



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 25 May 2010

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

17th 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 4

Scottish Parliament

Subordinate Legislation Committee

Tuesday 25 May 2010

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

Draft Instrument subject to Approval

The Convener (Jamie Stone): I welcome members to the 17th meeting in 2010 of the Subordinate Legislation Committee. We have received apologies from Rhoda Grant, Jackson Carlaw and Bob Doris. I remind members to switch off mobile phones and BlackBerrys.

Climate Change (Annual Targets) (Scotland) Order 2010 (Draft)

The Convener: No points arise on the draft order. Is the committee content with it?

Members *indicated agreement.*

Instruments subject to Annulment

Protection of Vulnerable Groups (Scotland) Act 2007 (Power to Refer) (Information Relevant to Listing Decisions) Order 2010 (SSI 2010/178)

14:16

The Convener: Do we agree to report that the drafting of the order is defective in that it does not specify “relevant functions” of the NHS tribunal, as required by section 8(3)(d) of the 2007 act? We note that the Scottish Government intends to bring forward an amendment order before the order comes into force.

Members *indicated agreement.*

The Convener: Given that it is intended that a finding of fact by the NHS tribunal for the purposes of section 17(5) of the 2007 act is a finding of fact made in proceedings before the NHS tribunal, do we agree to report that article 3 could be clearer in that regard?

Members *indicated agreement.*

Protection of Vulnerable Groups (Scotland) Act 2007 (Applications for Removal from List and Late Representations) Regulations 2010 (SSI 2010/179)

The Convener: Are members content with the Scottish Government’s response?

Members *indicated agreement.*

The Convener: We will report accordingly.

Protection of Vulnerable Groups (Scotland) Act 2007 (Savings and Transitional Provisions) Order 2010 (SSI 2010/180)

The Convener: Do we agree to find the Scottish Government’s response to questions 1 and 2 satisfactory, but to express the view that it might be of assistance to anyone who reads the order to include in the explanatory note or in any guidance to be published a comment to the effect that the time limits are those laid down in the sheriff court ordinary cause rules, in respect of article 11(2)(a), and in the rules of the Court of Session 1994, in respect of articles 11(2)(c) and 11(3)(b)?

Can we also agree that we are content with the Scottish Government’s response to question 3 and to report accordingly?

Members *indicated agreement.*

**Protection of Vulnerable Groups
(Scotland) Act 2007 (Referrals by
Organisations and Other Bodies)
(Prescribed Information) Regulations 2010
(SSI 2010/181)**

The Convener: Can we agree to report that the regulations are not sufficiently clear as to the limits of the duties imposed under sections 3(1), 3(2), 4, 5, 6(2) and 8(1) of the 2007 act, consequent on the use of the word “including” in paragraphs 1 and 9 of schedule 1 and paragraphs 1 and 9 of schedule 2 to the regulations?

We might report that we consider that that is a significant issue, in particular because, first, paragraph 1 of each schedule relates to identity details relating to an individual, and issues of sensitivity might arise; and secondly, failure to give any prescribed information held to the Scottish ministers is in certain cases an offence by virtue of section 9 of the 2007 act. Do members agree?

Members *indicated agreement.*

**Protection of Vulnerable Groups
(Scotland) Act 2007 (Referrals by Courts)
(Prescribed Information) Regulations 2010
(SSI 2010/182)**

The Convener: Can we agree to report that the regulations are not sufficiently clear as to the limits of the duties imposed under sections 7(1) and 7(3) of the 2007 act, consequent on the use of the word “including” in paragraphs 2 and 5 of the schedule to the regulations? The issue is significant in particular because paragraph 2 relates to identity details relating to an individual, and issues of sensitivity might arise.

Members *indicated agreement.*

**Protection of Vulnerable Groups
(Scotland) Act 2007 (Vetting Information)
Regulations 2010 (SSI 2010/189)**

**Police Act 1997 (Alteration of the Meaning
of Suitability Information relating to
Children and Protected Adults) (Scotland)
Order 2010 (SSI 2010/190)**

**Protection of Vulnerable Groups
(Scotland) Act 2007 (Health Professionals)
(Health Service Lists) Regulations 2010
(SSI 2010/191)**

**Protection of Vulnerable Groups
(Scotland) Act 2007 (Prescribed Manner
and Place for the Taking of Fingerprints
and Prescribed Personal Data Holders)
Regulations 2010 (SSI 2010/192)**

**Protection of Vulnerable Groups
(Scotland) Act 2007 (Administration of the
Scheme) Regulations 2010 (SSI 2010/193)**

**Protection of Vulnerable Groups
(Scotland) Act 2007 (Unlawful Requests
for Scheme Records) (Prescribed
Circumstances) Regulations 2010 (SSI
2010/194)**

**Arbitral Appointments Referee (Scotland)
Order 2010 (SSI 2010/196)**

**Sports Grounds and Sporting Events
(Designation) (Scotland) Order 2010 (SSI
2010/199)**

The committee agreed that no points arose on the instruments.

The Convener: I refer members to the revised page 3 of our legal brief, which is on your desks and provides the correct details of the days on which SSI 2010/178, SSI 2010/179, SSI 2010/180, SSI 2010/181, SSI 2010/182, SSI 2010/189, SSI 2010/190, SSI 2010/191, SSI 2010/192, SSI 2010/193 and SSI 2010/194 will come into force.

We are invited to express the view that the Scottish Government should give the public 21 days' notice in advance of the coming into force of relevant sections and, in respect of SSI 2010/180, paragraph 42 of schedule 4 to the Protection of Vulnerable Groups (Scotland) Act 2007, and consequently those instruments. Do members agree to do that?

Members *indicated agreement.*

**Instrument not laid before the
Parliament**

**Arbitration (Scotland) Act 2010
(Commencement No 1 and Transitional
Provisions) Order 2010 (SSI 2010/195)**

The Convener: Thank you. Our next meeting will take place on Tuesday 1 June.

Meeting closed at 14:20.

14:19

The Convener: Are members content with the order?

Members *indicated agreement.*

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