

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 29 April 2008

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

14th 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 April 2008

[THE CONVENER *opened the meeting at 14:22*]

Delegated Powers Scrutiny

The Convener (Jamie Stone): I welcome members to the 14th meeting this year of the Subordinate Legislation Committee. We have no apologies. I ask everyone to turn off mobile phones and BlackBerrys.

With members' approval, I will defer agenda item 1, on the Glasgow Commonwealth Games Bill, until after the final agenda item, in the hope that all committee members are present by then. Do members agree to defer item 1?

Members indicated agreement.

Scottish Register of Tartans Bill: Stage 1

The Convener: We now skip to agenda item 2, which is delegated powers scrutiny of the Scottish Register of Tartans Bill at stage 1. This is our first consideration of the bill, which is a member's bill and which has only a small number of delegated powers.

Do members agree that the power to issue guidance in section 4, "Functions of the Keeper", is acceptable?

Members indicated agreement.

The Convener: On section 14, "Fees", are we content to ask the member in charge, Jamie McGrigor, why it is thought necessary to provide the keeper with the power in section 14(4)(b), to specify circumstances in which fees that are specified by order are not payable, as well as the power in section 14(5), to waive a fee that has been specified by order? Do members agree to seek an explanation as to the circumstances in which the member envisages each of those powers being exercised?

Members indicated agreement.

The Convener: On section 16, "Ancillary provision", are members content to ask the member in charge, Jamie McGrigor, why the draft affirmative procedure should not apply in circumstances in which the ancillary provisions modify or disapply any enactment without a textual amendment of the act, given that the bill contains

examples of such provisions and that more may subsequently be required?

Members indicated agreement.

The Convener: Do members find the commencement provisions in section 18, "Short title and commencement", acceptable?

Members indicated agreement.

The Convener: We will consider the responses at our meeting on 19 May.

Scottish Government Responses

14:24

The Convener: After the committee's meeting on 22 April, at which I was not present, we wrote to the Scottish Government about seven Scottish statutory instruments. Members have seen the responses.

Specified Products from China (Restriction on First Placing on the Market) (Scotland) Regulations 2008 (SSI 2008/148)

The Convener: On regulation 4(1), are members content with the explanation provided by the Food Standards Agency Scotland? If so, are members content to report to the lead committee and the Parliament on that basis?

Members indicated agreement.

The Convener: On the definition of "authorised officer" in regulation 2(1), are members content to draw the regulations to the attention of the lead committee and the Parliament on the ground of failure to follow normal drafting practice, albeit that that is not such that the regulations' validity or operation are affected?

Members indicated agreement.

Tribunals, Courts and Enforcement Act 2007 (Commencement) (Scotland) Order 2008 (SSI 2008/150)

The Convener: We asked two questions about the order. On question (a), are members content to report the order to the lead committee and the Parliament on the basis that the reference in article 2 to application rather than extension to Scotland is a failure to follow normal drafting practice? On question (b), are members satisfied with the Government's response and content to report to the lead committee and the Parliament accordingly?

Members indicated agreement.

The Convener: I remind members that a summary of recommendations has been produced, so I will not read out all the recommendations.

Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures and Restriction on Days at Sea) (Scotland) Order 2008 (SSI 2008/151)

The Convener: Are members content with the recommendation on the order, as set out in the summary of recommendations?

Members indicated agreement.

Plant Health Fees (Scotland) Regulations 2008 (SSI 2008/153)

The Convener: Are members content to draw the regulations to the attention of the lead committee and the Parliament on the ground of unexpected use of the enabling power?

Members indicated agreement.

Smoke Control Areas (Authorised Fuels) (Scotland) Regulations 2008 (SSI 2008/154)

The Convener: Are members satisfied with the explanation provided by the Scottish Government and, if so, are you content to draw the regulations to the attention of the lead committee and the Parliament on that basis?

Members indicated agreement.

Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2008 (SSI 2008/155)

The Convener: Are members satisfied with the explanation provided by the Scottish Government, and, if so, are you content to draw the regulations to the attention of the lead committee and the Parliament on that basis?

Members indicated agreement.

Smoke Control Areas (Exempt Fireplaces) (Scotland) Order 2008 (SSI 2008/157)

The Convener: Are members satisfied with the explanation provided by the Scottish Government, and, if so, are you content to draw the order to the attention of the lead committee and the Parliament on that basis?

Members indicated agreement.

Draft Instrument Subject to Approval

Fundable Bodies (The Scottish Agricultural College) (Scotland) Order 2008 (Draft)

14:28

The committee agreed that no points arose on the instrument.

Instruments Subject to Annulment

Rural Development Contracts (Land Managers Options) (Scotland) Regulations 2008 (SSI 2008/159)

14:28

The Convener: Are members content to ask the Scottish Government the questions that are set out in the summary of recommendations?

Members *indicated agreement.*

Land Managers Skills Development Grants (Scotland) Regulations 2008 (SSI 2008/162)

The Convener: Are members content to ask the Scottish Government the questions that are set out in the summary of recommendations?

Members *indicated agreement.*

Designation of Institutions of Higher Education (The Scottish Agricultural College) (Scotland) Order 2008 (SSI 2008/163)

The Convener: Are members content to ask the Scottish Government the two questions that are set out in the summary of recommendations?

Members *indicated agreement.*

Firefighters' Pension Scheme (Scotland) Order 2007 Amendment Order 2008 (SSI 2008/160)

Firefighters' Pension Scheme Amendment (Scotland) Order 2008 (SSI 2008/161)

Planning etc (Scotland) Act 2006 (Development Planning) (Saving Provisions) Order 2008 (SSI 2008/165)

The committee agreed that no points arose on the instruments.

Instruments Not Laid Before the Parliament

Planning etc (Scotland) Act 2006 (Commencement No 3) Order 2008 (SSI 2008/164)

14:30

The Convener: Are members content to ask the Scottish Government the two questions that are set out in the summary of recommendations?

Members *indicated agreement.*

Products of Animal Origin (Disease Control) (Scotland) Order 2008 (SSI 2008/158)

The committee agreed that no points arose on the instrument.

The Convener: We note for the record that minor points arose on SSI 2008/159, SSI 2008/161, SSI 2008/162 and SSI 2008/164, which are set out in the annex to the summary of recommendations. The points will be raised informally with the Scottish Government.

Delegated Powers Scrutiny

Glasgow Commonwealth Games Bill

14:31

The Convener: We return to agenda item 1, which we deferred.

At last week's meeting, the committee took oral evidence from Scottish Government officials on the bill. Members questioned the officials about the procedures in sections 2(3), 10(1) and 19 that the Government proposes to use in relation to regulations on outdoor trading and advertising in the vicinity of the Commonwealth games and on circumstances in which the use of the internet constitutes a ticket touting offence.

The regulations will be subject to the affirmative resolution procedure in the first instance, and subsequent regulations will be subject to the negative procedure. The committee took the view that the exercise of the powers should be subject to the affirmative procedure, except in circumstances in which there is urgency. In such circumstances, regulations could be made subject to the negative procedure.

Members also questioned officials on consultation with councils and other interested parties and on the giving of public notice. The bill requires the Government to consult only on the first occasion when trading and advertising regulations are made; subsequent trading or advertising regulations will not be subject to the consultation requirement. Public notice of the general nature of the first regulations will be required to be given at least two years in advance of the games, and public notice of the regulations' detailed content must be given at least six months in advance of the games. The committee took the view that all trading and advertising regulations should be subject to consultation, except in cases of urgency. The committee also considered that advance public notice of the detailed provisions should be given unless it is impracticable to give such notice.

In both instances, the Government maintained its position. Therefore, the committee agreed to lodge amendments to give effect to its position. Members have seen the amendments, which were lodged last week. The Government's position has not changed, so with the committee's agreement I propose to move the amendments on behalf of the committee during tomorrow's debate. That is my formal position as convener. Do members have comments?

Helen Eadie (Dunfermline East) (Lab): Convener, I suggest that you listen to the arguments that are made during the debate and

then decide whether the Government has addressed our concerns and whether to move or press the amendments to a vote. We leave the matter to your judgment.

The Convener: I will take a decision on whether to move or press the amendments. I reassure members that I will try to be sensitive in reflecting committee members' views, in as much as it will be possible to gather your views in the context of a debate, when we will be scattered across the chamber.

That concludes our business. I thank members. We meet at the same time next week—we will find out in which room.

Meeting closed at 14:34.

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