

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 23 October 2007

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

8th Meeting 2007, Session 3

CONVENER

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

DEPUTY CONVENER

*Gil Paterson (West of Scotland) (SNP)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)

*Jackson Carlaw (West of Scotland) (Con)

*Helen Eadie (Dunfermline East) (Lab)

*Ian McKee (Lothians) (SNP)

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

COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)

Christopher Harvie (Mid Scotland and Fife) (SNP)

Elaine Smith (Coatbridge and Chryston) (Lab)

Margaret Smith (Edinburgh West) (LD)

*attended

CLERK TO THE COMMITTEE

Gillian Baxendine

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Jake Thomas

LOCATION

Committee Room 5

Scottish Parliament

Subordinate Legislation Committee

Tuesday 23 October 2007

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

Decision on Taking Business in Private

The Convener (Jamie Stone): I welcome everyone to the eighth meeting of the Subordinate Legislation Committee in session 3. We have no apologies. I have turned off my mobile phone, and I ask everyone else to do the same.

I turn to agenda item 1. The final item of today's business will be consideration of the policy paper, kindly prepared by our legal advisers, on the practice of combining different procedures in the same instrument. Are members content to take that agenda item in private?

Members indicated agreement.

Scottish Government Responses

Protection of Charities Assets (Exemption) (Scotland) Amendment Order 2007 (draft)

The Convener: As I have pointed out during previous meetings, we have in front of us the summary of recommendations, which saves me reading everything out.

Are members content to report the draft order to the lead committee and Parliament on the grounds listed at paragraphs (a), (b) and (c) in the summary of recommendations?

Members indicated agreement.

Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) Regulations 2007 (SSI 2007/435)

The Convener: Are members content to draw the attention of the lead committee and Parliament to the regulations on the ground that the committee sought and received information from the Food Standards Agency Scotland, with which it is satisfied?

Members indicated agreement.

Less Favoured Area Support Scheme (Scotland) Regulations 2007 (SSI 2007/439)

The Convener: Before I ask the committee to consider the recommendations, I want to highlight a couple of points for the record. First, the procedure followed in this case is unusual and is possibly a first for all of us, because the recommendations come before the funding approval, which should be given at the end of 2007. That is rather different from what has happened in the past. However, our legal advisers assure us that it is within the rules and that the regulations are not ultra vires; the procedure, although different, is correct.

Secondly, we asked what would happen if approval for the regulations, which have a £60 million price tag attached to them, was not forthcoming. I am not quite certain that we have received the fullest possible answer. Notwithstanding that, the benevolence of the Government's intent towards our farmers—other members might want to mention that—is there for us to see, and I think that we can understand the reasons for its answer.

Do members want to comment at this stage?

Richard Baker (North East Scotland) (Lab): You have summed it up very well, convener. The procedure might be unusual, and although the committee might have concerns, there is a consensus within the Parliament.

The Convener: Yes. I would have thought that all members of all parties could say amen to what the Scottish Executive has proposed. At the end of the day, this is about livelihoods.

The summary contains recommendations (a), (b), (c) and (d). Recommendation (d) in the legal brief contains a typo; the final clause after the comma should read:

“if it is satisfied with the explanations provided.”

I assume that we are content with that.

It has been pointed out to me that we possibly did not get a cast-iron, watertight explanation for the breach of the 21-day rule. However, to be absolutely fair-minded, the Government is slightly in extremis and trying to do its best. Technically and legally speaking, the procedure is not absolutely right, but as members do not wish to comment and seem to be happy to let it go, I take it that we agree recommendations (a), (b), (c) and (d) as contained in the summary of recommendations.

Members indicated agreement.

Draft Instrument Subject to Approval

Licensing (Mandatory Conditions No 2) (Scotland) Regulations 2007 (draft)

14:20

The committee agreed that no points arose on the instrument.

Instruments Subject to Annulment

Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 4) Regulations 2007 (SSI 2007/460)

14:20

The Convener: Are members content with the explanation provided in relation to the breach of the 21-day rule? Are members further content to note that the word “not” has been omitted before the word “eligible” in regulation 7(2)(d), which appears to be a failure to properly implement article 2(7)(d) of Commission decision 2007/554/EC, and to ask the Scottish Government to comment on those points?

Members indicated agreement.

Road Traffic (Permitted Parking Area and Special Parking Area) (City of Edinburgh) Designation Amendment Order 2007 (SSI 2007/446)

Licensing (Procedure) (Scotland) Regulations 2007 (SSI 2007/453)

The committee agreed to raise minor points on the instruments.

Premises Licence (Scotland) Regulations 2007 (SSI 2007/452)

Licensing (Transitional and Saving Provisions) (Scotland) Order 2007 (SSI 2007/454)

Community Care (Direct Payments) (Scotland) Amendment Regulations 2007 (SSI 2007/458)

Gambling Act 2005 (Fees No 4) (Scotland) Regulations 2007 (SSI 2007/461)

The committee agreed that no points arose on the instruments.

Instruments Not Laid Before the Parliament

Vulnerable Witnesses (Scotland) Act 2004 (Commencement No 6, Savings and Transitional Provisions) Order 2007 (SSI 2007/447)

14:21

The Convener: Is the committee content to ask the Scottish Government to clarify what transitional provision is made by the order, given that article 4 of the order appears to make saving provision only?

Members *indicated agreement.*

Act of Sederunt (Sheriff Court Ordinary Cause, Summary Application, Summary Cause and Small Claim Rules) Amendment (Council Regulation (EC) No 1348 of 2000 Extension to Denmark) 2007 (SSI 2007/440)

Act of Sederunt (Rules of the Court of Session Amendment No 8) (Miscellaneous) 2007 (SSI 2007/449)

The committee agreed to raise minor points on the instruments.

Scottish Commission for Human Rights Act 2006 (Commencement No 1) Order 2007 (SSI 2007/448)

Act of Sederunt (Rules of the Court of Session Amendment No 9) (Vulnerable Witnesses (Scotland) Act 2004) 2007 (SSI 2007/450)

Foot-and-Mouth Disease (Scotland) Amendment (No 2) Order 2007 (SSI 2007/455)

The committee agreed that no points arose on the instruments.

Scottish Government Correspondence

14:22

The Convener: We wrote to the Scottish Government on 6 September to ask whether it considers that there is a problem with the timeous implementation of European Union-related instruments. There being no comments on the Government's response, are members content to note it, and to note that the Scottish Government and the European and External Relations Committee are to undertake inquiries into transposition issues? They may well be doing some useful work for us.

Members *indicated agreement.*

The Convener: Members should note that a further paper will be brought to the committee shortly about our role in European issues. I am sure that that will prove to be interesting and thought-provoking.

14:23

Meeting continued in private until 14:48.

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