



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# SUBORDINATE LEGISLATION COMMITTEE

Tuesday 21 December 2010

Session 3

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**SUBORDINATE LEGISLATION COMMITTEE**

**36<sup>th</sup> 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

**CLERK TO THE COMMITTEE**

Irene Fleming (Clerk)

**LOCATION**

Committee Room 6



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

*Tuesday 21 December 2010*

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

**Instruments subject to**  
**Annulment**

**The Deputy Convener (Bob Doris):** I welcome members to the 36<sup>th</sup> meeting in 2010 of the Subordinate Legislation Committee. We have received apologies from Jamie Stone and Alex Johnstone. I ask members to turn off any mobile phones or BlackBerrys.

**Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 (SSI 2010/432)**

**Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010 (SSI 2010/433)**

**The Deputy Convener:** We may wish to report the instruments on the general reporting ground that there is a drafting error in regulation 9(2)(a)(iii) of SSI 2010/432 and in 9(2)(a)(iv) of SSI 2010/433. Both paragraphs omit the word "planning" from the title of the instruments. The error does not affect the operation of the instruments and the Government has undertaken to amend the reference when the opportunity arises. Do we agree to report in those terms?

*Members indicated agreement.*

**Flavourings in Food (Scotland) Regulations 2010 (SSI 2010/439)**

**Non-Domestic Rates (Levy) (Scotland) (No 2) Regulations 2010 (SSI 2010/440)**

**Non-Domestic Rates (Levy) (Scotland) (No 3) Regulations 2010 (SSI 2010/441)**

**Regulation of Care (Social Service Workers) (Scotland) Amendment Order 2010 (SSI 2010/442)**

**Regulation of Care (Fitness of Employees in Relation to Care Services) (Scotland) (No 2) Amendment Regulations 2010 (SSI 2010/443)**

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

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

**Jurors' Allowances (Scotland) Regulations 2010 (SSI 2010/424)**

14:16

**The Deputy Convener:** Regulations 4(2) and 5(3), and paragraph 3(2) of the schedule make an unusual or unexpected use of the enabling power in section 24(1) of the Juries Act 1949. The regulations reiterate that the Scottish ministers may decide the subsistence, financial loss or motor car travel rates, as the case may be, for juror allowances by determination from time to time, but it is already implicit in section 24(1) that different rates may be directly determined. Do we agree to report accordingly?

*Members indicated agreement.*

**Housing (Scotland) Act 2010 (Commencement No 1) Order 2010 (SSI 2010/444)**

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

## Long Leases (Scotland) Bill: Stage 1

14:17

**The Deputy Convener:** We come to the final agenda item. There are a number of delegated powers in the bill and our advisers have suggested that we raise questions on the powers in sections 21(3) and 75(5). I will run through both sections and ask for the committee's agreement at the end.

First, it is suggested that we ask the Scottish Government to explain more fully the need for the use of the delegated power set out in section 21(3) to achieve the stated aim of ensuring that the Lands Tribunal can deal with cases without unnecessary delays, given the absence of any detailed justification for that in the delegated powers memorandum. The question is why it is not possible to set out in the bill a period within which a person could oppose or make representations in relation to an application, and, if necessary, a power to change the period if circumstances require.

Secondly, we may wish to ask the Scottish Government to explain more fully the need for the use of a delegated power at section 75(5) to achieve the aim referred to in the DPM with respect to the provision, given the absence of any detailed justification for such power within the DPM.

Do we agree to ask those questions on sections 21(3) and 75(5) of the bill?

**Members indicated agreement.**

## Wildlife and Natural Environment (Scotland) Bill: After Stage 1

14:18

**The Deputy Convener:** My apologies; agenda item 4 escaped me. I was hoping for a quick exit, but the clerks have put me right. Members will be glad to hear that there is a fourth item.

Members will have seen the Government's response to our stage 1 report on the bill. The Government has since confirmed that it intends to lodge an amendment today to implement this committee's recommendation on the power in section 14(5). That seems to be a favourable response. We will reconsider the powers in the bill once stage 2 has been completed.

Do members agree to note the Government's response at this stage?

**Members indicated agreement.**

**The Deputy Convener:** I seek final confirmation from the clerk that there is no agenda item 5.

**Irene Fleming (Clerk):** There is not.

**The Deputy Convener:** I am delighted to hear that. Our next meeting will be held on 18 January 2011.

*Meeting closed at 14:19.*

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