



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 8 June 2010

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

19th 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 4

Scottish Parliament

Subordinate Legislation Committee

Tuesday 8 June 2010

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

The Deputy Convener (Ian McKee): Good afternoon. I welcome members to the 19th meeting in 2010 of the Subordinate Legislation Committee, which is now open to the public.

I welcome Elaine Smith as a new member of the committee. She is not required to declare her interests, as she did so when she served on the committee at the start of the parliamentary session.

We have apologies from Jamie Stone.

I ask all members and members of the public to turn off their mobile phones, BlackBerrys and so on.

Historic Environment (Amendment) (Scotland) Bill: Stage 1

The Deputy Convener: We are taking our first look at the Historic Environment (Amendment) (Scotland) Bill at stage 1. There are a number of delegated powers provisions in the bill, but there is only one power about which our legal advisers have suggested that we might wish to question the Scottish Government. It is proposed that we consider the Government's response to points raised today at our meeting on 22 June, when we will also consider our stage 1 report.

Are members content to proceed in that way?

Members indicated agreement.

The Deputy Convener: Paragraph 19 of the delegated powers memorandum explains briefly that the delegated powers in section 15, "Scheduled monument consent: regulations as respects applications, etc",

"will bring the scheduled monument consent application and granting process into line with the model used in the listed building and planning legislation".

Does the committee agree to ask, in relation to section 15(2), what those similar model provisions are in relation to the manner, form and content of planning permission and listed building consent, as opposed to applications for such permission or consent; why the power requires to be taken; and why it is desirable to be consistent between those

provisions and provisions for scheduled monument consent?

Does the committee also agree to ask why the power in section 15(3) is proposed as a discretion to make regulations, rather than a requirement, given that paragraph 2 of schedule 1 to the Ancient Monuments and Archaeological Areas Act 1979 gives ministers the power to refuse to entertain an application for scheduled monument consent, unless it is accompanied by the certificates as specified in that paragraph?

Are members content with that approach?

Members indicated agreement.

Draft Instrument subject to Approval

National Health Service (Reimbursement of the Cost of EEA Treatment) (Scotland) Regulations 2010 (Draft)

14:17

The Deputy Convener: Are we satisfied with the Scottish Government's response to questions 1 and 2, and to note that there is an error in the reference to the relevant European Union regulation in the explanatory note that can be corrected when the regulations are made?

Members *indicated agreement.*

Instruments subject to Annulment

Glasgow Caledonian University Order of Council 2010 (SSI 2010/198)

Criminal Legal Aid (Scotland) (Fees) Amendment (No 2) Regulations 2010 (SSI 2010/212)

14:17

The committee agreed that no points arose on the instruments.

The Deputy Convener: In relation to Scottish statutory instrument 2010/212, we may wish to put it on the record that this is the 18th occasion on which the principal Criminal Legal Aid (Scotland) (Fees) Regulations 1989 (SI 1989/1491) have been amended. They would merit being consolidated. We should also note that an opportunity was missed to make the regulations gender neutral, in line with current practice. Is that agreed?

Members *indicated agreement.*

The Deputy Convener: We can note those points in our annual report on SSIs for 2010.

Instrument not laid before the Parliament

Act of Sederunt (Rules of the Court of Session Amendment No 4) (Miscellaneous) 2010 (SSI 2010/205)

14:18

The Deputy Convener: The Lord President's office has acknowledged that there are minor drafting errors in the act of sederunt and it proposes to rectify them when a suitable opportunity arises. Is the committee content with that response, and to report accordingly?

Members *indicated agreement.*

The Deputy Convener: We should also note that the act of sederunt fulfils a commitment to correct an error in Act of Sederunt (Rules of the Court of Session Amendment No 3) (Miscellaneous) 2010 (SSI 2010/136), which we considered on 27 April.

The next meeting of the committee will be held on Tuesday 15 June 2010.

Meeting closed at 14:19.

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