

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 6 January 2004
(Morning)

Session 2

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SUBORDINATE LEGISLATION COMMITTEE

1st Meeting 2004, Session 2

CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

DEPUTY CONVENER

Gordon Jackson (Glasgow Govan) (Lab)

COMMITTEE MEMBERS

*Mr Stewart Maxwell (West of Scotland) (SNP)

*Christine May (Central Fife) (Lab)

*Alasdair Morgan (South of Scotland) (SNP)

Mike Pringle (Edinburgh South) (LD)

*Murray Tosh (West of Scotland) (Con)

COMMITTEE SUBSTITUTES

Bruce Crawford (Mid Scotland and Fife) (SNP)

Alex Johnstone (North East Scotland) (Con)

Maureen Macmillan (Highlands and Islands) (Lab)

*attended

CLERK TO THE COMMITTEE

Alasdair Rankin

ASSISTANT CLERKS

Joanne Clinton

Catherine Fergusson

LOCATION

Committee Room 3

Scottish Parliament

Subordinate Legislation Committee

Tuesday 6 January 2004

(Morning)

[THE CONVENER opened the meeting at 10:30]

Delegated Powers Scrutiny

Criminal Procedure (Amendment) (Scotland) Bill: Stage 1

The Convener (Dr Sylvia Jackson): I welcome members to the first meeting of 2004, and I wish everybody a happy new year. I have received two apologies. One is from Gordon Jackson, and the second is from Mike Pringle, who is attending the Justice 2 Committee's meeting today.

The first item is delegated powers scrutiny of the Criminal Procedure (Amendment) (Scotland) Bill at stage 1. You will remember that we referred two particular questions to the Executive. The first related to the technical problem with the drafting and application of new section 24A(10) of the Criminal Procedure (Scotland) Act 1995, which is inserted by section 14 of the bill and applied by section 12. The Executive has accepted our points. It proposes to address the issue by an amendment at stage 2, and it has undertaken to look again at the drafting of sections 12 and 14 in general. Is it agreed that that is a reasonable response to our questions on that matter?

Members: Yes.

The Convener: The second matter related to sections 21 and 22. There is not only a free-standing provision; there is also a provision under a commencement order, and it is a question of how those two provisions work together. Our legal advice, in particular annex A to the legal brief, points out that there is also the issue of both a free-standing provision and a commencement order in the Criminal Justice Act 2003, and that Westminster has possibly separated out those two provisions and described how they work a little better than the Executive has done with the Scottish provisions.

However, we have received reassurance from the Executive about the limits to how sections 21 and 22 would operate. Do we think that the explanation and reassurance that have been given by the Executive are sufficient, or do we need to take the matter further?

Alasdair Morgan (South of Scotland) (SNP): Reading it again, I think that section 22(2)(b) is sufficiently narrowly drawn, and I do not think that we need have any concern about it.

The Convener: Is that agreed?

Members indicated agreement.

Draft Instruments Subject to Approval

National Health Service (Distribution of Endowment Income Scheme) (Scotland) Regulations 2004 (draft)

10:32

The Convener: We move on to item 2. There was a lot of good interaction between the legal advice team and the Scottish Executive on the draft regulations, and there has been a redrafting. It seems that there are no points to raise in relation to the revised version of the instrument. Is that okay?

Christine May (Central Fife) (Lab): It is very welcome.

Scottish Hospital Trust (Transfer of Property) Regulations 2004 (draft)

The Convener: A lot of issues were raised initially about the draft Scottish Hospital Trust (Transfer of Property) Regulations 2004. The draft regulations were revised, and the legal advisers are now happy with them. Are we agreed?

Members indicated agreement.

The Convener: Good. The system works.

Solvent Emissions (Scotland) Regulations 2004 (draft)

The Convener: The third draft instrument is the draft Solvent Emissions (Scotland) Regulations 2004, which are very interesting from the point of view of a former chemist. Our legal advice suggests that there are no particular points to raise. Is there anything that members wish to raise about the draft regulations?

Mr Stewart Maxwell (West of Scotland) (SNP): The only issue is that, yet again, there is the absence of a transposition note. The equivalent English regulations will be accompanied by one, however. We have raised this matter a number of times. I suggest that we do not need to raise it again formally, but we should at least mention to the Executive—yet again—that it would have been helpful had a transposition note accompanied the Scottish draft regulations.

The Convener: I agree. Our legal advice says that the draft regulations would in fact need a transposition note. We do not know why one was not made available in this case.

Mr Maxwell: Yes—that seems strange.

The Convener: Is it agreed that we will send an informal letter to the Executive along those lines?

Members *indicated agreement.*

Instrument Subject to Annulment

Local Government in Scotland Act 2003 (Principal Teachers) Order 2003 (SSI 2003/607)

10:35

The Convener: The order extends the suspension of the duty to advertise principal teacher posts from one year to four years on a Scotland-wide basis. No substantial points have been raised in the legal advice.

Instruments Not Subject to Parliamentary Procedure

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (Orkney) (Scotland) Revocation Order 2003 (SSI 2003/605)

Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No 5) (Scotland) Partial Revocation Order 2003 (SSI 2003/606)

10:35

The Convener: There are two instruments not subject to parliamentary procedure under item 4, both to do with amnesic shellfish poisoning. No points have been identified on the pro forma instruments.

Instrument Not Laid Before the Parliament

Public Appointments and Public Bodies etc (Scotland) Act 2003 (Commencement No 4) Order 2003 (SSI 2003/602)

10:36

The Convener: Although the legal advisers have pointed out some drafting issues with the order, listing five particular points, I suggest that we simply pass those to the Executive in an informal letter, unless anybody wishes anything stronger to be done.

Murray Tosh (West of Scotland) (Con): It seems a pity not to write formally to the Executive for each committee meeting, but if you really feel that we should start the new year on a more agreeable footing, convener, then I have no profound objection.

The Convener: So you are quite happy.

Murray Tosh: Och, yes.

The Convener: If that is agreed, then I thank members and bring the meeting to an end. I think that that is almost our record time.

Meeting closed at 10:36.

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