

# **EDUCATION, CULTURE AND SPORT COMMITTEE**

Tuesday 25 February 2003  
(*Afternoon*)

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

Applications for reproduction should be made in writing to the Licensing Division,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The  
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now  
trading as The Stationery Office Ltd, which is responsible for printing and publishing  
Scottish Parliamentary Corporate Body publications.

---

# CONTENTS

Tuesday 25 February 2003

	Col.
<b>ITEM IN PRIVATE</b> .....	4099
<b>SUBORDINATE LEGISLATION</b> .....	4099
Registration of Foreign Adoptions (Scotland) Regulations 2003 (SSI 2003/67) .....	4099

---

## EDUCATION, CULTURE AND SPORT COMMITTEE

### 6<sup>th</sup> Meeting 2003, Session 1

#### CONVENER

\*Karen Gillon (Clydesdale) (Lab)

#### DEPUTY CONVENER

Cathy Peattie (Falkirk East) (Lab)

#### COMMITTEE MEMBERS

\*Jackie Baillie (Dumbarton) (Lab)  
\*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)  
\*Irene McGugan (North-East Scotland) (SNP)  
\*Mr Brian Monteith (Mid Scotland and Fife) (Con)  
\*Michael Russell (South of Scotland) (SNP)

#### COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)  
Marilyn Livingstone (Kirkcaldy) (Lab)  
Fiona McLeod (West of Scotland) (SNP)

\*attended

#### WITNESSES

Andrew Crawley (Scottish Executive Legal and Parliamentary Services Department)  
Paul Parr (General Register Office for Scotland)

#### CLERK TO THE COMMITTEE

Martin Verity

#### SENIOR ASSISTANT CLERK

Susan Duffy

#### ASSISTANT CLERK

Ian Cowan

#### LOCATION

Committee Room 3



# Scottish Parliament

## Education, Culture and Sport Committee

*Tuesday 25 February 2003*

*(Afternoon)*

[THE CONVENER *opened the meeting at 14:07*]

**The Convener (Karen Gillon):** I call the Education, Culture and Sport Committee meeting to order and remind members that we are now in public session. I ask everyone to ensure that mobile phones and pagers are switched off.

### Item in Private

**The Convener:** Item 1 is to consider whether to take item 3 in private. Item 3 is consideration of a draft report on our inquiry into the purposes of Scottish education. Are members agreed?

**Members** *indicated agreement.*

## Subordinate Legislation

### Registration of Foreign Adoptions (Scotland) Regulations 2003 (SSI 2003/67)

**The Convener:** Item 2 on the agenda is subordinate legislation. The committee is asked to consider, under the negative procedure, Scottish statutory instrument 2003/67, the Registration of Foreign Adoptions (Scotland) Regulations 2003. The purpose of the regulations is to specify the requirements that must be met before a foreign adoption can be registered in the adopted children register that is maintained by the Registrar General for Scotland under the Adoption (Scotland) Act 1978. The regulations are made in line with the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003, which were laid on 14 January 2003 and will take effect from 1 June 2003.

Four Executive officials are in attendance from the registrar general's department and the legal and parliamentary services department. The SSI is to be considered under the negative procedure, which means that, unless there are strong objections, the committee will agree that it does not wish to make any recommendation in its report to Parliament. Members have in front of them the report from the Subordinate Legislation Committee, which met this morning.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** The Subordinate Legislation Committee asked the Executive two questions on the regulations. The first was whether the best possible wording was used at the beginning of regulation 4(4). That was a minor point. The Executive accepted that the phraseology was not as elegant as it might have been, but stated that the meaning of the regulation was clear. The Subordinate Legislation Committee accepted that.

The other point that the Subordinate Legislation Committee raised concerned regulation 6(2), which refers to an "adoptive father and mother" rather than to adoptive parents, which would include same-sex adoptive couples. The Subordinate Legislation Committee wondered whether that wording would allow same-sex couples to adopt here, as is the case in some convention countries. The answer that we received from the Executive was informative and the Subordinate Legislation Committee decided to accept the wording of the instrument as it stands.

**The Convener:** For the sake of the record, can you explain the meaning of regulation 6(2)?

**Paul Parr (General Register Office for Scotland):** I am the deputy registrar general and responded to the Subordinate Legislation Committee on behalf of the Executive.

We recognise the point that the Subordinate Legislation Committee made—that in some convention countries and other foreign countries from which we recognise overseas adoptions same-sex couples may be permitted to adopt. However, when we framed the regulations under the Adoption (Scotland) Act 1978 and the Adoption (Intercountry Aspects) Act 1999 we were doing so as part of a larger package of statutory instruments in the Scottish Parliament and at Westminster, to allow ratification by the United Kingdom of the 1993 Hague convention. Because we drew up the regulations within the framework of domestic legislation, we had to prescribe the form of the register. All that the regulations do is prescribe who may apply to have an adoption registered and the form of the register page. We are confined by the framework of domestic legislation, which would not allow a same-sex adoption to be registered.

**The Convener:** That is helpful for clarification.

**Michael Russell (South of Scotland) (SNP):** I would like to raise two small issues from the documentation, just for information. Paragraph 5 of the Executive note states:

"This instrument is made in line with the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003".

What is the meaning of the phrase "in line with"?

Does the instrument conform to the Hague convention in all respects? Are there different forms in different convention countries?

**Paul Parr:** I ask one of our legal advisers to comment on that.

**Andrew Crawley (Scottish Executive Legal and Parliamentary Services Department):** I am Andy Crawley from the solicitors division. I understand that the regulations are framed as part of the UK ratification process for the Hague convention. The Executive does not feel that it is in a position to take a view on the law in all the many other convention countries. We understand that same-sex adoption is permitted in certain convention countries. However, it does not follow that because same-sex adoption is permitted in those countries, a same-sex adoption would be eligible to be registered here as a convention adoption. That may or may not be the case. In our view, it is too early to say.

We expect that not only these but all other relevant sets of regulations in Scotland and the United Kingdom—perhaps also in Northern Ireland, but separately—will be amended as part of a review of the operation of the treaty that may take place two years from now. The issues that have been raised are not legal issues. We have advised that, as part of the ratification process, it is sensible to make these regulations now and to review them in the light of how the convention operates and broader adoption issues that are under review, as members appreciate.

**Michael Russell:** You have not dealt with the precise question that I asked. Paragraph 7 of the Executive note states:

“This instrument concerns only the technical issue of the format of registration and no specific consultation on this aspect was considered necessary.”

The instrument relates only to the technical format of registration. The Executive note states that it

“is made in line with the Intercountry Adoption (Hague Convention) (Scotland) Regulations 2003”.

Is the technical format that is used here common to all Hague convention countries, or are there differences between the format that is used in this country and that which is used in other countries? That is important for parents who are travelling from one country to another and who are bringing in children from another country.

**Paul Parr:** I appreciate the point that the member makes. In the form of register page that we provided in the schedule to the regulations our aim was to ensure as much consistency as possible within the United Kingdom. We also sought consistency with the existing adopted children register. The form in the regulations and the current adopted children register are identical.

We hope that we will obtain from the adopters and the convention country sufficient information to complete the registration page.

**Michael Russell:** I am concerned that the information in the adopted children register is less comprehensive than I would expect. Part 11 of the form refers to “Details of Order”. Is the information on the form limited because the order will contain substantive information?

**Paul Parr:** That is correct.

**The Convener:** Are members happy to allow the order to proceed?

**Members indicated agreement.**

14:15

*Meeting continued in private until 14:37.*

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Wednesday 5 March 2003**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

#### PRICES AND SUBSCRIPTION RATES

##### DAILY EDITIONS

*Single copies: £5*

*Meetings of the Parliament annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

*Single copies: £3.75*

*Special issue price: £5*

*Annual subscriptions: £150.00*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

**The Stationery Office Bookshop**  
**71 Lothian Road**  
**Edinburgh EH3 9AZ**  
**0131 228 4181 Fax 0131 622 7017**

**The Stationery Office Bookshops at:**  
123 Kingsway, London WC2B 6PQ  
Tel 020 7242 6393 Fax 020 7242 6394  
68-69 Bull Street, Birmingham B4 6AD  
Tel 0121 236 9696 Fax 0121 236 9699  
33 Wine Street, Bristol BS1 2BQ  
Tel 01179 264306 Fax 01179 294515  
9-21 Princess Street, Manchester M60 8AS  
Tel 0161 834 7201 Fax 0161 833 0634  
16 Arthur Street, Belfast BT1 4GD  
Tel 028 9023 8451 Fax 028 9023 5401  
The Stationery Office Oriel Bookshop,  
18-19 High Street, Cardiff CF12BZ  
Tel 029 2039 5548 Fax 029 2038 4347

**The Stationery Office Scottish Parliament Documentation**  
**Helpline may be able to assist with additional information**  
**on publications of or about the Scottish Parliament,**  
**their availability and cost:**

**Telephone orders and inquiries**  
**0870 606 5566**

**Fax orders**  
**0870 606 5588**

**The Scottish Parliament Shop**  
**George IV Bridge**  
**EH99 1SP**  
**Telephone orders 0131 348 5412**

[sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers