



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# SUBORDINATE LEGISLATION COMMITTEE

Tuesday 15 June 2010

Session 3

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**Tuesday 15 June 2010**

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**SUBORDINATE LEGISLATION COMMITTEE**

**20<sup>th</sup> Meeting 2010, Session 3**

**CONVENER**

\*Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

**DEPUTY CONVENER**

\*Ian McKee (Lothians) (SNP)

**COMMITTEE MEMBERS**

\*Bob Doris (Glasgow) (SNP)

\*Helen Eadie (Dunfermline East) (Lab)

\*Rhoda Grant (Highlands and Islands) (Lab)

\*Alex Johnstone (North East Scotland) (Con)

\*Elaine Smith (Coatbridge and Chryston) (Lab)

**COMMITTEE SUBSTITUTES**

Bill Aitken (Glasgow) (Con)

Ross Finnie (West of Scotland) (LD)

Karen Gillon (Clydesdale) (Lab)

Christopher Harvie (Mid Scotland and Fife) (SNP)

\*attended

**CLERK TO THE COMMITTEE**

Irene Fleming

**LOCATION**

Committee Room 6



**Scottish Parliament**  
**Subordinate Legislation**  
**Committee**

*Tuesday 15 June 2010*

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

**Alcohol etc (Scotland) Bill: After**  
**Stage 1**

**The Convener (Jamie Stone):** I welcome everyone to the 20<sup>th</sup> meeting in 2010 of the Subordinate Legislation Committee. There are no apologies, so we have a full house, which is terrific. I ask everyone to turn off mobiles and BlackBerrys.

We have received the Government's response to our stage 1 report on the delegated powers in the Alcohol etc (Scotland) Bill. Do members wish to make any comments?

**Helen Eadie (Dunfermline East) (Lab):** I suppose that we will be revisiting the bill.

**The Convener:** I have no doubt about that whatever—it is a racing certainty.

We are told that stage 2 consideration will start after the summer recess.

Are members content to note the response as set out in the paper from the clerk, although we are not ruling anything out in the months to come?

**Members** *indicated agreement.*

**Draft Instruments subject to**  
**Approval**

**Applications by Creditors (Pre-Action**  
**Requirements) (Scotland) Order 2010**  
**(Draft)**

**Home Owner and Debtor Protection**  
**(Scotland) Act 2010 (Consequential**  
**Provisions) Order 2010 (Draft)**

14:16

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

## **Instruments subject to Annulment**

### **Census (Scotland) Regulations 2010 (SSI 2010/211)**

#### **Census (Scotland) Amendment Regulations 2010 (SSI 2010/215)**

14:16

**The Convener:** Scottish statutory instrument 2010/215 amends SSI 2010/211, which contains a number of errors that our legal adviser spotted, so we will consider the two instruments together.

It was pointed out to the Government that the drafting of the original instrument—SSI 2010/211—was defective in the respect that the second individual questionnaire, which is paper HI, in schedule 2 is incomplete. In particular, as it stands, the questionnaire does not cover the particulars set out in item 23 of schedule 2 to the Census (Scotland) Order 2010 (SSI 2010/187).

It was also considered that the instrument's meaning could be clearer in two respects. First, schedule 1 prescribes the title of the form for each category of prescribed person and regulation 5 provides that the form is set out in schedule 2 under that title. However, the forms in schedule 2 are not set out under the specific titles given in schedule 1.

Secondly, the reference in regulation 15(4)(c) to “reply-paid envelope” is intended to cover both “reply-paid envelope” and “reply-paid individual envelope”. That could be made clearer either by making a specific reference to “reply-paid individual envelope” or by simply referring to “the envelope provided”.

Those issues are addressed by the Census (Scotland) Amendment Regulations 2010 (SSI 2010/215). We should welcome the swift action taken to correct SSI 2010/211. It was mince, but it is better now.

Are members happy to report on the instruments accordingly?

*Members indicated agreement.*

### **Parental Responsibility and Measures for the Protection of Children (International Obligations) (Scotland) Regulations 2010 (SSI 2010/213)**

**The Convener:** Are members content with the response from the Scottish Government that the regulations will not be brought into force within 21 days of their being laid?

*Members indicated agreement.*

**The Convener:** Although the amendment that is made by the regulations with respect to section 14(2) of the Family Law Act 1986 repeats certain words of text, we may consider that the repetition is not such as to render the overall meaning of the provision unclear. Are members happy with that?

*Members indicated agreement.*

**The Convener:** We could therefore report the regulations on the basis that the provision could have been made clearer by avoiding a repetition of text, but that the duplication is not considered such as to be likely to affect the validity or operation of the regulations. Is that agreed?

*Members indicated agreement.*

### **Knives etc (Disposal of Forfeited Property) (Scotland) Order 2010 (SSI 2010/214)**

**The Convener:** Do members agree to report that we accept the explanation provided by the Scottish Government as to why the order makes no provision as to the vesting of property that is not the subject of an application for a recovery order; that insofar as article 4 seeks to apply to property in respect of which a recovery order has been granted there is a doubt as to whether the order is *intra vires*; and that although there is no immediate need to correct the order, it would be good practice to do so promptly?

*Members indicated agreement.*

### **Seed (Scotland) (Miscellaneous Amendments) Regulations 2010 (SSI 2010/219)**

### **National Lottery etc Act 1993 (Amendment of Section 23) (Creative Scotland) Order 2010 (SSI 2010/223)**

### **Scottish Social Services Council (Appointments, Procedure and Access to the Register) Amendment Regulations 2010 (SSI 2010/224)**

### **Sea Fishing (Restriction on Days at Sea) (Scotland) Order 2010 (SSI 2010/238)**

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

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

**Public Services Reform (Scotland) Act  
2010 (Commencement No 1) Order 2010  
(SSI 2010/221)**

**Marine (Scotland) Act 2010  
(Commencement No 1) Order 2010 (SSI  
2010/230)**

**Pollution Prevention and Control  
(Designation of Classification of  
Substances and Mixtures Directive)  
(Scotland) Order 2010 (SSI 2010/235)**

14:20

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

**The Convener:** I should have extended a cordial welcome to our two young guests from the University of Edinburgh and the University of Aberdeen, who are on attachment to the legal department for one week. Let us hope that they enjoy themselves and find the posts interesting.

*Meeting closed at 14:20.*





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