



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 9 November 2010

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

30th 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 5

Scottish Parliament Subordinate Legislation Committee

Tuesday 9 November 2010

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

Decision on Taking Business in Private

The Convener (Jamie Stone): I welcome everyone to the Subordinate Legislation Committee's 30th meeting in 2010. I welcome Chris Harvie, who is substituting for Bob Doris. We have apologies from Bob Doris, Rhoda Grant and Alex Johnstone. We have with us Christopher Threlfall, who is a student and who is attending as an observer. I welcome him and hope that he enjoys the meeting, brief though it probably will be. We always like to have visitors. I remind members to turn off mobile phones, BlackBerrys and that sort of stuff.

Do members agree to take in private agenda item 8, which we were talking about just before the meeting began?

Members indicated agreement.

Instrument subject to Approval

Fishing Boats (EU Electronic Reporting) (Scotland) Scheme 2010 (SSI 2010/374)

14:16

The committee agreed that no points arose on the instrument.

Draft Instruments subject to Approval

Waste Information (Scotland) Regulations 2010 (Draft)

14:16

The Convener: The meaning of "undertaking", which is a fundamental definition for the purposes of the operation of the regulations, could be more clearly expressed. Although the regulations state that the term includes "any business or profession", it is not clear from the regulations what else it is intended or not intended to include. Do members agree to report that the meaning could be more clearly expressed?

Members indicated agreement.

The Convener: Do members also agree to report that the regulations could be clearer as to the circumstances in which the pre-notification requirement has been satisfied and therefore when the duty to provide information arises?

Members indicated agreement.

"SPSO Statement of Complaints Handling Principles—draft version submitted for approval to the Scottish Parliament on 1 November 2010 as required by section 16A of the Scottish Public Services Ombudsman Act 2002"

The committee agreed that no points arose on the instrument.

Instruments subject to Annulment

**Animal Feed (Scotland) Regulations 2010
(SSI 2010/373)**

**Criminal Legal Aid (Scotland) Amendment
Regulations 2010 (SSI 2010/377)**

14:17

The committee agreed that no points arose on the instruments.

Instrument not laid before the Parliament

**Legal Profession and Legal Aid (Scotland)
Act 2007 (Commencement No 6) Order
2010 (SSI 2010/376)**

14:17

The committee agreed that no points arose on the instrument.

Instruments not subject to Parliamentary Procedure

**Public Services Reform (General Teaching
Council for Scotland) Order 2011 and
Executive Note (SG 2010/174)**

**Public Services Reform (General Teaching
Council for Scotland) Order 2011—
Explanatory Document (SG 2010/175)**

**Public Services Reform (Agricultural
Holdings) (Scotland) Order 2011 and
Executive Note (SG 2010/182)**

**Public Services Reform (Agricultural
Holdings) (Scotland) Order 2011—
Proposed Explanatory Note (SG 2010/183)**

14:18

The Convener: Under agenda item 6, we start to see the impact of the Public Services Reform (Scotland) Act 2010. We have two instruments not subject to parliamentary procedure and related explanatory documents. The draft orders are laid for consultation under the super-affirmative procedure, under order-making powers in sections 14 and 17 of our old friend the Public Services Reform (Scotland) Act 2010. This is an absolute first for us, as it is the first time that we have considered the exercise of those powers under the 2010 act. It should be noted that it was the Subordinate Legislation Committee that recommended that the powers should be subject to that procedure.

We will report to the lead committees on the draft orders and they will in turn report to the Parliament accordingly. Once the Scottish Government has seen the lead committees' reports alongside our report and correspondence from stakeholders on the consultation drafts, it will produce further draft orders that will be subject to affirmative procedure. The Government might make changes to the orders, if it appears appropriate to do so following the consultation.

As members will see from our legal briefing, our legal advisers have had lengthy correspondence with the Scottish Government and raised a good number of points, which are in the summary of recommendations. Do members have any comments? Rather than me read out all the points in the summary of recommendations, are members content to report as per those points?

Helen Eadie (Dunfermline East) (Lab): The briefing note for the meeting is one of the longest that we have had during my membership of the

committee. Our committee clerks have undertaken a huge amount of work and should be commended for that. It is obviously a complex area and we are grateful to them for their advice and recommendations. I hope that they accept those thanks and that appreciation. We should follow the guidance that is laid out in the summary of recommendations.

Elaine Smith (Coatbridge and Chryston) (Lab): In the interests of transparency, I should put it on the record that I am a member of the General Teaching Council for Scotland.

The Convener: I am sure that it is very wise to do that. That will be noted in the *Official Report*.

I thank Helen Eadie for her kind comments. We all appreciate the work that our advisers do.

Private Rented Housing (Scotland) Bill: Stage 1

14:20

The Convener: Our advisers have raised a couple of points that we might want to raise with the Scottish Government. The queries stem from the powers in sections 31(4), which will insert section 28B, "Landlord application to private rented housing panel: further provision", into the Housing (Scotland) Act 2006; and section 35, which is on commencement. Do members agree to ask the questions on those sections that are set out in the summary of recommendations?

Members indicated agreement.

The Convener: We will look at the Scottish Government's response and consider our draft report on the bill at our meeting a fortnight from now.

We will now move into private, so we say bye-bye to Christopher Threlfall and anybody else who has joined us, and thank you to the official report staff.

14:21

Meeting continued in private until 14:27.

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