



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 8 May 2012

Session 4

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SUBORDINATE LEGISLATION COMMITTEE

12th Meeting 2012, Session 4

CONVENER

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

DEPUTY CONVENER

*James Dornan (Glasgow Cathcart) (SNP)

COMMITTEE MEMBERS

Chic Brodie (South Scotland) (SNP)

*Mike MacKenzie (Highlands and Islands) (SNP)

*Michael McMahon (Uddingston and Bellshill) (Lab)

*John Pentland (Motherwell and Wishaw) (Lab)

*John Scott (Ayr) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Marco Biagi (Edinburgh Central) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Irene Fleming

LOCATION

Committee Room 5

Scottish Parliament
Subordinate Legislation
Committee

Tuesday 8 May 2012

[The Convener *opened the meeting at 14:32*]

Decision on Taking Business in
Private

The Convener (Nigel Don): Good afternoon, one and all, and welcome to the 12th meeting in 2012 of the Subordinate Legislation Committee. We have received apologies from Chic Brodie and, in his absence, I welcome Marco Biagi. I ask members to switch off any mobile phones.

Agenda item 1 is a decision on taking business in private. It is proposed that the committee take in private item 9, which is consideration of its approach to a review of its working practices. I anticipate that that will be a very broad and wide-ranging discussion. Do members agree to take item 9 in private?

Members *indicated agreement.*

Instruments subject to
Affirmative Procedure

Official Statistics (Scotland) Amendment
Order 2012 [Draft]

Property Factors (Code of Conduct)
(Scotland) Order 2012 [Draft]

14:33

The committee agreed that no points arose on the instruments.

Instruments subject to Negative Procedure

Snares (Training) (Scotland) Order 2012 (SSI 2012/124)

14:33

The Convener: The order designates the Scottish Gamekeepers Association as an approved training body for the purposes of section 11A of the Wildlife and Countryside Act 1981. A training certificate is required from an approved body before a person can be registered with the chief constable to lawfully set snares.

It appears that it is the intention that training of the type that is mentioned in the order is to be provided by the associated but distinct company, the Scottish Gamekeepers Association Charitable Trust, and that it was intended that the latter body be designated by the order. However, the charitable trust has not been designated as an approved body, as it is not properly listed in the schedule to the order. To that extent, the order could be considered to be defectively drafted.

Does the committee therefore agree to draw the order to the attention of the Parliament under reporting ground (i), as its drafting appears to be defective?

Members *indicated agreement.*

The Convener: The committee notes that, as the prohibition on unregistered persons setting snares does not come into force until 1 January 2013, there is time to rectify the matter. It further notes that the Government has given a commitment to do so without specifying when that will occur.

Does the committee agree to encourage the Government to take corrective action before that date?

Members *indicated agreement.*

John Scott (Ayr) (Con): I agree and, as someone who was heavily involved in consideration of the Wildlife and Natural Environment (Scotland) Bill, I think that the Government's explanation, the final part of which says that it is likely that other bodies will seek to become approved as providers of training in snaring, so the necessary amendment could be made at that time, is entirely reasonable.

Planning etc (Scotland) Act 2006 (National Parks) (Consequential Provisions) Order 2012 (SSI 2012/117)

Bankruptcy Fees etc (Scotland) Regulations 2012 (SSI 2012/118)

Food Additives (Scotland) Amendment Regulations 2012 (SSI 2012/119)

Education (Provision of Information as to Schools) (Scotland) Revocation Regulations 2012 (SSI 2012/129)

Town and Country Planning (General Permitted Development) (Fish Farming) (Scotland) Amendment Order 2012 (SSI 2012/131)

The committee agreed that no points arose on the instruments.

Instruments not subject to Parliamentary Procedure

**Wildlife and Natural Environment
(Scotland) Act 2011 (Commencement No
3) Order 2012 (SSI 2012/116)**

**Act of Adjournal (Criminal Procedure
Rules Amendment) (Miscellaneous) 2012
(SSI 2012/125)**

**Act of Sederunt (Rules of the Court of
Session Amendment No 2)
(Miscellaneous) 2012 (SSI 2012/126)**

14:36

*The committee agreed that no points arose on
the instruments.*

Long Leases (Scotland) Bill: After Stage 1

14:37

The Convener: Agenda item 5 is consideration of the Scottish Government's response to the committee's report on the bill. Members will have seen the briefing paper and the response from the Minister for Environment and Climate Change, in which he responds to the committee's two points.

Members will note that, unless any amendments are made to the bill at stage 2 that affect the delegated powers provisions, the committee will not consider the bill again.

Do members have any comments on the response? There being none, I think that we merely note it.

Police and Fire Reform (Scotland) Bill: Stage 1

14:37

The Convener: Agenda item 6 is consideration of another Scottish Government response to a committee report. Members will have seen the briefing paper and the response from the Cabinet Secretary for Justice, in which the Government makes a commitment to lodge a stage 2 amendment on the delegated powers under section 122. Therefore, the committee will consider the bill again once stage 2 has been completed.

Do members have any comments, or are we content to note the response and to reconsider the bill after stage 2?

John Scott: I welcome the Government's commitment to meet the committee's concerns about the power in section 122 and to introduce an amendment in that regard. I am disappointed that that is the only response that we have received, but there it is. It is perhaps a matter of regret that the Government has not taken more notice of our concerns, but that is a matter for it.

The Convener: Thank you. Members have no further comments.

Local Government Finance (Unoccupied Properties etc) (Scotland) Bill: Stage 1

14:39

The Convener: The purpose of agenda item 7 is for the committee to consider its approach to the delegated powers provisions in the Local Government Finance (Unoccupied Properties etc) (Scotland) Bill.

Members will have seen the paper from the legal advisers. Given the bill's complexity, the committee could agree to invite Scottish Government officials to give oral evidence at its meeting next week. On the basis of the evidence that it receives, the committee would consider a draft report at its meeting on 22 May.

Do members agree to invite officials to give oral evidence on the delegated powers provisions in the bill?

Members indicated agreement.

John Scott: I agree. I think that we should take evidence from the Government on the matter. We might learn more from officials through an evidence session than we would through an exchange of correspondence.

Social Care (Self-directed Support) (Scotland) Bill: Stage 1

14:40

The Convener: The purpose of agenda item 8 is for the committee to consider its approach to the delegated powers provisions in another bill—the Social Care (Self-directed Support) (Scotland) Bill.

Members will have seen the paper from the legal adviser. As with the previous bill, given the extensive nature of the powers in question, the committee may wish to invite Scottish Government officials to give oral evidence at its meeting next week. The committee would then consider a draft report at its meeting on 22 May.

Do members agree to invite officials to give oral evidence on the delegated powers provisions in the bill?

Members *indicated agreement.*

John Scott: Again, I would like to pass comment. I have concerns about the wide scope and nature of the powers that are proposed in section 12, in particular. I want to know whether the procedure that is being suggested is the correct one and whether the ancillary provisions are entirely clear. We should take a closer look at that.

The Convener: We will have an opportunity for some extensive questioning next week.

John Scott: I think that there are wider points about the scale of the provisions that it is proposed will be dealt with in subordinate legislation. We need a clear justification for why the powers are being provided for in the way that they are.

The Convener: We will need to ensure that the officials understand our concerns before they get here. We do not want it to be a battlefield. They need to be clear what our concerns are about, and they will need to have good answers.

John Scott: Indeed. I am certain that the clerks will have an exchange with the officials to make them fully aware of our concerns.

The Convener: Indeed. Thank you.

Agenda item 9 will be taken in private.

14:41

Meeting continued in private until 15:06.

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