Are we happy about the negative procedure being used for the powers under section 98, which is headed "Notification of proposed application for order"?

Members indicated agreement.

The Convener: Are we content with the power in section 99, "Child subject to supervision requirement: duty to refer to Principal Reporter"?

Members indicated agreement.

The Convener: Are we happy with the power in section 103, "Regulations about fostering allowances"?

Members indicated agreement.

The Convener: In section 108, "Ancillary Provision", the procedure is as usual affirmative where the order amends primary legislation and annulment otherwise. Are we content with the power and the procedures?

Members indicated agreement.

The Convener: Are members happy with the power under section 113, "Short title and commencement"? It is not subject to parliamentary procedure.

Members indicated agreement.

The Convener: Schedule 2 covers minor and consequential amendments to the Children (Scotland) Act 1995. There are two powers to consider. Are we content with the power in paragraph 1(4)(b), which is subject to the negative procedure?

Members indicated agreement.

The Convener: Are we content with the power in paragraph 1(4)(f), which is also subject to the negative procedure?

Members indicated agreement.

The Convener: Turning to rules of court, the bill contains several provisions conferring power on the court to make rules to regulate the various new procedures that are introduced by the bill. Are we content with those powers?

Mr Maxwell: Those are the powers that we were looking for earlier.

Gordon Jackson: Bearing in mind the fact that we think that the procedures should not be regulated at all in future, it would be a bit churlish to have a look at them now.

Mr Maxwell: We will just gloss over that.

The Convener: It seems that there might be some drafting errors in the provisions concerning the registrar general. Paragraphs 1, 6 and 7(4) of schedule 1 contain delegated powers conferred on the registrar general to make regulations in relation to various aspects of the registration process. Although the delegated powers memorandum states that the powers are exercisable by statutory instrument, the bill does not provide for that. Are members happy that we ask the Executive to confirm whether it intends for regulations made by the registrar general to be exercisable by SSI and, if so, why that has been omitted from the drafting of section 109?

Members indicated agreement.

Scottish Schools (Parental Involvement) Bill: as amended at Stage 2

The Convener: No supplementary delegated powers memorandum has been provided by the Executive in this instance, as it does not consider that any of the delegated powers in the bill as introduced have been substantially amended or that any new powers have been introduced. There is therefore no requirement for us to report on the bill at this stage. The only concern that the committee raised with the lead committee at stage 1 related to section 19, which confers power on ministers to issue guidance to various bodies.

Members will note what has been said in response to us. The Executive noted our concern that the bill did not provide for any parliamentary scrutiny or publication requirement in respect of the guidance, and it assured the committee that it intended to consult parent councils fully before issuing any guidance. The Executive anticipated that the matter would be revisited at stage 2. Are we happy to note the response? Are there any other points to raise?

Mr Maxwell: No, I think that we should leave it at that. Ken Macintosh is on the Education Committee, is he not?

Mr Macintosh: Yes, I am. There is plenty of education guidance, some of which is published. Much of the guidance is scrutinised by the Parliament, but there will be no need for parliamentary scrutiny of guidance to parent councils.

The Convener: We will note the amended provision.

Executive Responses

Public Appointments and Public Bodies etc (Scotland) Act 2003 (Treatment of Office or Body as Specified Authority) Order 2006 (draft)

11:30

The Convener: We asked the Executive when it will make the order and bring it into force, which is critical in determining the vires of the order. The Executive responded that it will make the order as soon as possible after the draft order is approved by the Parliament, so the order is likely to be made at the end of May or in early June. We should draw the draft order to the attention of the lead committee and the Parliament on the ground that further information was requested from and supplied by the Executive. We could also draw attention to the problems that might arise in relation to the vires of the order while the Police, Public Order and Criminal Justice (Scotland) Bill has not at least been passed by the Parliament.

Mr Maxwell: The legal brief describes the procedure at Westminster for determining when a bill can make reference to another bill, but the Scottish Parliament has no similar procedure. The Justice 2 Committee, of which I am a member, has completed stage 2 consideration of the bill, so stage 3 will happen soon. Is the problem just theoretical?

The Convener: I think so.

Mr Maxwell: I understand the problem. The approach makes me slightly nervous, but the bill will be passed and I foresee no problems in relation to the aspect of the bill that is relevant to the draft order.

The Convener: Shall we report on that basis?

Members indicated agreement.

Private Water Supplies (Scotland) Regulations 2006 (SSI 2006/209)

The Convener: We asked the Executive to explain why regulation 37(1) begins:

"with effect from 3 July 2006",

given that all the regulations will come into effect on that date. The Executive acknowledged that the words are unnecessary but explained why it used them. Shall we draw the attention of the lead committee and the Parliament to the Executive's response?

Members indicated agreement.

Instruments Subject to Annulment

Registered Social Landlords (Purposes or Objects) (Scotland) Order 2006 (SSI 2006/211)

11:33

The Convener: Are members content to ask the Executive why, given the wording of new section 58(3)(h) of the Housing (Scotland) Act 2001, the order contains a definition of

“disposed of on shared equity terms”,

but does not define “shared equity terms”?

Mr Macintosh: That is a sensitive issue for me and for the convener, not particularly in relation to the 2001 act but in the context of shared ownership in retirement complexes. The difference between shared ownership and shared equity is a serious point of contention, because none of the rights that are enjoyed by shared owners are enjoyed by people who enter into shared equity arrangements. People entered into shared equity arrangements without being aware that the arrangements were different from shared ownership. Little lapses and oversights can lead to major problems. My comment is a bit elaborate, but in the long term there might be a serious problem if people are not made aware of the difference between shared equity and shared ownership. A definition would be helpful.

The Convener: Exactly. Is that agreed?

Mr Maxwell: What are we going to do with this?

The Convener: We are going to do exactly what we have said, but we will also highlight the difficulty brought about by not having a definition for “shared equity terms”, which is very important.

Mr Maxwell: I accept that point entirely. I just wonder if there is time to go back to the Executive.

The Convener: Yes. There is enough time.

Land Management Contracts (Menu Scheme) (Scotland) Amendment Regulations 2006 (SSI 2006/213)

The Convener: Several minor points have been listed in paragraph 173 of the legal brief. If the committee agrees, we will put those to the Executive.

Mr Maxwell: We should do that. Those are the kinds of things that the Executive might want to amend.

The Convener: Absolutely. Is that agreed?

Members indicated agreement.

Croft House Grant (Scotland) Regulations 2006 (SSI 2006/214)

The Convener: There are quite a number of points on the regulations, which appear to have been poorly drafted. There are lots of questions to ask the Executive—paragraph 174 of the legal brief lists points (a) to (i) inclusive. Unless members want me to go through them all individually, I suggest that we put them all together and ask the Executive to comment.

Mr Stone: Members will not be surprised that I want to comment because, as they know, I represent a crofting constituency and I want to put it on the record that I am somewhat dismayed to see this sort of thing in front of the committee. I would be grateful if we could probe this very deeply indeed. I would have great difficulty explaining the regulations to my constituents in their present form. In fact, I would be—well, I will not go any further; I leave it to members’ imaginations.

The Convener: Are we agreed on the suggested course of action?

Members indicated agreement.

Charities Accounts (Scotland) Regulations 2006 (SSI 2006/218)

The Convener: There are two main questions to ask the Executive. First, in relation to the references to three “outside publications” in regulations 1(2) and 14(3), why does neither the footnote nor the explanatory note indicate where copies of these documents can be obtained? Secondly, we should ask the Executive to explain paragraph (7) of regulation 3, as it is not clear whether it is intended to prevent a charity from having more than two or three financial years exceeding 12 months in the five-year period. It sounds confusing even when I say it. There are also a couple of minor points that can be raised with the Executive informally. I suggest that we raise all the points together.

Mental Health (Care and Treatment) (Scotland) Act 2003 (Transitional and Savings Provisions) Amendment Order 2006 (SSI 2006/221)

The Convener: No points arise on the order.

Instrument Not Laid Before the Parliament

Family Law (Scotland) Act 2006 (Commencement, Transitional Provisions and Savings) Order 2006 (SSI 2006/212)

11:38

The Convener: No points arise on the order.

Annual Report

11:38

The Convener: As members can see, the annual report is in a standard format; all committees are required to produce one and the structure is common to them all. The report sets out the key areas of work and has various statistics and details of visits undertaken. We divulged one or two of those statistics to the Legislation Committee of the National Assembly for Wales via videolink earlier this morning; we mentioned the large number of bills and SSIs that we have dealt with.

Mr Maxwell: I think that they were a bit shocked.

The Convener: They were quite taken aback by the magnitude of it all.

Mr Stone: And at long last, the committee has a Liberal.

The Convener: We do indeed.

Mr Stone: What every growing boy wants.

The Convener: Are we happy with the draft annual report?

Members *indicated agreement.*

11:39

Meeting continued in private until 12:15.

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