

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 24 November 2009

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

31st 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)
Margaret Curran (Glasgow Baillieston) (Lab)
*Bob Doris (Glasgow) (SNP)
*Helen Eadie (Dunfermline East) (Lab)
*Rhoda Grant (Highlands and Islands) (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

Douglas Wands

ASSISTANT CLERK

Jake Thomas

LOCATION

Committee Room 4

Scottish Parliament

Subordinate Legislation Committee

Tuesday 24 November 2009

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

Decision on Taking Business in Private

The Convener (Jamie Stone): I welcome everyone to the 31st meeting of the Subordinate Legislation Committee in 2009. We have received apologies from Jackson Carlaw and our new member, Margaret Curran. Can we please switch off all mobiles and BlackBerrys?

Agenda item 1 is to decide whether to take in private agenda item 4, which is discussion of our response to the Standards, Procedures and Public Appointments Committee's consultation. Is that agreed?

Members *indicated agreement.*

Instruments subject to Annulment

Public Health etc (Scotland) Act 2008 (Sunbed) Regulations 2009 (SSI 2009/388)

14:15

The Convener: We come to agenda item 2. Are we content to report that we are satisfied with the Scottish Government's explanation as to the anticipatory exercise of the powers to make the regulations in sections 95(4)(c) and 96(5)(c) of the Public Health etc (Scotland) Act 2008 before those sections are brought into force, and that we are also satisfied with the Scottish Government's explanation as to the observation of the required three-month standstill period following notification of the draft regulations to the European Commission under the requirements of the technical standards and regulations directive 98/34/EC?

Members *indicated agreement.*

Diligence against Earnings (Variation) (No 2) (Scotland) Regulations 2009 (SSI 2009/395)

Diligence (Scotland) Amendment Regulations 2009 (SSI 2009/396)

The committee agreed that no points arose on the instruments.

Instruments not laid before the Parliament

Act of Sederunt (Fees of Messengers-at-Arms) (Diligence) 2009 (SSI 2009/383)

14:16

The Convener: Under agenda item 3 we have something important to think about. Are we content to report to the Parliament that, in consequence of the reliance on section 5 of the Court of Session Act 1988 as the enabling power, and given that that section does not provide express authority to impose a charge for the execution of diligence, there appears to be a doubt that the instrument is intra vires? Members will see the problem. The suggestion is that, because there is no lead committee, I should write to the Lord President expressing our concern. That would mean that, first, our concern will be placed on the record by our friends at the official report and, secondly, we will be able to consider the Lord President's response.

Helen Eadie (Dunfermline East) (Lab): That is a good way forward.

Ian McKee (Lothians) (SNP): I support that action.

The Convener: Thanks for that. The clerks will see that that letter goes off.

Act of Sederunt (Money Attachment Rules) 2009 (SSI 2009/382)

Specified Animal Pathogens (Scotland) Amendment Order 2009 (SSI 2009/394)

Act of Sederunt (Amendment of the Act of Sederunt (Sheriff Court Rules) (Miscellaneous Amendments) 2009) 2009 (SSI 2009/402)

The committee agreed that no points arose on the instruments.

The Convener: As we agreed under agenda item 1, we now move into private. I thank the official report.

14:18

Meeting continued in private until 14:38.

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