

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 1 December 2009

Session 3

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CONTENTS

Tuesday 1 December 2009

	Col.
DRAFT INSTRUMENT SUBJECT TO APPROVAL	801
Pharmacy Order 2010 (Draft)	801
INSTRUMENTS SUBJECT TO ANNULMENT	803
Common Agricultural Policy (Single Farm Payment and Support Schemes and Cross-Compliance) (Scotland) Amendment Regulations 2009 (SSI 2009/391)	803
Justice of the Peace Courts (Sheriffdom of North Strathclyde) etc Amendment Order 2009 (SS1 2009/409)	804
INSTRUMENTS NOT LAID BEFORE THE PARLIAMENT	804
Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) Amendment 2009 (SS1 2009/403)	804
Public Health etc (Scotland) Act 2008 (Commencement No 3, Consequential Provisions and Revocation) Order 2009 (SSI 2009/404)	804

SUBORDINATE LEGISLATION COMMITTEE

32nd 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 1 December 2009

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

Draft Instrument subject to Approval

The Convener (Jamie Stone): I welcome everyone to the 32nd meeting of the Subordinate Legislation Committee in 2009. We have no apologies and we have a full house. Can everyone turn off their mobile phones and BlackBerrys please?

As previously agreed, at the end of the meeting we will go into private session to discuss our report on the Interpretation and Legislative Reform (Scotland) Bill.

Pharmacy Order 2010 (Draft)

The Convener: Colleagues, there are a number of grounds for reporting the order. First, the Scottish Government has acknowledged that the order contains errors in the preamble and in article 11, the latter being a substantial error that could significantly affect the proper operation of the order if it is not corrected.

Secondly, further drafting changes are required to articles 21(4)(b), 22(2)(b) and 66(2) to reflect the change in the standard definition of the European Union treaties set out in the Interpretation Act 1978, which is commenced today.

Thirdly, the committee's preference would be for a corrected order to be put before the Parliament for approval but, given the complex procedure that applies to the order—involving approval by the Scottish Parliament and Westminster and submission to the Privy Council—such a course of action does not appear to be practicable in this particular case.

Fourthly, the committee has considered the Scottish Government's proposal for remedying the error and we consider that, in the circumstances, a full explanation of the errors and the intention to correct them should be provided to the Parliament prior to seeking its approval of the order.

Finally, we note that any risk of challenge to the order lies with the Scottish Government and the Department of Health. Can we agree to report the order on those grounds?

Members *indicated agreement.*

Instruments subject to Annulment

Common Agricultural Policy (Single Farm Payment and Support Schemes and Cross-Compliance) (Scotland) Amendment Regulations 2009 (SSI 2009/391)

14:17

The Convener: Are we content with the explanation provided by the Scottish Government for not complying with the 21-day rule?

Members indicated agreement.

The Convener: Do we agree to draw it to the attention of the lead committee that it would have been useful to this committee if the explanation for the breach of the 21-day rule had offered a fuller explanation of the Commission regulation referred to, and of the circumstances by which the delay in publication of that regulation led to these regulations being laid on 11 November 2009, so breaching the rule?

Members indicated agreement.

The Convener: Regulation 17 amends the schedule to the Common Agricultural Policy Schemes (Cross Compliance) (Scotland) Regulations 2004. Do we agree to report that the meaning and effect of the words inserted into part IV, paragraph 18(2) of the schedule to the 2004 regulations could be clearer? As it is, the wording might affect the operation of the provisions. The Government has indicated that it will correct the wording to make the meaning and effect clearer. Are we agreed?

Members indicated agreement.

The Convener: A number of drafting errors are noted in the summary of recommendations. Are members content to report those to the lead committee?

Members indicated agreement.

The Convener: Given the number of drafting errors, does the committee agree that an amendment should be effected as soon as possible?

Members indicated agreement.

The Convener: I am afraid that the regulations are rather sloppy, but the Government has undertaken to shape them up. It is on the record that we note that sloppiness with some disquiet.

Justice of the Peace Courts (Sheriffdom of North Strathclyde) etc Amendment Order 2009 (SSI 2009/409)

The committee agreed that no points arose on the instrument.

Instruments not laid before the Parliament

Act of Sederunt (Debt Arrangement and Attachment (Scotland) Act 2002) Amendment 2009 (SSI 2009/403)

Public Health etc (Scotland) Act 2008 (Commencement No 3, Consequential Provisions and Revocation) Order 2009 (SSI 2009/404)

14:19

The committee agreed that no points arose on the instruments.

The Convener: As indicated at the start of the meeting, we agreed at last week's meeting that we would move into private session to discuss our report on the Interpretation and Legislative Reform (Scotland) Bill. I thank the official report.

14:19

Meeting continued in private until 15:06.

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The deadline for corrections to this edition is:

Wednesday 9 December 2009

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