

ENTERPRISE AND CULTURE COMMITTEE

Tuesday 21 September 2004

Session 2

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ENTERPRISE AND CULTURE COMMITTEE

20th Meeting 2004, Session 2

CONVENER

*Alex Neil (Central Scotland) (SNP)

DEPUTY CONVENER

*Mike Watson (Glasgow Cathcart) (Lab)

COMMITTEE MEMBERS

*Brian Adam (Aberdeen North) (SNP)
*Richard Baker (North East Scotland) (Lab)
*Chris Ballance (South of Scotland) (Green)
*Susan Deacon (Edinburgh East and Musselburgh) (Lab)
*Murdo Fraser (Mid Scotland and Fife) (Con)
*Christine May (Central Fife) (Lab)
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

COMMITTEE SUBSTITUTES

Mark Ballard (Lothians) (Green)
Rhona Brankin (Midlothian) (Lab)
Mr David Davidson (North East Scotland) (Con)
Fiona Hyslop (Lothians) (SNP)
George Lyon (Argyll and Bute) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Karen Mitchell (Scottish Executive Education Department)
Kathleen Robertson (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

CLERK TO THE COMMITTEE

Simon Watkins

SENIOR ASSISTANT CLERK

Judith Evans

ASSISTANT CLERK

Seán Wixted

LOCATION

Committee Room 5

Scottish Parliament

Enterprise and Culture Committee

Tuesday 21 September 2004

[THE DEPUTY CONVENER *opened the meeting at 14:00*]

Interests

The Deputy Convener (Mike Watson): The first agenda item is a declaration of interests by a new committee member.

Alex Neil (Central Scotland) (SNP): I declare an interest in that I have run an economic consultancy for about 12 years. I no longer do consultancy work in Scotland, but I occasionally provide advice and consultancy support overseas. It is not a multimillion-pound business, but my interest is registered with the clerk to the Standards Committee.

The Deputy Convener: That is appropriate, given that the convener of the Standards Committee is present. I use this opportunity to thank Brian Adam, who will leave our committee after this meeting, for all that he has done over the past 14 months or so. I am not quite sure what his pastures new are—he has a member's bill and front-bench duties and so on—but, on behalf of the committee, I record our thanks for all his work on the committee's programme.

Members: Hear, hear.

Convener

14:01

The Deputy Convener: As members know, we have lost Alasdair Morgan as our convener. I take this opportunity to pay tribute to his work in leading the committee. I speak only personally, but I think that I reflect the views of other members in saying that Alasdair Morgan led the committee very effectively through several thorough investigations and inquiries that benefited not just us as committee members, but the Parliament and, I hope, Scotland in a wider sense. We wish him good luck.

I invite nominations for the position of committee convener.

Brian Adam (Aberdeen North) (SNP): On my own behalf and on behalf of Alasdair Morgan, I thank the deputy convener for his kind remarks. As what will be almost my last action on the committee, I nominate Alex Neil to be our new convener.

The Deputy Convener: Are there any further nominations?

Richard Baker (North East Scotland) (Lab): You are doing an excellent job as convener. I think that you should carry on.

Alex Neil: Hear, hear.

The Deputy Convener: Modest as I am, I must decline that nomination.

Alex Neil was chosen as convener.

The Convener (Alex Neil): I thank Mike Watson and the other members of the committee. I suppose that I should start with a recent quote from Alex Salmond: "It is good to be back."

Subordinate Legislation

Education Maintenance Allowances (Scotland) Amendment Regulations 2004 (SSI 2004/301)

14:03

The Convener: Under agenda item 3, we will consider two Scottish statutory instruments, which I propose to take seriatim, as they used to say. The first is the Education Maintenance Allowances (Scotland) Amendment Regulations 2004. Kathleen Robertson and Valerie Sneddon from the Scottish Executive are here to answer any questions that members might have. After that, we will take our decision.

Mike Watson (Glasgow Cathcart) (Lab): Having read the paperwork, I can understand why we are in the position that we are in just now. However, given that the regulations did not come before the committee prior to August, on what basis did the Executive allow people to receive the education maintenance allowance before the legislation came into force? Albeit that it is unlikely, is it possible that the decision to provide the allowance to individuals in that period might be challenged?

Kathleen Robertson (Scottish Executive Enterprise, Transport and Lifelong Learning Department): The regulations came into force on 2 July, so nobody would have received the maintenance allowance until after that date.

Mike Watson: I accept that point, but according to the letter that we received, those who would otherwise have been excluded were brought within the ambit of the regulations by the amendment that the instrument makes to paragraph 6 of schedule 1 to the original regulations. My question is about the instrument coming into force before we officially brought it into force, as it were.

Kathleen Robertson: I do not quite understand. We sent a letter to the Presiding Officer to explain that we wanted to bring the instrument into force before the committee had considered it precisely so that those students would not miss out.

Mike Watson: I understand why that was done. However, as the instrument was brought into force without its having gone through Parliament, I wonder about its legitimacy in the event of a challenge, which I accept is unlikely.

Kathleen Robertson: I do not think that I can answer that.

Mike Watson: Perhaps we could ask the Presiding Officer or a member of the Parliament's legal staff what the position is. My only concern is that the instrument was brought into force before we had a chance to consider it.

The Convener: Previous statutory instruments have had a similar status, in that they have been implemented before being formally approved by the Parliament. I have raised that issue before. It negates the role of the Parliament if statutory instruments are implemented before they are explicitly approved. We could perhaps raise the wider issue with the Presiding Officer.

Christine May (Central Fife) (Lab): As the only member present who is a member of the Subordinate Legislation Committee, let me say that although that committee raised no issues on the two SSIs that we are considering today, the timing matter that Mr Watson has raised has come up in the committee time and again. I am sure that the Subordinate Legislation Committee would welcome this committee's support on that.

The Convener: Is it agreed that we highlight the matter for the Subordinate Legislation Committee as well as for the Presiding Officer?

Christine May: The Subordinate Legislation Committee has no power to address the issue; it can only raise the matter with the lead committee, which in this case is the Enterprise and Culture Committee. I think that the convener's proposal that the matter be taken up with the Presiding Officer is the only way in which it could be dealt with.

The Convener: Is that agreed?

Members indicated agreement.

The Convener: With that in mind, is everyone happy with the statutory instrument?

Members indicated agreement.

Sports Grounds and Sporting Events (Designation) (Scotland) Order 2004 (SSI 2004/356)

The Convener: The second statutory instrument is the Sports Grounds and Sporting Events (Designation) (Scotland) Order 2004. We have with us Karen Mitchell from the Scottish Executive. She will answer any questions that members have.

Brian Adam: What was the situation for the Union of European Football Associations cup tie that Heart of Midlothian Football Club has already played?

Christine May: Did Hearts win?

Richard Baker: They won 3-1.

Brian Adam: The order extends the relevant legislation to include Murrayfield. Did the club put itself at some risk by playing the game there without having the authority of the instrument?

Karen Mitchell (Scottish Executive Education Department): The order was made specifically so that it would come into force on 15 September, which is before the UEFA game took place. We broke the 21-day rule because it came to our attention that Hearts planned to play its UEFA home fixture at Murrayfield.

Brian Adam: So the instrument was in force, but if we so chose—not that this is likely to happen—we could annul it.

Karen Mitchell: In the letter that we wrote to the Parliament, we explained our reason for contravening the 21-day rule. We had planned to lay an amended order anyway to take on board Mr McAveety's answer in May to a parliamentary question from Rhona Brankin in which he said that we would amend the definition in relation to international rugby union football matches. It just so happened that we had to bring forward the date of the amended order to ensure that the UEFA match between Hearts and their Portuguese opponents would be subject to alcohol controls under the Criminal Law (Consolidation) (Scotland) Act 1995.

The Convener: Given that similar issues arise for this instrument as for the previous one, I think that we should raise the matter as a general principle. The timing of statutory instruments needs to be tightened up all round. That is the message that we want to convey to the Presiding Officer and to the Executive. Are there any other questions for Karen Mitchell?

Mike Watson: I have two questions. First, I notice that one of the other changes that is being made is to the designation of rugby matches, clearly to take account of the fact that women's international rugby matches are played at Murrayfield, which I assume are now exempt, as are any men's matches below full international level. What is the effect if the Rugby Football League challenge cup final is played at Murrayfield, as has happened twice in the past?

Karen Mitchell: Those would not be designated events and so are not subject to the controls that apply under the Criminal Law (Consolidation) (Scotland) Act 1995, which apply only to designated sporting events played at designated sports grounds. Only men's senior international rugby union matches are designated, so any other sporting events that are played at Murrayfield are not designated events and are not subject to the controls. The controls do not apply.

Mike Watson: My second point might be obscure to people who are not football fans. I notice that the competitions list includes what are quaintly called "the Scottish Association Cup" and "the Scottish Association Qualifying Cup (North)".

The Scottish qualifying cup (south) is not there, yet teams from the South of Scotland League and the East of Scotland League qualify to play in the Scottish cup. Why is that league excluded? The Highland Football League clubs are included, but the clubs from the south are not.

Karen Mitchell: I am afraid that I cannot answer that. That has always been the position in statutory instruments. This order purely seeks to bring in the changes that the explanatory note explains. I was not aware of the omissions to which you refer, but we can look into it.

Mike Watson: My point is simply that some clubs play in the Scottish cup that are not in the designated leagues. Perhaps you could arrange to write to the clerk on that point.

Karen Mitchell: Yes.

The Convener: We will circulate the reply to the committee.

Thank you, Karen. I take it that the committee is happy with the statutory instrument.

Members indicated agreement.

The Convener: That brings us to the end of the formal session of this meeting. We will have a five-minute break for coffee, then reassemble in committee room 4 for our private session on the inquiry into arts in the community.

Meeting closed at 14:12.

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