

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 31 March 2009

Session 3

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2009.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR
Donnelley.

CONTENTS

Tuesday 31 March 2009

Col.

DECISION ON TAKING BUSINESS IN PRIVATE	531
SCHOOLS (CONSULTATION) (SCOTLAND) BILL: STAGE 1	532
INSTRUMENTS SUBJECT	
TO ANNULMENT	533
European Communities (European Order for Payment) (Scotland) Regulations 2009 (SSI 2009/99)	533
Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No 2) Regulations 2009 (SSI 2009/118)	533
Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2009 (SSI 2009/112)	534
Building (Procedure) (Scotland) Amendment Regulations 2009 (SSI 2009/117)	534
Building (Scotland) Amendment Regulations 2009 (SSI 2009/119)	534
INSTRUMENTS NOT LAID BEFORE	
THE PARLIAMENT	534
Act of Sederunt (Rules of the Court of Session Amendment No 5) (Exchequer Appeals) 2009 (SSI 2009/114)	534
Criminal Proceedings etc (Reform) (Scotland) Act 2007 (Commencement No 7) Order 2009 (SSI 2009/116)	534

SUBORDINATE LEGISLATION COMMITTEE

12th 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 5

Scottish Parliament

Subordinate Legislation Committee

Tuesday 31 March 2009

[THE CONVENER *opened the meeting at 14:16*]

Decision on Taking Business in Private

The Convener (Jamie Stone): I welcome members to the 12th meeting in 2009 of the Subordinate Legislation Committee. We have received no apologies. I ask members to turn off any mobile phones and BlackBerrys.

Agenda item 1 is to decide whether to take in private item 5, which concerns hybrid bills. Under item 5, we will discuss proposed changes to standing orders in order to inform the work of the Standards, Procedures and Public Appointments Committee. In advance of a report on the matter from that committee, it is probably best to consider the item in private. Is that agreed?

Members indicated agreement.

Schools (Consultation) (Scotland) Bill: Stage 1

14:17

The Convener: This is our first consideration of the delegated powers in the bill, of which there are not a lot.

Are members content to ask the Scottish Government why the regulations made under the section 20(1) power to make ancillary provision may “elaborate” on any aspect of the process or “include provision” as to functions, and, in particular, to provide further explanation as to how and in what circumstances it is considered that the provisions in sections 20(3) and 20(4), so far as they relate to the power conferred under section 20(1), might be used? Shall we probe a wee bit on that?

Members indicated agreement.

The Convener: On section 20(2), which is on modifications to schedules 1 and 2, are we agreed that the proposed power is acceptable in principle and that affirmative procedure is appropriate?

Members indicated agreement.

The Convener: We always like affirmatives.

On section 22, “Commencement and short title”, are members content to seek clarification on the provision in section 22(4)(a), with particular reference to what might be contemplated by the phrase

“in connection with the commencement of this Act,”

and an explanation whether it is considered that such provision may amend other enactments, and if so, why no procedure is justified for such an order, given the approach in section 20(6)(b)?

Members indicated agreement.

Instruments subject to Annulment

European Communities (European Order for Payment) (Scotland) Regulations 2009 (SSI 2009/99)

14:18

The Convener: Are members content to draw the regulations to the attention of the lead committee and the Parliament in relation to the form and content of the preamble, in so far as there is set out there the purpose of the regulations without there being any apparent basis or need to have done so, and that that represents a failure to follow normal drafting practice with regard to preambles to instruments? Shall we pull the Government up on poor drafting?

Members *indicated agreement.*

Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No 2) Regulations 2009 (SSI 2009/118)

The Convener: There are two questions on the regulations. First, are members content to draw the regulations to the attention of the Parliament on the ground that there has been a failure on the part of the Scottish Government to follow normal drafting practice in that one of the relevant enabling powers—section 29(10) of the Regulation of Care (Scotland) Act 2001—was not referred to in the preamble? There is a bit of a discrepancy that could be tidied up.

Members *indicated agreement.*

The Convener: Secondly, are members content to report to the Parliament that the committee finds satisfactory for its interests the explanation, given by the Scottish Government in its letter to the Presiding Officer dated 23 March 2009, for the failure to comply with article 10(2) of the Scotland Act (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 (SSI 1999/1096)?

Members *indicated agreement.*

Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2009 (SSI 2009/112)

Building (Procedure) (Scotland) Amendment Regulations 2009 (SSI 2009/117)

Building (Scotland) Amendment Regulations 2009 (SSI 2009/119)

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 5) (Exchequer Appeals) 2009 (SSI 2009/114)

Criminal Proceedings etc (Reform) (Scotland) Act 2007 (Commencement No 7) Order 2009 (SSI 2009/116)

14:20

The committee agreed that no points arose on the instruments.

The Convener: As we agreed to do at the beginning of the meeting, we will now move into private session.

14:21

Meeting continued in private until 14:30.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Wednesday 8 April 2009

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Blackwell's Scottish Parliament Documentation
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

Scottish Parliament

RNID Typetalk calls welcome on
18001 0131 348 5000
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers