

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 21 April 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 21 April 2009

Col.

<b>DECISION ON TAKING BUSINESS IN PRIVATE</b> .....	535
<b>CORONERS AND JUSTICE BILL</b> .....	536
<b>DRAFT INSTRUMENT SUBJECT TO APPROVAL</b> .....	537
Scotland Act 1998 (Modification of Schedule 4) Order 2009 (Draft) .....	537
<b>INSTRUMENTS SUBJECT TO ANNULMENT</b> .....	538
Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) Order 2009 (SS1 2009/115) .....	538
Charities and Benevolent Fundraising (Scotland) Regulations 2009 (SSI 2009/121) .....	538
Diligence against Earnings (Variation) (Scotland) Revocation Regulations 2009 (SSI 2009/133) .....	538
National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 2009 (SSI 2009/124) .....	539
<b>INSTRUMENTS NOT LAID BEFORE THE PARLIAMENT</b> .....	540
Housing (Scotland) Act 2006 (Commencement No 7, Savings and Transitional Provisions) Order 2009 (SS1 2009/122) .....	540
Act of Sederunt (Rules of the Court of Session Amendment No 6) (Building Society Special Administration etc) 2009 (SSI 2009/135) .....	540

---

## SUBORDINATE LEGISLATION COMMITTEE

13<sup>th</sup> 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 6



## Scottish Parliament

### Subordinate Legislation Committee

*Tuesday 21 April 2009*

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

### Decision on Taking Business in Private

**The Convener (Jamie Stone):** Good afternoon, everyone, and welcome to the Subordinate Legislation Committee's 13<sup>th</sup> meeting in 2009. We have received no apologies—we have a full house. I hope that members had a restful break over Easter. I ask everybody to turn off mobile phones and BlackBerrys.

Agenda item 1 is to consider whether to take business in private. It is proposed that, under agenda item 6, we consider our approach to our scheduled evidence session with the Minister for Parliamentary Business on the draft interpretation and legislative reform (Scotland) bill. Because of the nature of the discussion, it would be best if we took it in private. Is that okay?

**Members** *indicated agreement.*

## Coroners and Justice Bill

14:15

**The Convener:** Agenda item 2 is consideration of a legislative consent motion on the Coroners and Justice Bill. Are we content to report to the lead committee that the effect of clause 41 of the bill is that the Scottish ministers may make rules, under section 7 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, in respect of the investigation of the deaths of service personnel who are on active service abroad and the deaths of civilians who are subject to service discipline and who are accompanying personnel on active service abroad, and that any such rules, or amendment of the existing rules under the 1976 act, will not be subject to parliamentary procedure?

**Members** *indicated agreement.*

## Draft Instrument subject to Approval

### Scotland Act 1998 (Modification of Schedule 4) Order 2009 (Draft)

14:16

*The committee agreed that no points arose on the instrument.*

## Instruments subject to Annulment

### Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) Order 2009 (SSI 2009/115)

14:16

**The Convener:** Are members content to draw the order to the attention of the lead committee and the Parliament on the ground that there are drafting errors in articles 7(9) and 7(10)(b), although it is not considered likely that those errors affect the operation of the order?

**Members** *indicated agreement.*

### Charities and Benevolent Fundraising (Scotland) Regulations 2009 (SSI 2009/121)

**The Convener:** Do we agree that the explanation that the Scottish Government provided—that the purpose of the regulations is the regulation of fundraising—is satisfactory and, if so, are we content to report the regulations to the lead committee and the Parliament on the ground that a response has been provided by the Government to the committee with which it may be satisfied?

**Members** *indicated agreement.*

**Helen Eadie (Dunfermline East) (Lab):** Our legal brief states:

“given the bare level of detail in support of this explanation provided by the Government in its response, the Committee may wish to comment that a more detailed evaluation of the purpose test would have been more helpful.”

I would like that to be included in our report to the lead committee.

**The Convener:** Does anyone have a problem with that?

**Members:** No.

### Diligence against Earnings (Variation) (Scotland) Revocation Regulations 2009 (SSI 2009/133)

**The Convener:** Are we content to report to the Parliament that we find satisfactory for our interests the explanation that the Scottish Government gave in its letter to the Presiding Officer of 27 March 2009 for the failure to comply with article 10(2) of the Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments) Order 1999 (SSI 1999/1096)? Are we also content to report that we are otherwise content with the regulations?

**Members** *indicated agreement.*

**National Health Service (Travelling  
Expenses and Remission of Charges)  
(Scotland) Amendment Regulations 2009  
(SSI 2009/124)**

*The committee agreed that no points arose on the instrument.*

**Instruments not laid before the  
Parliament**

**Housing (Scotland) Act 2006  
(Commencement No 7, Savings and  
Transitional Provisions) Order 2009  
(SSI 2009/122)**

14:19

**The Convener:** Although it might be considered that there has been a failure to follow proper legislative practice in relation to the order, the Government's response indicates that full consideration appears to have been given to commencement options, including stakeholder engagement in that regard. On that basis, are members content to note the response as acceptable?

**Members** *indicated agreement.*

**Act of Sederunt (Rules of the Court of  
Session Amendment No 6) (Building  
Society Special Administration etc) 2009  
(SSI 2009/135)**

*The committee agreed that no points arose on the instrument.*

**Ian McKee (Lothians) (SNP):** I have a general point that relates to the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 2009. Our legal brief comments that we are on the 15<sup>th</sup> amendment to the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No 2) Regulations 2003 (SSI 2003/460) and mentions consolidation. Should we raise that point again, or is it taken for granted, given that we have raised it so many times in the past?

**The Convener:** I am told by our clerk that the issue will be dealt with in a later report. The point stands that, in the interim, the more we keep raising that consolidation issue, the better—it would be inconsistent not to do so. Notwithstanding that, we will consider the issue in a later report.

We will now move into private. I thank the official report staff.

14:21

*Meeting continued in private until 14:35.*





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 29 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