

# **SUBORDINATE LEGISLATION COMMITTEE**

Tuesday 16 June 2009

Session 3

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# **SUBORDINATE LEGISLATION COMMITTEE**

## **20<sup>th</sup> 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 6

## Scottish Parliament Subordinate Legislation Committee

*Tuesday 16 June 2009*

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

### Decision on Taking Business in Private

**The Deputy Convener (Ian McKee):** I welcome members to the 20<sup>th</sup> meeting in 2009 of the Subordinate Legislation Committee. We have apologies from our convener, Jamie Stone, which is why I am in the chair. I ask members to turn off any mobile phones, BlackBerrys and so on.

Item 1 is a proposal regarding item 5, which is the committee's consideration of its draft report on Scottish statutory instruments laid in 2008. Given the nature of the discussion, it is appropriate to take that item in private. Do members agree?

**Members** *indicated agreement.*

### Draft Instrument subject to Approval

**Judiciary and Courts (Scotland) Act 2008  
(Consequential Modifications) Order 2009  
(Draft)**

14:15

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

## Instruments subject to Annulment

**Civil Legal Aid (Scotland) (Fees)  
Amendment Regulations 2009  
(SSI 2009/203)**

14:16

**The Deputy Convener:** Are we content to report the regulations to the lead committee and the Parliament on the basis that regulation 2(1) gives regulations 4, 6 and 7 retrospective effect, despite the fact that the Legal Aid (Scotland) Act 1986, under which the regulations are made, confers no express authority to do so?

**Members** *indicated agreement.*

**Bob Doris (Glasgow) (SNP):** We have already discussed this point in private, and I wish to put it on record: the same thing has happened a number of times since the primary legislation was passed in 1986, the most recent instance being in 2007. Although we do not take a view, it is our duty to report the matter onwards. If the 1986 act were to be amended, this reporting exercise would no longer be necessary.

**The Deputy Convener:** Certainly; that point is now on the record.

**Radioactive Contaminated Land (Scotland)  
Amendment Regulations 2009  
(SSI 2009/202)**

**National Health Service (Pharmaceutical  
Services) (Scotland) Amendment  
Regulations 2009 (SSI 2009/209)**

**Children's Hearings (Legal  
Representation) (Scotland) Amendment  
Rules 2009  
(SSI 2009/211)**

**Town and Country Planning (Inquiries  
Procedure) (Scotland) Amendment Rules  
2009 (SSI 2009/212)**

**Town and Country Planning (Temporary  
Stop Notice) (Scotland) Regulations 2009  
(SSI 2009/213)**

**Smoke Control Areas (Exempt Fireplaces)  
(Scotland) Order 2009 (SSI 2009/214)**

**Police Act 1997 (Criminal Records)  
(Scotland) Amendment (No 2) Regulations  
2009 (SSI 2009/216)**

**Town and Country Planning  
(Miscellaneous Amendments) (Scotland)  
Regulations 2009 (SSI 2009/220)**

**Planning etc (Scotland) Act 2006  
(Development Management and Appeals)  
(Saving, Transitional and Consequential  
Provisions) Order 2009 (SSI 2009/222)**

**Seed (Scotland) (Amendments for  
Conservation Varieties) Regulations 2009  
(SSI 2009/223)**

**Animals and Animal Products (Import and  
Export) (Scotland) Amendment  
Regulations 2009 (SSI 2009/227)**

**Products of Animal Origin (Third Country  
Imports) (Scotland) Amendment  
Regulations 2009 (SSI 2009/228)**

**Control of Salmonella in Poultry  
(Breeding, Laying and Broiler Flocks)  
(Scotland) Order 2009 (SSI 2009/229)**

**Zoonoses and Animal By-Products (Fees)  
(Scotland) Regulations 2009 (SSI 2009/230)**

**Rural Development Contracts (Rural  
Priorities) (Scotland) Amendment (No 2)  
Regulations 2009 (SSI 2009/233)**

**Debt Arrangement Scheme (Scotland)  
Amendment Regulations 2009  
(SSI 2009/234)**

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

**The Deputy Convener:** You will notice from your briefing that our legal team has advised us that, on two of those 16 instruments—those relating to animals and animal products and products of animal origin, SSIs 2009/227 and 2009/228—they were unable to give the details of the transposition as much attention as they would have liked, because of the number of statutory instruments that have come before us for this meeting. We would have had only two instruments to consider last week; this week, 28 were presented to us. I suggest that we draw it to the attention of the Government that it makes the burden of work quite difficult if instruments come

to us in such an irregular manner. Is the committee content to do that?

**Bob Doris:** Absolutely.

**Members indicated agreement.**

**The Deputy Convener:** On SSI 2009/230, the committee will be pleased to note that charges have been specified in the schedule to the regulations in light of the committee's recommendations and criticisms about previous legislation. That is a good example of the Government listening to what the committee has said and taking action. We should congratulate the Government and our legal team on that.

**Members indicated agreement.**

**Helen Eadie (Dunfermline East) (Lab):** I do not know whether the transposition of all that legislation coming through has anything to do with a freedom of information request that I made, but I did make such a request about a month ago, it having been shown that there was a list of areas covering about two and a half pages of A4—back and front—where legislation had not been transposed. I do not know whether the committee clerks have me to blame for the sudden flood of work that has been coming their way. Perhaps somebody woke up to the fact that all that legislation had not been transposed.

**The Deputy Convener:** Perhaps we can blame Helen Eadie, rather than the Government, for the situation. At any rate, we will pass our points on.

## **Instruments not laid before the Parliament**

**Planning etc (Scotland) Act 2006  
(Commencement No 9) Order 2009  
(SSI 2009/219)**

**Serious Crime Act 2007 (Commencement  
No 2) (Scotland) Order 2009 (SSI 2009/224)**

14:21

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

**The Deputy Convener:** That is the end of our public business. As agreed, we will now move into private session.

14:21

*Meeting continued in private until 14:24.*

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