



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 30 November 2010

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SUBORDINATE LEGISLATION COMMITTEE

33rd Meeting 2010, Session 3

CONVENER

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

DEPUTY CONVENER

*Bob Doris (Glasgow) (SNP)

COMMITTEE MEMBERS

Helen Eadie (Dunfermline East) (Lab)

Rhoda Grant (Highlands and Islands) (Lab)

Alex Johnstone (North East Scotland) (Con)

*Ian McKee (Lothians) (SNP)

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

THE FOLLOWING ALSO ATTENDED:

Judith Morrison (Legal Adviser)

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

Committee Room 4

Scottish Parliament Subordinate Legislation Committee

Tuesday 30 November 2010

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

Decision on Taking Business in Private

The Deputy Convener (Bob Doris): Good afternoon. I welcome members to the 33rd meeting in 2010 of the Subordinate Legislation Committee. We have received apologies from Jamie Stone, Alex Johnstone, Elaine Smith, Helen Eadie and Rhoda Grant. I assume that that is because of the rather inclement weather that we have had. However, it gives us the opportunity to welcome to the committee Bill Aitken, who is attending as a substitute for Alex Johnstone. I thank him for making the effort to come along; it is appreciated.

Bill Aitken (Glasgow) (Con): Delighted.

The Deputy Convener: Hide your excitement, if that is at all possible.

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

Agenda item 1 is to decide whether to take item 6 in private. Do members agree to take that item in private?

Members *indicated agreement.*

Instruments subject to Annulment

**Plant Health (Import Inspection Fees)
(Scotland) Amendment Regulations 2010
(SSI 2010/405)**

**Sale of Tobacco (Prescribed Document)
Regulations 2010 (SSI 2010/406)**

**Sale of Tobacco (Register of Tobacco
Retailers) Regulations 2010 (SSI 2010/407)**

14:16

The committee agreed that no points arose on the instruments.

Instruments not laid before the Parliament

**Flood Risk Management (Scotland) Act
2009 (Commencement No 2 and Savings
Provisions) Order 2010 (SSI 2010/401)**

**Fees in the Registers of Scotland
Amendment Order 2010 (SSI 2010/404)**

14:16

The committee agreed that no points arose on the instruments.

Double Jeopardy (Scotland) Bill: Stage 1

14:16

The Deputy Convener: Agenda item 4 is consideration of the delegated powers provisions in the Double Jeopardy (Scotland) Bill. There are just two delegated powers in the bill and our advisers have raised a question on one of them. Do members agree to ask whether the exercise of the power under section 4(7) to modify schedule 1 so as to add or remove offences should not be subject to a consultation requirement?

Members indicated agreement.

The Deputy Convener: It is acknowledged that the exercise of that power is subject to affirmative procedure, but, given that the power to add further offences is a significant one, the question is whether there would not be merit in making provision within the bill to the effect that a comprehensive consultation exercise must first be undertaken with a suitable range of interested parties. Indeed, given the importance of the power, a further question is whether consultation would not be an essential element in ensuring that the implications of any proposed changes were fully scrutinised and evaluated before being finalised, in the same way as the delegated powers memorandum emphasises the value of parliamentary debate in the shaping of schedule 1 to the bill. Are members happy for those questions to be asked?

Members indicated agreement.

Bill Aitken: Is there any view on the nature of the consultation and who the interested parties would be?

The Deputy Convener: I ask our legal team to say whether there is any view on the nature of the consultation.

Judith Morrison (Legal Adviser): I think that it would be for the Government, in answering the question, to make it clear who it thought it would be appropriate to consult. The committee could then consider the response when it considers its report.

The Deputy Convener: That is a point well raised. We will want to ensure that the Government comes back to the committee with an answer about who the relevant consultees are and what efforts it will make to engage with them.

Bill Aitken: That would be appropriate.

The Deputy Convener: Thank you for that, Mr Aitken. That is helpful.

Are members content with the commencement power?

Members indicated agreement.

The Deputy Convener: We will consider the Government's response, along with a draft report, at our meeting on 14 December, which is in two weeks' time.

Patient Rights (Scotland) Bill: After Stage 1

14:19

The Deputy Convener: Members have before them the Government's response to our stage 1 report on the delegated powers in the bill. Are members content to note the response, as set out in the paper by the clerk?

Members indicated agreement.

The Deputy Convener: Stage 2 consideration of the bill will start on Tuesday 7 December. As usual, we will have an opportunity to reconsider the bill after it has completed stage 2.

As agreed earlier, we will take agenda item 6, on the Local Electoral Administration (Scotland) Bill, in private. As usual, we thank the official report staff and the gathered masses from the public.

14:19

Meeting continued in private until 14:24.

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