



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 1 February 2011

Session 3

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Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by
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SUBORDINATE LEGISLATION COMMITTEE

3rd 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

THE FOLLOWING GAVE EVIDENCE:

Ruth Dickinson (Scottish Government Directorate for Chief Nursing Officer, Patients, Public and Health Professions)

Margaret Duncan (Scottish Government Directorate for Health Workforce)

Fiona Montgomery (Scottish Government Directorate for Chief Nursing Officer, Patients, Public and Health Professions)

Francesca Rennie (Scottish Government Directorate for Legal Services)

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

Committee Room 6

Scottish Parliament

Subordinate Legislation Committee

Tuesday 1 February 2011

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

Patient Rights (Scotland) Bill: After Stage 2

The Convener (Jamie Stone): Welcome to the Subordinate Legislation Committee's third meeting of 2011. We have received apologies from Rhoda Grant. I ask everyone to turn off mobile phones, BlackBerrys and that sort of thing. I heard something ringing earlier, but it was outside the room, I think.

The first agenda item is our old friend the Patient Rights (Scotland) Bill. I extend a warm welcome to the Scottish Government officials who have joined us. They are Ruth Dickinson, bill team officer; Fiona Montgomery, head of patient support and participation; Francesca Rennie, from the legal directorate; and Margaret Duncan, waiting times policy lead. I remind members that stage 3 of the bill will take place on 24 February. I understand that Fiona Montgomery would like to make a short opening statement.

Fiona Montgomery (Scottish Government Directorate for Chief Nursing Officer, Patients, Public and Health Professions): We are here to discuss the bill as amended at stage 2, but I want to give the committee an update on one particular issue. At stage 2, the Cabinet Secretary for Health and Wellbeing advised the Health and Sport Committee that there were difficulties with the amendments on a patient rights charter and with the proposals that now appear as section Z1 of the bill. The section introduces a duty on ministers to make an order that puts into statute a patient rights charter, which is to set out all existing statutory rights and responsibilities that are conferred on patients.

The Scottish Government believes that there are several difficulties with section Z1 as drafted. For example, it appears that such an order, which would be subject to the negative procedure, could require to be updated regularly and brought before the Parliament every time it was altered. In addition, if the charter is to cover reserved as well as devolved legislation, there might be legislative competence issues. As the cabinet secretary advised the Health and Sport Committee, the Government has been considering how section Z1 can be amended at stage 3 in a way that will have

the desired effect without the difficulties that are present in the current draft.

The Convener: Without further ado, I move to Elaine Smith to ask questions, given what we have heard.

Elaine Smith (Coatbridge and Chryston) (Lab): The committee understands that the intention behind the new section is to set out patient rights and responsibilities in one document. Do you agree that that is the intention?

Fiona Montgomery: Yes.

Elaine Smith: What is the legal effect of incorporating a right into the charter, in terms of the status of the charter and any existing provisions that are covered by the charter?

Francesca Rennie (Scottish Government Directorate for Legal Services): It is probably for me to answer that. Just to explain, I am here not to provide legal advice for the committee, but to set out the Government's position in relation to the stage 2 amendments in question. As the committee is aware, they were non-Government amendments and the Government spoke against them, as we had concerns about the provisions.

On the status of section Z1, it creates a duty on the Scottish ministers to set out in an order the rights and responsibilities of patients. The order is to

"include all existing statutory rights and responsibilities conferred upon patients".

There are issues around the definition of statutory rights and responsibilities and what that would cover. That would need to be looked into. Some existing statutory rights are set out in reserved legislation, which is another of our concerns.

I do not know whether that answers your question—it might not.

Elaine Smith: Although the Government was not supportive of the amendments, it must now take a view on the practical application of the provisions and on the legal implications. We are trying to tease out a wee bit more of that from you. We are grateful that you are here and trying to assist us with the matter. Perhaps some of my colleagues want to come in on that point.

Ian McKee (Lothians) (SNP): In the bill as amended at stage 2, under the heading "Patient rights", section 1(2)(e), on page 2, states that health care is to

"have regard to and respect for the rights and responsibilities conferred on patients".

What do you think about having that under the heading "Patient rights"? It seems that people will have a right to have responsibilities, if you see

what I mean. Do you not think that those sit rather uneasily together?

Francesca Rennie: In general, we have concerns about the amendments regarding the patient rights charter. The Government will lodge amendments for stage 3. We will work towards that and we are considering how the provisions can be amended at stage 3. I agree that the Government is concerned about section 1(2)(e).

Helen Eadie (Dunfermline East) (Lab): It is several weeks since we considered the issue in the Health and Sport Committee, and I am concerned that you are still reflecting on it. I hoped that you would have got nearer to clarity in the areas of doubt. I press you to be a little more forthcoming on that.

Francesca Rennie: As the cabinet secretary indicated at stage 2, we are working towards lodging amendments. They are not finalised but, broadly speaking, they would place a duty on the Scottish ministers to publish an information document containing the rights and responsibilities of patients, rather than to set those out in a statutory instrument, which the Government considers would have limitations and would negate what is understood to be the intention behind section Z1.

Helen Eadie: When the issue was debated in the Health and Sport Committee, the thrust of the discussion and debate was that the committee wanted to have legislative teeth behind the charter and thought that anything less would be a step backwards. That was my understanding of the committee's discussions. If we simply have an information document, we have no better than the document that was referred to in various proceedings by Ross Finnie. If we simply have guidance, that does not have legislative teeth, which is what the committee and the cabinet secretary were keen to have. I am concerned about the direction of travel that the Government seems to be taking.

Fiona Montgomery: One difficulty is about legislating for responsibilities. It is not the Government's policy to legislate for individual patient responsibilities, because of the difficulties about imposing sanctions on patients. That is one reason why we did not favour a statute.

Helen Eadie: The bill is actually called the Patient Rights (Scotland) Bill. I know that, in the parlance that we all engage in, we can embrace the responsibilities quickly. Every one of us would accept that we have responsibilities in life, but the whole purpose and *raison d'être* of the bill is to give patients rights. If we are back-peddalling on that, that makes a nonsense of what we have been trying to establish.

Ruth Dickinson (Scottish Government Directorate for Chief Nursing Officer, Patients, Public and Health Professions): We do not propose to change the rights that are set out in the bill. The Government has been considering the practicality of the charter as it is currently set out in section Z1. One concern that the cabinet secretary raised was that, potentially, the charter could end up being very long and unwieldy and perhaps not a particularly practical document for patients to use to find out about their rights. That is another consideration that we are looking into.

Helen Eadie: If my memory is right, the Law Society of Scotland advised the Health and Sport Committee that, at the very least, patients have 17 statutory rights. That should be set out clearly, which is the purpose of section Z1. They should be in one document so that the public can see what their statutory rights are.

Francesca Rennie: It is not for us to know exactly what the intention behind the provisions is. Our understanding is that section Z1 is intended to place the rights in one document or one place. The Government's opinion is that the way in which the provisions are drafted, and the lack of clarity around what they mean, means that the intended outcome will not be achieved.

We have not done our main thinking about how we would implement the provisions in section Z1, because we will be lodging amendments. However, if we were to implement a statutory instrument that would have to include all existing statutory rights, for example, we wonder how that would benefit patients. An example of a statutory right might be a patient's right to access their medical records in accordance with the Data Protection Act 1998 or the Access to Health Records Act 1990. That legislation is reserved, so we would be limited in what we could put into any statutory instrument. We might be able to say that patients have a right to access their medical records in accordance with the Data Protection Act 1998, full stop, but that is where we would have to stop. If we were to try to précis that right, we would be concerned about the problems that we could run into around the legislative competence of Scottish ministers.

Helen Eadie: Thank you.

The Convener: I am not clear about the legal effect of a charter as against the existing legal basis for patient rights.

Francesca Rennie: The amendments that introduced section Z1 did not include any amendment to section 18, so it appears to the Government that there is no intention that section Z1 would mean that the patient rights charter would be legally enforceable. It seems to the Government that the original policy intention and

the effect of the rights would be maintained. That is the Government's position.

The Convener: At present.

Francesca Rennie: Yes.

The Convener: Stage 3 is still before us. It will be interesting to see what happens in the meantime.

Elaine Smith: How do you envisage the new power being exercised in practice? In your view, is subordinate legislation an appropriate means of achieving the intention?

Francesca Rennie: The Government's position is that subordinate legislation is inappropriate.

Elaine Smith: Will you explain that further?

Francesca Rennie: I have already explained that the fact that the patient rights charter would be set out in subordinate legislation would affect how usable patients would find the charter, because of how we would be able to describe what their rights are, for example.

Elaine Smith: Right—so you are quite clear about that point.

Helen Eadie mentioned the stage 2 debate on the amendment. During that debate, the member who lodged the amendment indicated that his intention in proposing the provisions was to address the concern that the primacy of the bill might affect existing rights that are already set out in legislation, statute or common law, or through the common practice of the national health service. Is that concern valid?

Francesca Rennie: Could you repeat that please?

Elaine Smith: The primacy of the bill might affect existing rights as set out in legislation, statute or by common law, or through common practice in the national health service. Is that concern valid?

Francesca Rennie: Is the concern that the bill will affect existing statute?

Elaine Smith: Yes.

Francesca Rennie: Section 18 provides that nothing in the legislation will affect existing statute.

Elaine Smith: That is fine. There would be no advantage in considering subordinate legislation to address that concern, because you do not see that as a concern because it would be addressed by section 18. Is that what you said?

Fiona Montgomery: Yes.

Ian McKee: I draw your attention to section Z1(2), which says that as well as restating existing rights, the charter may confer new rights and

responsibilities on patients. That is a very broad power. What are the limits on the new legal rights that can be created using that power?

14:30

Francesca Rennie: There is a limitation in section Z1(3), which states:

"The Charter must not include rights and responsibilities in relation to specific treatments or medicines".

The power would also be limited by the restraints on the legislative competence of Scottish ministers.

Ian McKee: Is that section appropriate within the context of the rest of section Z1, which introduces new rights and responsibilities?

Francesca Rennie: As has been said, the Government is not happy with section Z1 and is therefore working towards lodging amendments at stage 3.

Ian McKee: How do you think the provisions would be used in the context of the existing national health service regime?

Francesca Rennie: If you are asking whether the Government will be looking to confer new rights and responsibilities when implementing the provision if it survives stage 3, I understand that that is not the current intention. My policy colleagues might want to comment.

Ian McKee: You talk about the current intention, but we are talking about the law. If, under the provisions, patients were given new rights and responsibilities that were contradictory to the existing law, which would have primacy? Would it be the new rights and responsibilities that were introduced under the charter, or would it be the existing law, which would have been altered by the new rights and responsibilities?

Francesca Rennie: The Government's position is that there would be no incentive to propose a right or responsibility that would contradict existing law. Primacy would be considered when we were considering conferring the new rights.

Ian McKee: I am sure that the Government has no desire to do that, but as a result of the way in which section Z1 is written, new rights and responsibilities could be introduced and, theoretically, they could conflict with rights and responsibilities that are enshrined in existing law.

Francesca Rennie: Yes, but it would be within the confines of legislative competence.

Ian McKee: Which would take primacy?

Francesca Rennie: If I have understood your question correctly, it would be the new rights and responsibilities.

Ian McKee: Do you have a view on how any rights conferred by the charter would be enforced against third parties in practice?

Francesca Rennie: I might veer into giving the committee legal advice if I answered that question.

Ian McKee: So you do not have an official view.

Francesca Rennie: Can you repeat the question, please?

Ian McKee: The charter confers certain rights. Could they be enforced against third parties? Are they enforceable?

Francesca Rennie: It is our understanding that, because section 18 has not been amended, section Z1 does not intend to give legal effect to the charter.

Ian McKee: Do you mean even if there are new rights?

Francesca Rennie: Yes.

Bob Doris (Glasgow) (SNP): For my comprehension of all this, is it the Government's position that any new rights that are to be extended to patients should be included in the bill because that would maximise scrutiny, and that it is not appropriate for them to be in subordinate legislation?

Francesca Rennie: The Government's position is that, as drafted, section Z1 does not achieve what is understood to be the aim of section Z1. I do not know that I can say much more.

Ruth Dickinson: It might help if I said a bit more about the amendments that we are considering, just to give the committee a flavour of the Government's position.

We might lodge amendments to insert a provision that an information document would have to be published that would list existing rights and responsibilities. We are considering that any amendments would mean that the charter could not create new rights and responsibilities, nor could it alter existing ones. The Government's position is that there are pitfalls in the approach that is taken by section Z1 at the moment.

Bob Doris: So the Government would seek to amend section Z1 in such a way that there could be a charter, but it could not be used to extend patient rights. Is that correct?

Ruth Dickinson: Yes.

Bob Doris: That goes back to my initial question. There are patient rights in the bill. The waiting time guarantee is a patient right and it is on the face of the bill. I ask again: is it the Government's position that any extension of patient rights—such as the waiting time guarantee—is best placed in the bill rather than in

a charter and that, rather than amending the charter to make it work, you are amending the charter to ensure that it does not mess things up?

Fiona Montgomery: The Government has put forward the rights that it thinks are correct at this point, but we do not know what any future Government may think. Putting them on the face of the bill rather than lower down the chain will ensure that they receive the scrutiny that they require.

Bob Doris: I apologise—that is the clarification that I was looking for. The Government favours putting any additional patient rights on the face of the bill rather than in subordinate legislation. That is very helpful, thank you.

Ian McKee: Does the Government intend any new patient right that is in the bill, such as the waiting time guarantee, to be in the charter along with all the other existing rights?

Ruth Dickinson: Yes.

Ian McKee: Thank you.

The Convener: Thank you. It is Helen Eadie's turn.

Helen Eadie: I am still not content with the answers that have been given, so I will revisit some of the questions. Correct me if I am wrong, but I understand that, in committee, the arguments that members have had at the various stages of the bill have focused on the fact that there will not be a charter—I think that that was Bob Doris's point. A moment ago, you said that there will be a charter, but my understanding is that there will not be a charter unless section Z1 stands. Is that the case?

Ruth Dickinson: At stage 2, the cabinet secretary committed to the principle of a charter.

Helen Eadie: That is what I thought.

Ruth Dickinson: That is correct. However, she did not necessarily commit to how it will be drafted, for all the reasons that we have been through. We are working to amend the bill so that it may include a charter, which will be set out slightly differently.

Helen Eadie: On the one hand, the phrase "information document" has been used repeatedly today; on the other hand, you are saying that there will be a charter. Which is it to be?

Ruth Dickinson: It will be both. It will be an information document, but it will be called a patients charter, a charter of patients' rights or something along those lines.

Helen Eadie: But it will be only an information document; it will not contain any legally enforceable rights.

Ruth Dickinson: Yes. The document will be an information document—that is correct.

Helen Eadie: So it will not contain legally enforceable rights. I am happy that that has been clarified. Does anyone want to add anything to that?

Fiona Montgomery: It will refer to a range of rights, some of which will be legally enforceable and some of which will not. It will refer to the whole charter.

Francesca Rennie: The charter itself will be an information document.

The Convener: I can see the tidiness of that.

Bob Doris: I apologise to Helen Eadie, but maybe I have not understood. I thought that the essence of the Government's issue was not the idea of a charter that would draw existing rights together irrespective of what it was called; I thought that the Government's issue was that, through the use of subordinate legislation, new rights could be added to the charter that would be legally enforceable, and that is why the Government wants to amend the charter at stage 3. Is that correct?

Ruth Dickinson: Yes. My colleague has given some of the reasons why we do not think that the subordinate legislation route is appropriate. I do not know whether Francesca Rennie wants to say any more about that.

Francesca Rennie: Yes, that is right. We want to amend the provisions because they lack clarity, for starters. Also, we do not think that it is appropriate to have a charter containing all existing statutory rights in subordinate legislation.

The Convener: The discussion has been helpful to the committee and everything that has been said is now a matter of record in the *Official Report*. These matters will be examined in much greater detail at stage 3, but that has been a helpful discussion. Let us now return to where we were.

Helen Eadie: That was helpful. We are told that the advantage of subordinate legislation is the fact that it can be amended quickly. You must reflect on that. It is why we, as elected members, choose to use affirmative processes that ensure that the full Parliament scrutinises a statutory instrument or negative processes whereby statutory instruments tend to be nodded through much more quickly.

I can imagine legislation being passed at Westminster that requires the legislation that we enact in Scotland to be updated and amended. I would have thought that the subordinate legislation route would be helpful for a charter of this nature, because the charter could be contained in a single document, and it could be

updated to reflect any added legislative requirements from Westminster. I will let that stick to the wall, unless the officials want to comment.

Fiona Montgomery: As Francesca Rennie said earlier, that would mean that we could refer only to the act, whereas in an information-type charter we could explain it.

Helen Eadie: That takes us neatly to the next issue. You have already covered legislative competence, to an extent, but perhaps you want to expand on what you have said, given the debate that we are having. Do you want to add anything about legislative competence and the issues that might arise from the things that we are looking at today?

Francesca Rennie: First, we believe that the provisions in section Z1 are within the competence of the Scottish Parliament, therefore the bill would not be outwith competence if they survived stage 3. However, in drafting any order in accordance with those provisions, we believe that a fine line would need to be observed to ensure that we did not encroach on reserved matters in terms of the legislative competence of the Scottish ministers.

Helen Eadie: Right. The supplementary delegated powers memorandum talks about flexibility, and the length and usability of the charter. You are suggesting that, as the bill is currently drafted, the charter should be subject to negative procedure. Where specifically do your concerns lie regarding the flexibility of that process?

Francesca Rennie: Our concern lies, for instance, in the fact that we may need to update any such charter regularly. Negative procedure would be appropriate, as it would allow us to do that.

Helen Eadie: You would prefer negative procedure to be used to allow that to happen.

Francesca Rennie: Yes, but it is open to others to have a different view on the appropriate parliamentary procedure.

Helen Eadie: You think that that would be the way to address concerns, so that there could be an updated charter.

Francesca Rennie: No. The position of the Government is that we have fundamental concerns about section Z1 and that, if it is to survive stage 3, any order made under it should be subject to negative procedure. Our fundamental position is that we want to amend section Z1.

Helen Eadie: That would enable a quick, speedy response to anything that was happening in either European or Westminster legislation.

Francesca Rennie: Yes.

The Convener: We are grateful to Ruth Dickinson for giving us a taste of an amendment. If you have nothing else to add, we will move on.

Bob Doris: Let us move on to another area of the bill—the power to suspend the treatment time guarantee, under section 9(3). I believe that we raised the matter at stage 1, due to concerns about it, and that correspondence on the issue is on-going.

The bill will allow waiting time guarantees to be suspended by ministerial direction under “exceptional circumstances”, but there is no definition of what would constitute “exceptional circumstances”. In practice, little use may be made of the power. It may be used, for example, when there is an infection control incident and parts of a hospital must be isolated, meaning that waiting time guarantees cannot be met. We would understand that. However, the bill does not determine how long the suspension would last or for what reasons it could be introduced. Therefore, although we accept that, by and large, Governments use such extensive powers sensibly, it is our job as the Subordinate Legislation Committee to ensure that the provision is backed up by the appropriate checks and balances.

Has any thought been given to amending section 9(3) so that the suspension could be activated immediately by ministerial direction but, within a set number of days, the matter would have to return to the Parliament in subordinate legislation to be backed up by the appropriate scrutiny and a decision of the Parliament?

14:45

Francesca Rennie: My colleague Margaret Duncan might have something to say about the power of suspension.

Margaret Duncan (Scottish Government Directorate for Health Workforce): We do not know what the suspension would be for or what the consequences would be for waiting times. There could be an infection control incident that could be sorted within a week, with not a lot of patients infected, but we could have pandemic flu with thousands of people across Scotland using beds. We would have a major issue getting all the patients whose operations were cancelled back into the system to deliver the waiting times. There are different scenarios, which is why we cannot be descriptive.

A few years back, when the plastics factory in Glasgow blew up, as soon as the health board knew that there were casualties, it phoned us and said that it might need to suspend its operations, with a suspension of the waiting time target. However, it did not know the volume at that stage. We were happy for it to go ahead with that, and

said that, once we had an idea of the impact, we would be happy to grant a suspension. The next morning, the board told us that, unfortunately, there had mainly been fatalities and very few patients were in hospital for care, so the incident had had no effect. However, we were prepared to act. The board had to cancel operations for the next day just in case and some of those people would have been at the maximum of their wait.

The measure is to allow us to deal with such incidents. It could be a major road accident or train crash, but we cannot predict what it would be. We want to be able to act quickly and to tell boards that they can have a suspension. We can then quickly work up the detail on what the volume is likely to be. We also need a recovery plan to get all the people back in. We do not want to suspend the guarantee and then find that, when we remove the suspension, people whose operations have been suspended wait forever until they are treated because they are back into the normal waiting time route for patients.

Bob Doris: That is a good example. I come from Maryhill, so I know that the plastics factory explosion had quite an impact on the community. I understand the potential knock-on consequences of such a serious and unforeseen incident, as does the committee. The committee cannot second guess how any future Government might use such wide-ranging powers. That is what we had concerns about. We suggested that if, within a set period—whether 30, 60 or 90 days—the suspension was not lifted and the waiting time guarantee was not recommenced, the Government would have to come to the Parliament and have its decision scrutinised. I hope that that would be flexible enough to deal with national emergencies such as those that we have spoken about.

Margaret Duncan: I am happy to give that further consideration and to write to the committee, if that would be appropriate. Obviously, we need to give more thought to the policy.

The Convener: That brings our questions to an end. I thank the witnesses for joining us. The session has been detailed, highly informative and thought provoking, perhaps for both sides.

Decision on Taking Business in Private

14:48

The Convener: It is proposed that we take agenda items 8 and 9 in private. Is that agreed?

Members *indicated agreement.*

Instruments subject to Approval

M8 (Baillieston to Newhouse) Special Road Scheme 2011 (SSI 2011/10)

A8 Trunk Road (Baillieston to Newhouse) Order 2011 (SSI 2011/11)

A725 Trunk Road (Baillieston to Newhouse) Order 2011 (SSI 2011/12)

Local Government Finance (Scotland) Order 2011

14:49

The committee agreed that no points arose on the instruments.

Draft Instruments subject to Approval

Tenancy Deposit Schemes (Scotland) Regulations 2011 (Draft)

Energy Act 2008 (Storage of Carbon Dioxide) (Scotland) Regulations 2011 (Draft)

Budget (Scotland) Act 2010 Amendment Order 2011 (Draft)

14:50

The committee agreed that no points arose on the instruments.

Instruments subject to Annulment

Waverley Railway (Scotland) Act 2006 (Extension of Time for Land Acquisitions) Order 2011 (SSI 2011/14)

Social Care and Social Work Improvement Scotland (Requirements for Reports) Regulations 2011 (SSI 2011/26)

Social Care and Social Work Improvement Scotland (Fees) Order 2011 (SSI 2011/27)

Social Care and Social Work Improvement Scotland (Registration) Regulations 2011 (SSI 2011/28)

National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 (SSI 2011/32)

Healthcare Improvement Scotland (Fees) Regulations 2011 (SSI 2011/33)

Healthcare Improvement Scotland (Requirements for Reports) Regulations 2011 (SSI 2011/34)

Control of Dogs (Scotland) Act 2010 (Prescribed Form of Notice) Order 2011 (SSI 2011/39)

14:50

The committee agreed that no points arose on the instruments.

Instruments not laid before the Parliament

Charities and Trustees Investment (Scotland) Act 2005 (Commencement No 5) Order 2011 (SSI 2011/20)

Act of Adjournal (Criminal Procedure Rules Amendment) (Community Payback Orders) 2011 (SSI 2011/21)

Bankruptcy and Diligence etc (Scotland) Act 2007 (Commencement No 7 and Transitionals) Order 2011 (SSI 2011/31)

NHS Quality Improvement Scotland (Dissolution) Order 2011 (SSI 2011/36)

Forth Crossing Act 2011 (Commencement) Order 2011 (SSI 2011/38)

14:50

The committee agreed that no points arose on the instruments.

Helen Eadie: I have a concern about SSI 2011/20. Our briefing states:

“the Committee may consider the order before it enters into force. However, the provisions brought into force on 21 January only enable further legislation to be made.”

So, in effect, we have not been given the appropriate time. I recognise that the order will go through, but I just want to mention my concern that we were not given it timeously.

The Convener: That is now on the record.

Reservoirs (Scotland) Bill: Stage 1

14:51

The Convener: We have seen the Government's response to our stage 1 report on the Reservoirs (Scotland) Bill. The suggestion is that it looks pretty good and is a favourable response. We will reconsider the powers in the bill after stage 2.

Do we agree to note the response at this stage?

Members *indicated agreement.*

The Convener: As previously agreed, we shall now move into private session.

14:52

Meeting continued in private until 15:10.

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