



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 18 May 2010

Session 3

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Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by
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SUBORDINATE LEGISLATION COMMITTEE

16th Meeting 2010, 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

Irene Fleming

LOCATION

Committee Room 6

Scottish Parliament

Subordinate Legislation Committee

Tuesday 18 May 2010

[The Deputy Convener *opened the meeting at 14:15*]

Instruments subject to Annulment

The Deputy Convener (Ian McKee): I welcome members to the 16th meeting of the Subordinate Legislation Committee in 2010 and give apologies from the convener, Jamie Stone. I ask members to turn off any mobile phones or BlackBerrys.

Police Act 1997 (Criminal Records) (Scotland) Regulations 2010 (SSI 2010/168)

The Deputy Convener: A number of recommendations are detailed in the summary of recommendations. Are members content to report that the Scottish Government should give the public 21 days' notice in advance of section 78 of the Protection of Vulnerable Groups (Scotland) Act 2007—and, consequently, the regulations—coming into force?

Members indicated agreement.

The Deputy Convener: Are members content to report that the power in section 113A(6)(c) of the Police Act 1997 was cited in error, as it was not required, but that the committee agrees with the Scottish Government that that does not affect the validity of the regulations?

Members indicated agreement.

The Deputy Convener: Are members also content to report that the Scottish Government's response with respect to regulation 8(1)(l) is satisfactory; to report that the exercise of the power in section 113B(2)(b) of the 1997 act is satisfactory; and to note that the Scottish Government has confirmed that the definition of "host parent" in the 2007 act will be brought into force at the same time as the regulations?

Members indicated agreement.

Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2010 (SSI 2010/171)

The Deputy Convener: The drafting of regulation 3, "Transitional exemptions", seems to be defective in that its effects do not appear to accord with the intended effects as explained in

the Government's response. Specifically, it appears that the transitional relief that is provided in regulation 3(1)(c) is not restricted to the presence of the relevant category of ammonium nitrate but permits the exemption to apply where any category of that substance was present from 23 November 2009 until 31 May 2010 without hazardous substances consent being required.

It also appears that the regulation does not appear to relate to the calculation of the controlled quantity of substances, where there are combined hazardous substances at land, for the purposes of note 4 to parts A and B of schedule 1 to the Town and Country Planning (Hazardous Substances) (Scotland) Regulations 1993.

As a result of the extended transitional relief, the suspension of effective enforcement of directive 96/82/EC on the control of major accident hazards involving dangerous substances that is provided in regulation 3 is broader than required, which raises a devolution issue.

Are members content to report the regulations to the lead committee on those grounds?

Members indicated agreement.

Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 (SSI 2010/177)

The committee agreed that no points arose on the instrument.

The Deputy Convener: Although no points arise on the regulations, we should welcome the fact that the Scottish Government has made good on its promise to address two issues that we raised in a previous report.

First, the committee identified an overlap between offences created by the Transmissible Spongiform Encephalopathies (Scotland) Amendment (No 2) Regulations 2008 (SSI 2008/417) and the Bovine Products (Restriction on Placing on the Market) (Scotland) (No 2) Regulations 2005 (SSI 2005/586), which has been addressed now that the latter instrument has been revoked by SSI 2010/177.

Secondly, when considering SSI 2008/417, the committee questioned whether the obligations that were placed on the Food Standards Agency in connection with enforcement in slaughterhouses were sufficiently clear. In response to that point, the drafting approach adopted in SSI 2010/177 is clearer.

**Protection of Vulnerable Groups
(Scotland) Act 2007 (Consideration for
Listing) Regulations 2010 (SSI 2010/183)**

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

**Instruments not laid before the
Parliament**

**Act of Adjournal (Criminal Procedure
Rules Amendment) (Miscellaneous) 2010
(SSI 2010/184)**

**Smoking, Health and Social Care
(Scotland) Act 2005 (Commencement No
6) Order 2010 (SSI 2010/185)**

14:19

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

Annual report

The Deputy Convener: The next meeting of the committee will be held on Tuesday 25 May 2010.

Meeting closed at 14:19.

14:19

The Deputy Convener: Members have a copy of the committee's draft annual report, which is presented in the standard format that is used for all committee annual reports. Do members agree the report?

Members *indicated agreement.*

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