

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 6 January 2009

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

1st Meeting 2009, Session 3

CONVENER

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

DEPUTY CONVENER

*Ian McKee (Lothians) (SNP)

COMMITTEE MEMBERS

Jackson Carlaw (West of Scotland) (Con)
Malcolm Chisholm (Edinburgh North and Leith) (Lab)
*Bob Doris (Glasgow) (SNP)
*Helen Eadie (Dunfermline East) (Lab)
*Tom McCabe (Hamilton South) (Lab)

COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)
Ross Finnie (West of Scotland) (LD)
Christopher Harvie (Mid Scotland and Fife) (SNP)
Elaine Smith (Coatbridge and Chryston) (Lab)

*attended

CLERK TO THE COMMITTEE

Shelagh McKinlay

ASSISTANT CLERK

Jake Thomas

LOCATION

Committee Room 4

Scottish Parliament Subordinate Legislation Committee

Tuesday 6 January 2009

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

Draft Instruments Subject to Approval

The Convener (Jamie Stone): I welcome everyone to our first meeting in 2009. We have received apologies from Jackson Carlaw and Malcolm Chisholm. Will all members turn off their mobiles and suchlike?

Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Amendment Regulations 2009 (Draft)

International Organisations (Immunities and Privileges) (Scotland) Order 2009 (Draft)

Further and Higher Education (Scotland) Act 1992 Modification Order 2009 (Draft)

The committee agreed that no points arose on the instruments.

Instruments Subject to Annulment

Law Applicable to Non-Contractual Obligations (Scotland) Regulations 2008 (SSI 2008/404)

14:16

The Convener: I have two questions for members. Is the committee content with the Scottish Government's response concerning the choice of procedure adopted?

Members indicated agreement.

The Convener: Do we want to report to the lead committee and the Parliament that, in the particular circumstances of the case, we consider that the use of negative procedure is appropriate, but that each case should be considered on its merits, and that it would have been helpful for the reasons for the choice of procedure to have been set out in the Executive note that accompanies the regulations? Further, do we agree to report that, where an instrument affects primary legislation, the starting point should be a presumption in favour of affirmative procedure and, in those circumstances, it would be for the Scottish Government to explain and justify the use of negative procedure?

Members indicated agreement.

The Convener: I welcome Bob Doris to the meeting.

Bob Doris (Glasgow) (SNP): Thank you, convener, and my apologies for being late.

The Convener: That is all right.

Pollution Prevention and Control (Scotland) Amendment Regulations 2008 (SSI 2008/410)

Local Government (Allowances and Expenses) (Scotland) Amendment Regulations 2008 (SSI 2008/414)

Assistance by Way of Representation (District Court Financial Limit) (Scotland) Order 2008 (SSI 2008/416)

The committee agreed that no points arose on the instruments.

Instruments not laid before the Parliament

Act of Sederunt (Rules of the Court of Session Amendment No 6) (Counter- Terrorism Act 2008) 2008 (SSI 2008/401)

14:17

The Convener: Do we want to draw the act of sederunt to the attention of the Parliament on the ground that new rule 96.9(2) is defectively drafted, in so far as it refers to section 70 rather than section 68 of the Counter-Terrorism Act 2008?

Members indicated agreement.

The Convener: Do we want to welcome the indication provided in the Lord President's response that the Court of Session will be invited to correct rule 96.9(2) in a future miscellaneous act of sederunt?

Members indicated agreement.

The Convener: It might not seem like much, but it means a lot to us.

Planning etc (Scotland) Act 2006 (Commencement No 5) Order 2008 (SSI 2008/411)

The Convener: Finally, with points arising—*[Interruption.]* I am sorry. With no points arising, we have but one instrument left. It is a good thing that the clerk is watching me and keeping me right.

Is the committee content with the order?

Members indicated agreement.

The Convener: I am afraid that that brings us to the close of a fairly short meeting. I remind the committee that the next meeting will be held on Tuesday 13 January at 2.15. I thank members and promise to get my brief right at future meetings.

Meeting closed at 14:19.

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