



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 8 February 2011

Session 3

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SUBORDINATE LEGISLATION COMMITTEE

4th Meeting 2011, 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

LOCATION

Committee Room 3

Scottish Parliament

Subordinate Legislation Committee

Tuesday 8 February 2011

[The Convener opened the meeting at 14:15]

Decision on Taking Business in Private

The Convener (Jamie Stone): I welcome everyone to the fourth meeting in 2011 of the Subordinate Legislation Committee. We have received apologies from Elaine Smith and Alex Johnstone. I ask people to switch off mobiles and BlackBerrys.

It is proposed that we discuss item 8 in private. Do members agree to do that?

Members *indicated agreement.*

Instrument subject to Approval

Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011 (SSI 2011/45)

14:15

The committee agreed that no points arose on the order.

The Convener: Do members agree to draw to the attention of the lead committee, for its interest, as a matter of policy, the inserted section 88H and the power to amend the maximum notification period, which can be used to extend the period as well as to shorten it? The same provision appeared in the recent Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (SSI 2010/370), when it was notified to the lead committee with respect to whether it wished to explore the need for the power. Do members agree to do that?

Members *indicated agreement.*

Draft Instruments subject to Approval

Healthcare Improvement Scotland (Requirements as to Independent Health Care Services) Regulations 2011 (Draft)

14:16

The Convener: Does the committee agree to report that the regulations contain a drafting error—the incorrect citation of the Nursing and Midwifery Order 2001—in the definition of a “registered nurse, midwife or health visitor” in regulation 1(2)(e)? We should welcome the Government’s undertaking to correct that drafting error immediately by a further order. The committee might also wish to report that there are further drafting errors in the form of the regulations, which could be corrected when the regulations are made. Does the committee agree to do that?

Members *indicated agreement.*

Healthcare Improvement Scotland (Inspections) Regulations 2011 (Draft)

Public Services Reform (Joint Inspections) (Scotland) Regulations 2011 (Draft)

Public Services Reform (Social Services Inspections) (Scotland) Regulations 2011 (Draft)

The Convener: Our legal team raised the same drafting error on these regulations. Do we agree to report that the regulations contain a drafting error—the incorrect citation of the Nursing and Midwifery Order 2001—in the definition of “registered nurse”? To be fair, we should welcome the Scottish Government’s commitment to correct the error immediately, as the definition is important, in that it is used to determine a class of persons who are entitled to conduct examinations and to inspect medical records. Is that agreed?

Members *indicated agreement.*

Antisocial Behaviour Notices (Houses Used for Holiday Purposes) (Scotland) Order 2011 (Draft)

Proceeds of Crime Act 2002 Amendment (Scotland) Order 2011 (Draft)

Legal Profession and Legal Aid (Scotland) Act 2007 (Modification and Consequential Provisions) Order 2011 (Draft)

Scottish Charitable Incorporated Organisations (Removal from Register and Dissolution) Regulations 2011 (Draft)

Waste (Scotland) Regulations 2011 (Draft)

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Cross-Border Mediation (Scotland) Regulations 2011 (Draft)

Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2011 (Draft)

Renewables Obligation (Scotland) Amendment Order 2011 (Draft)

Fundable Bodies (University of the Highlands and Islands) Order 2011 (Draft)

Fundable Bodies (Royal Conservatoire of Scotland) Order 2011 (Draft)

The Convener: I am sure that Rhoda Grant—or, indeed, anyone in Scotland—will welcome the order on the University of the Highlands and Islands as much as I do.

Rhoda Grant (Highlands and Islands) (Lab): Indeed I do.

The Convener: Is the committee content with all those instruments?

Members *indicated agreement.*

The Convener: For the purposes of our annual report, I flag up the fact that, as the legal briefing mentions, non-gender-neutral language is used in the draft Scottish Charitable Incorporated Organisations (Removal from Register and

Dissolution) Regulations 2011. If we put that in our annual report, it will show that we have not missed it. Is that okay?

Helen Eadie (Dunfermline East) (Lab):
Good—well done.

The Convener: That subject is close to your heart.

Instruments subject to Annulment

Act of Sederunt (Fees of Sheriff Officers) 2011 (SSI 2011/47)

14:19

The Convener: Do members agree to draw the instrument to the attention of the lead committee and the Parliament on the basis that it combines the use of negative procedure and no procedure, and that although the Lord President's private office has previously provided an explanation for that approach, we consider such an unusual exercise of the enabling powers inappropriate, as it could give rise to technical difficulties in the event of a motion to annul the instrument being successful?

Members *indicated agreement.*

Storage of Carbon Dioxide (Licensing etc) (Scotland) Regulations 2011 (SSI 2011/24)

Social Care and Social Work Improvement Scotland (Applications) Order 2011 (SSI 2011/29)

Healthcare Improvement Scotland (Applications and Registration) Regulations 2011 (SSI 2011/35)

Legal Aid and Advice and Assistance (Solicitors' Travel Fees) (Scotland) Regulations 2011 (SSI 2011/41)

Teachers' Superannuation (Scotland) Amendment Regulations 2011 (SSI 2011/42)

Scottish Road Works Register (Prescribed Fees) Regulations 2011 (SSI 2011/43)

Scottish Charitable Incorporated Organisations Regulations 2011 (SSI 2011/44)

Brucellosis (Scotland) Amendment Order 2011 (SSI 2011/51)

Teachers' Superannuation (Scotland) Amendment (No 2) Regulations 2011 (SSI 2011/52)

**National Health Service (Superannuation
Scheme and Pension Scheme) (Scotland)
Amendment Regulations 2011
(SSI 2011/53)**

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

**Instruments not laid before
the Parliament**

**Public Services Reform (Scotland) Act
2010 (Commencement No 3) Order 2011
(SSI 2011/30)**

14:20

The Convener: Do we agree to draw the order to the attention of the Parliament on the ground that it contains drafting errors in article 3(3)? Given that the order contains two schedules and that different commencement dates apply to the provisions that are made in each of them, article 3(3), in making provision on the purpose for which provisions are to come into force, should have made appropriate reference to paragraph (2) of article 3 and not simply paragraph (1). We might take the view that that is not likely to affect the validity or effect of the order, as it should be plain by reference to the two schedules to the instrument which provisions are to come into force on which date and for what purpose.

Do members agree to do that?

Members *indicated agreement.*

**Act of Sederunt (Fees of Messengers-at-
Arms) 2011 (SSI 2011/48)**

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

**Instrument not subject to
Parliamentary Procedure**

**Rabies (Importation of Dogs, Cats and
Other Mammals) Amendment (Scotland)
Order 2011
(SSI 2011/46)**

14:21

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

**Private Rented Housing
(Scotland) Bill: After Stage 1**

14:21

The Convener: Members have seen the Government's response to our stage 1 report. Given that the minister will do as we requested and that we will reconsider the powers in the bill after stage 2 has been completed, do we agree to note the response at this stage?

Members indicated agreement.

The Convener: Very good.

14:21

Meeting continued in private until 14:22.

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