

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 13 November 2007

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

11th 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

THE FOLLOWING ALSO ATTENDED :

Judith Morrison (Legal Adviser)

CLERK TO THE COMMITTEE

Gillian Baxendine

SENIOR ASSISTANT CLERK

David McLaren

ASSISTANT CLERK

Jake Thomas

LOCATION

Committee Room 2

Scottish Parliament

Subordinate Legislation Committee

Tuesday 13 November 2007

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

Decision on Taking Business in Private

The Convener (Jamie Stone): I welcome members to the 11th meeting of the Subordinate Legislation Committee in session 3. We have received no apologies. Will members please turn off any mobile telephones that they might have upon them.

Are members content to discuss agenda item 6 in private?

Members *indicated agreement.*

Scottish Government Responses

14:15

The Convener: Members will recall that, following last week's meeting, we wrote to the Scottish Government about five instruments; you will have seen the responses. At this stage, I refer members to the summary of recommendations. I also welcome Mr Baker and Mrs Eadie to the meeting.

Criminal Proceedings etc (Reform) (Scotland) Act 2007 (Commencement No 2 and Transitional Provisions and Savings) Order 2007 (SSI 2007/479)

The Convener: Are members content to draw the order to the attention of Parliament on the basis that the Scottish Government has undertaken to lay an amending instrument to rectify the drafting points identified by the committee? Are we happy with that?

Members *indicated agreement.*

District Courts and Justices of the Peace (Scotland) Order 2007 (SSI 2007/480)

The Convener: Are members content with the Scottish Government's response, and to draw the order to the attention of the lead committee and Parliament on the ground that the committee is satisfied with the explanation sought from and provided by the Scottish Government?

Members *indicated agreement.*

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuffs) (Scotland) Amendment (No 3) Regulations 2007 (SSI 2007/481)

The Convener: Are members content with the questions and responses listed in the summary of recommendations?

Members *indicated agreement.*

The Convener: Am I sticking to the correct procedure?

Gillian Baxendine (Clerk): Absolutely.

Environmental Impact Assessment (Scotland) Amendment Regulations 2007 (SSI 2007/484)

The Convener: Are members content to draw the regulations to the attention of the lead committee and Parliament on the grounds that there was a failure to follow normal drafting practice, although not such as to affect the

operation of the instrument, and that an explanation was sought from and provided by the Scottish Government? Are members satisfied with the response?

Members *indicated agreement.*

Environmental Impact Assessment and Natural Habitats (Extraction of Minerals by Marine Dredging) (Scotland) Regulations 2007 (SSI 2007/485)

The Convener: Before I ask members whether they are content with the regulations, I point out that full explanations and discussions from Scottish Government officials have reassured us. Are members content with the Government's response and to draw the regulations to the attention of the lead committee and Parliament on the ground that an explanation was sought and received from the Scottish Government?

Members *indicated agreement.*

Draft Instruments Subject to Approval

Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007 (Draft)

14:17

The Convener: The summary of recommendations lists the three questions that we wish to put to the Scottish Government. However, it has become evident that a satisfactory explanation has been received to our first question, which is to clarify the meaning of "the Lands Clauses Acts" in the definition of "owner" in rule 2(1). I propose that we do not waste the Government's time by putting that question. Are members content to put the two other questions listed in the summary of recommendations to the Government?

Members *indicated agreement.*

The Convener: Are members also content to raise two minor points informally with the Scottish Government?

Members *indicated agreement.*

Transport and Works (Scotland) Act 2007 (Inquiries and Hearings Procedure) Rules 2007 (Draft)

The Convener: Are members content to ask the Scottish Government to clarify the meaning of the provisions in rules 11(6)(a) and 25(6)(a) that the applicant shall, by a stated date, post a notice of the inquiry or the hearing, as the case may be, "in a conspicuous place", and to clarify the need for rules 19 and 31 on the notification of decision, given that they are in the same terms and have the same application?

Members *indicated agreement.*

Transport and Works (Scotland) Act 2007 (Consents under Enactments) Regulations 2007 (Draft)

The committee agreed that no points arose on the instrument.

Instruments Subject to Annulment

Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) (No 6) Regulations 2007 (SSI 2007/494)

14:19

The Convener: The list of questions is in the summary of recommendations. It is worth saying that if I ask whether members are content with the Scottish Government's explanation for the breach of the 21-day rule, that implies that I am asking whether you are content with the Government's reasons why the instrument came into force before it was laid. I do not want to guide you from the chair, but we can all appreciate the urgency of the situation. Are you therefore content with the three questions listed in the summary of recommendations?

Members indicated agreement.

The Convener: Finally, are we content to raise a couple of minor points as usual with the Scottish Government?

Members indicated agreement.

Plant Health (Import Inspection Fees) (Scotland) Amendment (No 2) Regulations 2007 (SSI 2007/499)

The Convener: Are members content to ask the Scottish Government the three questions listed in the summary of recommendations?

Members indicated agreement.

National Health Service (Pharmaceutical Services) (Scotland) Amendment (No 3) Regulations 2007 (SSI 2007/500)

The Convener: This is an interesting point, although the mistake is probably very small. Are members content to ask the Scottish Government whether the reference to section 228A of the National Health Service (Scotland) Act 1978 in the preamble to the instrument should refer to section 28A, and if so, what the effect is of that typographical error?

Ian McKee (Lothians) (SNP): Is there a section 228A in the act?

Judith Morrison (Legal Adviser): No.

The Convener: It is clearly a straightforward oversight—easily done. Are we agreed?

Members indicated agreement.

The Convener: Also, this is the 21st time that the principal regulations—the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 (SI 1995/414)—have been amended, which the Scottish Government acknowledges in the executive note. It also indicates that there will be further amendments, so consolidation at this time might be premature. Are members therefore content to refer the regulations to the consolidation working group?

Members indicated agreement.

Feed (Corn Gluten Feed and Brewers Grains) (Emergency Control) (Scotland) Revocation Regulations 2007 (SSI 2007/493)

Education (Amendments in respect of Graduate Endowment, Student Fees and Support) (Scotland) Regulations 2007 (SSI 2007/503)

The committee agreed to raise minor points on the instruments.

Feed (Specified Undesirable Substances) (Scotland) Regulations 2007 (SSI 2007/492)

Plant Health (Scotland) Amendment (No 2) Order 2007 (SSI 2007/498)

The committee agreed that no points arose on the instruments.

National Health Service (General Medical Services Contracts) (Scotland) Amendment (No 3) Regulations 2007 (SSI 2007/501)

National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Amendment (No 3) Regulations 2007 (SSI 2007/502)

The committee agreed that no points arose on the instruments.

The Convener: Members will also have noted that this is the eighth time that the principal regulations—the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (SSI 2004/115) and the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004 (SSI 2004/116)—have been amended in each case. Are we therefore content to refer the regulations to the consolidation working group?

Members indicated agreement.

Instruments Not Laid Before the Parliament

Act of Adjournal (Criminal Procedure Rules Amendment No 5) (Miscellaneous) 2007 (SSI 2007/495)

14:23

The Convener: Are members content to ask the Lord President's office the question that appears in the summary of recommendations? I do not want to read it out; it is fairly technical.

Members *indicated agreement.*

The Convener: Are we also content to raise minor points with the Lord President's office?

Members *indicated agreement.*

Legal Profession and Legal Aid (Scotland) Act 2007 (Commencement No 4) Order 2007 (SSI 2007/497)

The committee agreed to raise minor points on the instrument.

14:24

Meeting continued in private until 14:28.

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