

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 10 March 2009

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

9th Meeting 2009, Session 3

CONVENER

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

DEPUTY CONVENER

*Ilan 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 10 March 2009

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

Health Boards (Membership and Elections) (Scotland) Bill: After Stage 2

The Deputy Convener (Ian McKee): I welcome members to the ninth meeting in 2009 of the Subordinate Legislation Committee. We have received an apology from Jamie Stone, which is why I am sitting in his seat. I ask members to turn off any mobile phones or BlackBerrys.

We turn to agenda item 1. Last week, we considered a supplementary delegated powers memorandum that the Scottish Government provided following the amendments that were made to the Health Boards (Membership and Elections) (Scotland) Bill at stage 2. The stage 3 debate on the bill will be held on Thursday.

Members will recall that we agreed to ask a question on the powers in section 7(1) to make a “roll-out order”. Do members have any comments on the Scottish Government’s response, which they have seen?

Members: No.

The Deputy Convener: Are members content that the Scottish Government’s response is acceptable? Do members agree that we should report to the Parliament that we find section 7 acceptable, subject to the amendment that the Scottish Government has proposed, which is that the period of 60 days must include at least 30 days when the Parliament is not dissolved or in recess?

Members indicated agreement.

Helen Eadie (Dunfermline East) (Lab): I welcome that proposed amendment, convener.

Arbitration (Scotland) Bill: Stage 1

14:16

The Deputy Convener: Item 2 is consideration of the Arbitration (Scotland) Bill. On section 15, “Power to adapt enactments providing for statutory arbitration”, are we agreed that the proposed power is acceptable in principle, that affirmative procedure is appropriate in respect of changes to primary legislation, and that negative procedure is appropriate in all other cases?

Members indicated agreement.

The Deputy Convener: On section 16, “New York Convention awards”, are we agreed that the proposed power in section 16(3) is acceptable in principle and that negative procedure is appropriate?

Members indicated agreement.

The Deputy Convener: On section 22, “Arbitral appointments referee”, are we agreed that the proposed power is acceptable in principle and that negative procedure is appropriate?

Members indicated agreement.

The Deputy Convener: On section 23, “Power of judge to act as arbitrator or umpire”, are we agreed that the proposed power in section 23(2), on fees, is acceptable in principle and that negative procedure is appropriate?

Members indicated agreement.

The Deputy Convener: On section 24, “Amendments to UNCITRAL Model Law or New York Convention”, are we agreed that the proposed power is acceptable in principle in so far as it relates to amendments to the New York convention, and that affirmative procedure is appropriate?

Members indicated agreement.

The Deputy Convener: Are members also content to ask the Scottish Government, given that the model law is to be repealed and will no longer form part of the Scottish law on arbitration, what the justification is for a power to amend Scots law in consequence of any amendment that is made to the model law?

Members indicated agreement.

The Deputy Convener: I do not know whether it is model or modal, actually. I think it is model.

On section 30, “Ancillary provision”, are we agreed that the proposed power is acceptable in principle, that affirmative procedure is appropriate in respect of changes to primary legislation, and

that negative procedure is appropriate in all other cases?

Members indicated agreement.

The Deputy Convener: On section 33, “Commencement”, are we agreed that the proposed power is acceptable in principle and that, in accordance with the normal practice with respect to commencement orders, no procedure is appropriate?

Members indicated agreement.

Scottish Local Government (Elections) Bill: Stage 1

14:18

The Deputy Convener: Item 3 is consideration of the Scottish Local Government (Elections) Bill.

Are we content that the delegated powers in section 2, “Voting information from local government elections”, are acceptable and are subject to affirmative procedure?

Members indicated agreement.

The Deputy Convener: Are we agreed that the delegated power in section 3, “Short title and commencement”, is acceptable?

Members indicated agreement.

Instruments Subject to Annulment

Registration Services (Fees, etc) (Scotland) Amendment Regulations 2009 (SSI 2009/64)

14:19

The Deputy Convener: Are members content to draw the regulations to the Parliament’s attention on the ground that there has been an admitted failure on the part of the Scottish Government to follow normal drafting practice, in that one of the relevant enabling powers—section 54(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965—was not referred to in the preamble?

Members indicated agreement.

National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2009 (SSI 2009/72)

National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2009 (SSI 2009/73)

Road Works (Inspection Fees) (Scotland) Amendment Regulations 2009 (SSI 2009/74)

Non-Domestic Rating (Payment of Interest) (Scotland) Amendment Regulations 2009 (SSI 2009/76)

Police Grant (Scotland) Order 2009 (SSI 2009/80)

The committee agreed that no points arose on the instruments.

The Deputy Convener: Members will have noted that the National Assistance (Assessment of Resources) Regulations 1992 (SI 1992/2977) have now been amended several times. I suggest that we might wish to report the matter in our planned annual report, which will review matters such as the consolidation of instruments.

Instrument not laid before the Parliament

Bankruptcy and Diligence etc (Scotland) Act 2007 (Commencement No 4, Savings and Transitionals) Order 2009 (SSI 2009/67)

14:20

The Deputy Convener: Are we content to report on the order on the ground that, although article 7 substitutes a new article 12(2)(b) of the Bankruptcy and Diligence etc (Scotland) Act 2007 (Commencement No 3, Savings and Transitionals) Order 2008 (SSI 2008/115), the substituted subparagraph has no effect?

Members indicated agreement.

The Deputy Convener: Members will note that, following the committee's consideration of SSI 2008/115, the Government stated in its response to the committee:

"we would intend to amend the transitional provision before 6th October 2008 in the next commencement order to clarify its application".

Are we content to note that the Government's response on SSI 2009/67 apologises to the Parliament for the failure to clarify the position by 6th October 2008 as originally intended?

Members indicated agreement.

Guidance Subject to Approval

Scottish Government Code of Practice for Welfare of Equidae (SG 2009/20)

14:22

The Deputy Convener: Are we satisfied with the Scottish Government's response on the code of practice? If so, are we content to report to the lead committee and the Parliament accordingly?

Members indicated agreement.

The Deputy Convener: Are we also content to welcome the Scottish Government's undertaking to review whether the illustrative nature of the code is made clear, where necessary, in relation to future editions of the code, and to recommend that the same approach be adopted in relation to other codes that are made under the 2006 act?

Members indicated agreement.

The Deputy Convener: The next meeting of the committee will be held on Tuesday 17 March at 2.15 pm.

Meeting closed at 14:22.

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