

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 18 September 2007

Session 3

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2007.

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 RR
Donnelley.

CONTENTS

Tuesday 18 September 2007

Col.

DECISION ON TAKING BUSINESS IN PRIVATE	39
DELEGATED POWERS SCRUTINY	40
Abolition of Bridge Tolls (Scotland) Bill: Stage 1	40
SCOTTISH GOVERNMENT RESPONSES	41
National Health Service (Pharmaceutical Services) (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/390)	41
National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/393)	41
Plant Protection Products (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/410)	41
Miscellaneous Food Additives and the Sweeteners in Food Amendment (Scotland) Regulations 2007 (SSI 2007/412)	41
Plant Health (Scotland) (Amendment) Order 2007 (SSI 2007/415)	42
Plant Health (Phytophthora ramorum) (Scotland) Amendment Order 2007 (SSI 2007/416)	42
DRAFT INSTRUMENTS SUBJECT TO APPROVAL	43
Small Claims (Scotland) (Amendment) Order 2007 (draft)	43
Sheriff Courts (Scotland) Act 1971 (Privative Jurisdiction and Summary Cause) Order 2007 (draft)	43
INSTRUMENTS SUBJECT TO ANNULMENT	44
Housing (Scotland) Act 2006 (Repayment Charge and Discharge) Order 2007 (SSI 2007/419)	44
Zoonoses (Monitoring) (Scotland) Regulations 2007 (SSI 2007/420)	44
Civil Legal Aid (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/425)	44
Seed Potatoes (Scotland) Amendment Regulations 2007 (SSI 2007/418)	44
National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No 3) Regulations 2007 (SSI 2007/391)	45
Disclosure Scotland (Staff Transfer) Order 2007 (SSI 2007/417)	45
Porcine Semen (Fees) (Scotland) Regulations 2007 (SSI 2007/421)	45
National Health Service (General Dental Services) (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/422)	45
Food for Particular Nutritional Uses (Scotland) (Miscellaneous Amendments) Regulations 2007 (SSI 2007/424)	45
INSTRUMENT NOT LAID BEFORE THE PARLIAMENT	46
Disease Control (Interim Measures) (Scotland) Amendment (No 3) Order 2007 (SSI 2007/423)	46

SUBORDINATE LEGISLATION COMMITTEE

5th Meeting 2007, Session 3

CONVENER

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

DEPUTY CONVENER

*Gil Paterson (West of Scotland) (SNP)

COMMITTEE MEMBERS

*Jackson Carlaw (West of Scotland) (Con)

*Helen Eadie (Dunfermline East) (Lab)

*Ian McKee (Lothians) (SNP)

*John Park (Mid Scotland and Fife) (Lab)

*Dr Richard Simpson (Mid Scotland and Fife) (Lab)

COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)

Richard Baker (North East Scotland) (Lab)

Christopher Harvie (Mid Scotland and Fife) (SNP)

Margaret Smith (Edinburgh West) (LD)

*attended

CLERK TO THE COMMITTEE

Gillian Baxendine

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Jake Thomas

LOCATION

Committee Room 4

Scottish Parliament

Subordinate Legislation Committee

Tuesday 18 September 2007

[THE CONVENER *opened the meeting at 14:15*]

The Convener (Jamie Stone): I welcome members to the fifth meeting of the Subordinate Legislation Committee. We have no apologies because everyone is here. I ask members to turn off any mobile phones or pagers.

Before we move on to the agenda, I remind members that we have before us the summary of recommendations, which has proved useful at previous meetings, and I intend to refer to it to save me from having to read out a huge amount of stuff.

Decision on Taking Business in Private

14:15

The Convener: We need to decide whether to discuss in private the committee's future work programme, as we would normally do. Are members content that we should have that discussion in a rather more informal manner?

Members *indicated agreement.*

Delegated Powers Scrutiny

Abolition of Bridge Tolls (Scotland) Bill: Stage 1

14:16

The Convener: This is the committee's first consideration of the delegated powers contained in a bill since this version of the committee came into being. The bill is extra short, which will make it a little bit easier.

The bill contains only one delegated power, in section 4(2), and that is a commencement power. The delegated powers memorandum sets out the reason for taking such a power, which is not subject to parliamentary procedure. I have looked through the legal brief—I am sure that other members will have done so too—and there do not seem to be any problems with the power. Are members content that, in the circumstances, the power in section 4(2) is acceptable and that it is appropriate that its exercise is not subject to parliamentary procedure?

Helen Eadie (Dunfermline East) (Lab): I have a concern about the power and, although I will not go against the recommendations, I want to place that on the record.

I am concerned that we are being asked to agree that the commencement power could be delegated in such a way that, although Parliament will enact the legislation to ensure that the bridge tolls are removed, there could be an unduly long delay in the provisions being commenced. I appreciate that there are human relations issues with the bridge staff and trade unions and so on, and I understand that grant funding arrangements need to be put in place, but I do not want Parliament to give the Government carte blanche over when to commence the provisions. I want to be assured that it will be done as quickly as possible after the Parliament has enacted the bill.

The Convener: We have to be mindful of the role and responsibilities of the committee. Although I hear what Helen Eadie is saying, that is an issue that will have to be taken up elsewhere.

Are members content with the delegated power?

Members *indicated agreement.*

Scottish Government Responses

National Health Service (Pharmaceutical Services) (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/390)

14:18

The Convener: Last week we wrote to the Government on several matters. Members will recall that we asked if there were any plans to consolidate the principal regulations and we have received a response. As there are no comments, are we content to draw the attention of the lead committee and Parliament to the regulations on the ground that information was sought from and provided by the Scottish Government?

Members indicated agreement.

National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/393)

The Convener: The committee asked the Scottish Government whether it had any plans for consolidation given that this is the seventh amendment of the principal regulations. Members have seen the response. Are members content to draw the attention of the lead committee and Parliament to the regulations on the ground that the Scottish Government has indicated that it intends to consolidate when next making substantive amendment of the principal regulations for policy purposes?

Members indicated agreement.

Plant Protection Products (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/410)

The Convener: The committee's questions to the Scottish Government were about transparency, and we have seen the Government's response. Are we content to report that the committee is still concerned that transparency issues have not been adequately addressed?

Members indicated agreement.

Miscellaneous Food Additives and the Sweeteners in Food Amendment (Scotland) Regulations 2007 (SSI 2007/412)

The Convener: Am I in the right place?

Gillian Baxendine (Clerk): Yes.

The Convener: I would have members know that, since our last meeting, I have been to the optician to get some new specs made.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Is that off the record?

The Convener: It is on the record now.

We asked the Scottish Government whether it had any plans for consolidation, given that this is the 17th amendment of the Miscellaneous Food Additives Regulations 1995 (SI 1995/3187) and the 11th amendment of the Sweeteners in Food Regulations 1995 (SI 1995/3123). Members have seen the Government's response and the legal brief. Are we content to draw the attention of the lead committee and Parliament to the regulations on the ground that the Food Standards Agency Scotland considers that it would not be appropriate to undertake a consolidation exercise at this point since it is likely that implementation of anticipated European measures will require revocation of the principal regulations and a recasting of the transposition of this area of law?

Members indicated agreement.

Plant Health (Scotland) (Amendment) Order 2007 (SSI 2007/415)

The Convener: We asked the Scottish Government why there was a delay in implementing European Council directives as indicated in the summary of recommendations. Members have seen the response. I am sure that they will have noticed that the two organisms covered by the directives have not been discovered in Scottish potatoes; that is a good thing and long may it continue to be the case.

Are members content to draw the order to the attention of the lead committee and Parliament on the ground that we sought and received from the Scottish Government an explanation that we consider to be reasonable in the circumstances?

Members indicated agreement.

Plant Health (*Phytophthora ramorum*) (Scotland) Amendment Order 2007 (SSI 2007/416)

The Convener: The committee asked the Scottish Government why there had been a delay in implementing European Commission decision 2007/201/EC, and, given that the decision increases the number of annual inspections to be carried out in relation to certain species during the growing season, how that obligation was to be met during 2007-08.

Members will have seen the response. The Scottish Government fairly and openly acknowledges the delay and offers the same

explanation that we heard for the previous order. Are members content to draw the order to the attention of the lead committee and Parliament on the ground that we sought and received from the Scottish Government an explanation that we consider to be reasonable in the circumstances?

Members *indicated agreement.*

Draft Instruments Subject to Approval

Small Claims (Scotland) (Amendment) Order 2007 (draft)

14:23

The committee agreed to raise minor points on the instrument.

Sheriff Courts (Scotland) Act 1971 (Privative Jurisdiction and Summary Cause) Order 2007 (draft)

The committee agreed that no points arose on the instrument.

Instruments Subject to Annulment

Housing (Scotland) Act 2006 (Repayment Charge and Discharge) Order 2007 (SSI 2007/419)

14:23

The Convener: Are members content to ask the Scottish Executive to explain why the order appears to have been signed by

“a member of the Scottish Executive”,

although the minister who signed it is not a minister, but a junior Scottish minister within the meaning of section 49 of the Scotland Act 1998? One suspects that this is a straightforward drafting oversight, but to be absolutely correct under the provisions of the Scotland Act 1998, we have to get it bang on. Are we happy?

Members *indicated agreement.*

Zoonoses (Monitoring) (Scotland) Regulations 2007 (SSI 2007/420)

The Convener: I hope that the committee welcomes the provision of a transposition note. It is a great aid to clarity and openness. It is also recommended that we ask for clarification as to how existing administrative and legislative provisions implement European Council directive 2003/99/EC and, if existing arrangements only partially implement the directive, for clarification of the reasons for delay in implementation.

I had to read the legal brief on the regulations several times and I took advice from the legal advisers before we started the meeting. Are members happy with what we are asking for?

Members *indicated agreement.*

Civil Legal Aid (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/425)

The Convener: Are members content to ask the Scottish Government questions (a), (b) and (c), as listed in the summary of recommendations? I will not read them out.

Members *indicated agreement.*

Seed Potatoes (Scotland) Amendment Regulations 2007 (SSI 2007/418)

The committee agreed to raise minor points on the instrument.

**National Health Service (Travelling
Expenses and Remission of Charges)
(Scotland) Amendment (No 3) Regulations
2007 (SSI 2007/391)**

**Disclosure Scotland (Staff Transfer) Order
2007 (SSI 2007/417)**

**Porcine Semen (Fees) (Scotland)
Regulations 2007 (SSI 2007/421)**

**National Health Service (General Dental
Services) (Scotland) Amendment (No 2)
Regulations 2007 (SSI 2007/422)**

**Food for Particular Nutritional Uses
(Scotland) (Miscellaneous Amendments)
Regulations 2007 (SSI 2007/424)**

*The committee agreed that no points arose on
the instruments.*

**Instrument Not Laid Before
the Parliament**

**Disease Control (Interim Measures)
(Scotland) Amendment (No 3) Order 2007
(SSI 2007/423)**

*The committee agreed that no points arose on
the instrument.*

14:26

Meeting continued in private until 15:02.

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, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Wednesday 26 September 2007

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

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.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's 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
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers