

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 29 January 2008

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

4th Meeting 2008, 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 4

Scottish Parliament

Subordinate Legislation Committee

Tuesday 29 January 2008

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

The Convener (Jamie Stone): Welcome, everyone, to the fourth meeting in 2008 of the Subordinate Legislation Committee.

We have apologies from Jackson Carlaw. Although he very reasonably sent his apologies to me, I should make it clear that it would be better if members submitted apologies directly to the clerks.

I ask members to turn off any mobiles or BlackBerrys or anything like that that might make a noise during the meeting.

Delegated Powers Scrutiny

Budget (Scotland) Bill

14:15

The Convener: As with previous budget bills, a single delegated power is granted to the Scottish ministers, in section 7. This is pretty formal and straightforward. Are you content with the delegated power and that we should report to the lead committee on that basis?

Helen Eadie (Dunfermline East) (Lab): I think that we should say no, convener.

The Convener: I am sorry?

Helen Eadie: I was just joking.

Scottish Government Response

Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc Rules) Amendment (Licensing (Scotland) Act 2005) 2008 (SSI 2008/9)

14:16

The Convener: After our meeting on 22 January, the committee wrote to the Scottish Government about the instrument. Are members content with the response from the Lord President's office and, if so, to draw the instrument to the attention of the Parliament on that basis?

Members indicated agreement.

Draft Instruments Subject to Approval

Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2008 (Draft)

Bankruptcy (Scotland) Act 1985 (Low Income, Low Asset Debtors etc) Regulations 2008 (Draft)

Budget (Scotland) Act 2007 Amendment Order 2008 (Draft)

Local Government Finance (Scotland) Order 2008 (Draft)

14:16

The committee agreed that no points arose on the instruments.

Instruments Subject to Annulment

Bluetongue (Scotland) Order 2008 (SSI 2008/11)

14:17

The Convener: The order is especially pertinent in view of what has been happening in the countryside.

As no one has any points to raise, are members content to agree points (a), (b), (c) and (d) as listed in the summary of recommendations?

Members indicated agreement.

Scottish Road Works Register (Prescribed Fees and Amounts) Regulations 2008 (SSI 2008/16)

The Convener: Are members content to ask the Scottish Government to clarify the points listed in the summary of recommendations, which are as follows:

“(1) in relation to the second paragraph of the preamble to the instrument, why the approach has been taken to refer to Scottish Ministers having ‘consulted with such persons and road works authorities as they think appropriate’, given that”,

following which points (a) and (b) are listed. The second point is:

“(2) in relation to that second paragraph of the preamble, if it is considered that this should also refer to consultation with persons considered to be representative of the interests of undertakers, what the effect of this omission is (if any), on the validity or operation of the instrument”?

Members indicated agreement.

Conservation (Natural Habitats, &c) Amendment (Scotland) Regulations 2008 (SSI 2008/17)

Condensed Milk and Dried Milk (Scotland) Amendment Regulations 2008 (SSI 2008/12)

National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2008 (SSI 2008/13)

National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2008 (SSI 2008/14)

The committee agreed that no points arose on the instruments.

The Convener: Are members also content to refer SSI 2008/13 to the consolidation working group, given the fact that this is the 10th amendment of the principal regulations—the National Assistance (Assessment of Resources) Regulations (SI 1992/2977)—which makes things as clear as mud?

Members indicated agreement.

Instrument Not Subject to Parliamentary Procedure

Shrimp Fishing Nets (Scotland) Amendment Order 2008 (SSI 2008/10)

14:20

The committee agreed that no points arose on the instrument.

Instrument Not Laid Before the Parliament

Transport (Scotland) Act 2005 (Commencement No 4) Order 2008 (SSI 2008/15)

14:20

The committee agreed that no points arose on the instrument.

The Convener: Finally, members will note from the annex to the summary of recommendations that minor points arise in relation to the draft Bankruptcy (Scotland) Act 1985 (Low Income, Low Asset Debtors etc) Regulations 2008 and the draft Budget (Scotland) Act 2007 Amendment Order 2008, as well as SSI 2008/12, SSI 2008/13, SSI 2008/14 and SSI 2008/15. Are we content to raise those minor points with the Scottish Government informally?

Members indicated agreement.

Fact-finding Meetings

14:21

The Convener: We now move to a discussion about fact-finding meetings with other United Kingdom Parliaments and Assemblies. We have a paper from the clerk on potential visits. Do members have any comments?

Richard Baker (North East Scotland) (Lab): A visit to Westminster, in particular, would be useful in the context of our recent deliberations on the previous Subordinate Legislation Committee's report on our current procedures and its proposal for a Scottish statutory instrument procedure. Westminster's scrutiny process was discussed a few times and, as we inherited our process pretty much en bloc from Westminster, it would be useful to go down there to speak to members of the House of Lords Delegated Powers and Regulatory Reform Committee and the Joint Committee on Statutory Instruments who are—presumably—engaged in scrutinising their own process.

The Convener: There being no further comments on Westminster, what do members feel about going to the National Assembly for Wales or the Northern Ireland Assembly? I note that representatives from the Welsh Assembly are due to come and see us on Thursday 15 May. Will we assume that we will talk to them about these matters when they come to see us, rather than our going down there?

Members indicated agreement.

The Convener: What are your feelings about Northern Ireland? It has been pointed out to us that they do things so differently there that it might not be worth our going.

Gil Paterson (West of Scotland) (SNP): It would be an interesting trip, but the advice is that it might not be worth going.

Gillian Baxendine (Clerk): There has been discussion about how the work is balanced between officials and committees. From that point of view, it might be interesting to hear from the person who has been doing the bulk of the work for the Northern Ireland Assembly, although the model is very different.

Helen Eadie: Did you say that Northern Ireland members are coming here and that we will get that experience anyway?

Gillian Baxendine: Members from the Welsh Assembly are coming here. However, we do not necessarily have to visit Northern Ireland; we could have a videoconference.

Ian McKee (Lothians) (SNP): Is there scope for the clerks to meet their counterparts and provide

us with a report or something to get our teeth into so that we can decide whether it would be worth while following it up?

Gillian Baxendine: Yes, absolutely.

Helen Eadie: Convener, if you are saying that in this case the committee does more of the work, there might be a case for one member of the Subordinate Legislation Committee to accompany the clerks and look at the political input, rather than just the technical side of things. It would be useful to get a perspective from at least one elected member. I am not necessarily volunteering, but the principle should be considered.

Gil Paterson: If we are going to talk to the Northern Ireland Assembly, a videoconference would be the best option. That would bring us all into play.

Helen Eadie: I have no problems with that; it seems feasible.

The Convener: Do members agree to have a videoconference with the Northern Ireland Assembly?

Members indicated agreement.

The Convener: Let us consider again how to develop links with Westminster. The first question is for the clerk. There are three relevant committees at Westminster; is it assumed that we should meet the Joint Committee on Statutory Instruments because its work is most relevant to ours?

Gillian Baxendine: Between them, the Joint Committee on Statutory Instruments and the House of Lords Delegated Powers and Regulatory Reform Committee cover the work of this committee. The House of Lords Merits of Statutory Instruments Committee has a slightly different role. If members were to go to London, there would be no reason not to meet representatives from all those committees. You would not be attending any committee meetings as they all happen in private. If you are there, you might as well speak to people from all three committees.

Gil Paterson: That is a point—I wonder whether we could go down when the committees are sitting. That might be useful. It would be a waste of time to go to Westminster without doing that. It would be good to witness the meetings.

The Convener: But the committees sit in private.

Gil Paterson: No, I am talking about two things at the same time. Oh, do they sit in private? I am sorry; I did not pick that up. I thought that their meeting with us would be in private.

The Convener: Do we want to send one person, two people or the committee to Westminster? I am entirely open-minded about it. In considering when a visit should take place, we should remember about balance and voting in the Parliament on Wednesdays and Thursdays. That is pertinent both to the Government and Opposition parties.

Richard Baker: As we are in the process of compiling our report after the recent inquiry and looking to engage with the minister and the Scottish Government on the matter, it would be good to give every member the opportunity to go to London because we are at a point in the committee's life when such a visit would be most useful. This committee will not be racing around on foreign trips—unless we go to California to investigate statutory instruments there or to Bulgaria as part of our inquiry into Bulgarian wolves.

I note from the clerk's very good paper that as we meet on a Tuesday that is probably the best day for members to go to London. Is there potential to reschedule our meeting for a Wednesday, particularly if it is likely to be a brief meeting? That would allow all members to go to London on a Tuesday and would mean that we would not clash with the parliamentary schedule. I am not saying that all members need to go down, but it might be good to have the opportunity to do so, particularly given the stage that our deliberations are at. In that way, we could avoid any kind of bun fight.

The Convener: A visit on a Tuesday—or on any day other than Wednesday or Thursday—would get us round the tricky problem of missing the vote, which is very often won by a majority of one or two.

Is it possible to meet on a Monday afternoon and then go down to London on a Tuesday?

Gillian Baxendine: That is a helpful steer. We will look into the possibilities and see what we can come up with.

The Convener: Okay. Is that decided?

Members indicated agreement.

The Convener: Are there any other questions or points? Does anybody want to mention Bulgaria again? The point about *Canis lupus*—the Bulgarian wolf—was to do with the manufacture of sporrans out of wolf skin, which is not pertinent to this committee.

As business is complete, I remind members that we will meet at the same time next week in a different committee room. Thank you for your contributions to the meeting.

Meeting closed at 14:28.

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