



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 21 June 2011

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SUBORDINATE LEGISLATION COMMITTEE

2nd Meeting 2011, Session 4

CONVENER

*Nigel Don (Angus North and Mearns) (SNP)

DEPUTY CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

COMMITTEE MEMBERS

*Chic Brodie (South Scotland) (SNP)

*Kezia Dugdale (Lothian) (Lab)

*Mike MacKenzie (Highlands and Islands) (SNP)

*John Scott (Ayr) (Con)

*Drew Smith (Glasgow) (Lab)

*attended

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

Committee Room 4

Scottish Parliament

Subordinate Legislation Committee

Tuesday 21 June 2011

[The Convener *opened the meeting at 14:30*]

Decision on Taking Business in Private

The Convener (Nigel Don): Good afternoon, and welcome to the second meeting in session 4 of the Subordinate Legislation Committee. Everyone is here, so there are no apologies. As usual, I ask members to switch off their mobile phones. Do not just set them to silent as, if they go off, they will interfere with the broadcasting system.

Under agenda item 1 it is proposed that the committee discuss in private item 5, which pertains to aspects of the committee's working practices. Do members agree to consider item 5 in private?

Members *indicated agreement.*

Interests

14:30

The Convener: Agenda item 2 is a declaration of interests. This gives me an opportunity to welcome John Scott to the committee. I invite you to make any declaration that you want to, sir.

John Scott (Ayr) (Con): Thank you, convener. I declare an interest as a farmer, as a landowner and as a property owner. I also have an interest in farmers markets. Those interests are still being worked out with the standards clerks, but those are the fundamental elements.

The Convener: Thank you for that.

Instruments subject to Negative Procedure

Knife Dealer's Licence (Historical Re-enactment Events) (Scotland) Order 2011 (SSI 2011/263)

14:31

The Convener: As members will note from the legal brief, it has been drawn to the committee's attention that there has been a failure to follow proper drafting practice, in that article 2(2) of the order duplicates a more general provision in article 2(3), contrary to the presumption that legislation is not made where it is unnecessary and has no effect.

Given that failure to follow proper drafting practice, do members agree to draw the order to the attention of the Parliament on the general reporting ground and, in so doing, to observe that it would be desirable for the Scottish ministers to remedy the failure by revoking article 2(2) at the first available opportunity?

Members indicated agreement.

Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2011 (SSI 2011/264)

The Convener: As members will note from the legal brief, our legal advisers consider that the reference in the preamble to the regulations to the exercise of powers under section 18(4) of the Local Government and Housing Act 1989 is not appropriate. However, members should also note that the legal advisers consider that that does not affect the operation of the regulations as, further to discussion with the Scottish Government, it is accepted that they are made by virtue of the powers in sections 11 and 16(2) of the Local Governance (Scotland) Act 2004.

With that in mind, do members agree to draw the regulations to the Parliament's attention on the general reporting ground, while recognising that the reference to the exercise of powers under section 18(4) of the 1989 act has not affected the operation of the regulations?

Members indicated agreement.

Instrument not laid before the Parliament

Act of Adjournal (Criminal Procedure Rules Amendment No 4) (Disclosure) 2011 (SSI 2011/242)

14:33

The Convener: As members will note from the legal brief, our legal advisers have highlighted the following drafting errors in the act of adjournal.

First, certain forms indicate that applications for orders can be made to courts that do not have jurisdiction in relation to such proceedings.

Secondly, the rules and the corresponding forms do not enable certain applications to be made, provision for which is made in part 6 of the Criminal Justice and Licensing (Scotland) Act 2010.

Thirdly, a form does not correctly reflect the nature of an application to the court.

Given those drafting errors, do members agree to draw the act of adjournal to the attention of the Parliament under the general reporting ground? Can we also agree to welcome the commitment by the Lord President's private office to address the errors when the next available opportunity arises?

Members indicated agreement.

14:34

Meeting continued in private until 14:44.

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