



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SUBORDINATE LEGISLATION COMMITTEE

Tuesday 16 April 2013

Session 4

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SUBORDINATE LEGISLATION COMMITTEE

12th Meeting 2013, Session 4

CONVENER

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

DEPUTY CONVENER

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

COMMITTEE MEMBERS

*Jim Eadie (Edinburgh Southern) (SNP)

*Mike MacKenzie (Highlands and Islands) (SNP)

*Hanzala Malik (Glasgow) (Lab)

*John Pentland (Motherwell and Wishaw) (Lab)

*John Scott (Ayr) (Con)

*attended

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

Committee Room 3

Scottish Parliament

Subordinate Legislation Committee

Tuesday 16 April 2013

[The Convener *opened the meeting at 10:00*]

Instruments subject to Negative Procedure

National Health Service Superannuation Scheme etc (Miscellaneous Amendments) (Scotland) Regulations 2013 (SSI 2013/109)

The Convener (Nigel Don): I welcome members to the Subordinate Legislation Committee's 12th meeting in 2013. As always, I ask members to turn off mobile phones.

Regulation 11, in substituting regulation E7(2)(b)(ii) of the National Health Service Superannuation Scheme (Scotland) Regulations 2011 (SSI 2011/117), fails to follow the practice of avoiding the use of gender-specific pronouns unless there is a reason for their use. That practice was generally adopted in the 2011 regulations. The departure from it creates potential uncertainty as to whether both genders are intended to be covered by individual gender-specific pronouns. It is also contrary to standard modern drafting practice in Scotland. Does the committee therefore agree to draw the 2013 regulations to the Parliament's attention on the general reporting ground?

Members *indicated agreement.*

The Convener: Does the committee also agree to note that the Scottish Government has undertaken to amend the reference to "him" in regulation 11 of the 2013 regulations in due course and to amend a couple of other non-gender-neutral references in the principal 2011 regulations at the same time?

Members *indicated agreement.*

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I have an observation. Just for clarity, we recognise that the Government is acknowledging that its intention in the drafting is to include all genders and not to be male specific. It is important to put that on the record here, if nowhere else, in case there is any legal doubt as to intention in the interim, until the regulations are changed.

John Scott (Ayr) (Con): I fully support Stewart Stevenson's comments. I welcome the Government's intention to amend the regulations

in due course but, for the avoidance of doubt and confusion, would it not be better for the Government to amend the regulations in early course?

The Convener: Indeed. We are agreed—thank you.

Act of Sederunt (Fees of Shorthand Writers in the Sheriff Court) (Amendment) 2013 (SSI 2013/112)

Police Service of Scotland (Amendment) Regulations 2013 (SSI 2013/122)

The committee agreed that no points arose on the instruments.

Instruments not subject to Parliamentary Procedure

**Act of Sederunt (Rules of the Court of
Session Amendment No 2) (Fees of
Shorthand Writers) 2013 (SSI 2013/111)**

**Aberdeen City (Electoral Arrangements)
Variation Order 2013 (SSI 2013/115)**

**Act of Sederunt (Rules of the Court of
Session Amendment No 3)
(Miscellaneous) 2013 (SSI 2013/120)**

10:03

The Convener: Our legal advisers have raised no points on the instruments, but members might wish to note that SSI 2013/120 corrects two drafting errors that the committee reported in relation to the Act of Sederunt (Rules of the Court of Session Amendment No 5) (Miscellaneous) 2012 (SSI 2012/275). SSI 2013/120 also corrects a drafting error that the committee recently reported in relation to the Act of Sederunt (Rules of the Court of Session Amendment) (Protective Expenses Orders in Environmental Appeals and Judicial Reviews) 2013 (SSI 2013/81). I am glad that everybody noticed that. Is the committee content with the instruments?

Members *indicated agreement.*

The Convener: Does the committee also agree to note that SSI 2013/120 implements undertakings given by the Lord President's private office to correct errors that were previously reported by the committee?

Members *indicated agreement.*

John Scott: I welcome that.

The Convener: Indeed.

Scottish Independence Referendum Bill: Stage 1

10:04

The Convener: The purpose of item 3 is for the committee to consider the delegated powers in the Scottish Independence Referendum Bill. The committee is invited to agree the questions that it wishes to raise with the Scottish Government on the delegated powers in the bill. It is suggested that the questions are raised in written correspondence. On the basis of the responses that are received, the committee would expect to consider a draft report at its meeting on 7 May.

Schedule 6 contains a civil sanction regime that allows the Electoral Commission to impose certain sanctions in connection with its role in monitoring and securing compliance with the campaign rules that are set out in the bill. Paragraph 16 provides that the Scottish ministers may make supplementary orders in relation to the regime. Such orders may make transitional, consequential or incidental provision. In addition, various matters throughout the schedule may be prescribed by the Scottish ministers in a supplementary order.

Does the committee agree to ask the Scottish Government to explain why the negative procedure is considered a suitable level of scrutiny for prescribing the amount that is payable under an offer to discharge liability for a fixed monetary penalty under paragraph 2 of schedule 6 and the minimum and maximum amounts of a non-compliance penalty under paragraph 9 when the affirmative procedure is considered appropriate for the scrutiny of the fixing of the amount of a fixed monetary penalty?

Members *indicated agreement.*

Post-16 Education (Scotland) Bill: Stage 1

10:06

The Convener: Item 4 is consideration of the Scottish Government's response to the committee's stage 1 report on the bill. Members will have seen the briefing paper and the response from the Scottish Government. Unless amendments that affect the delegated powers provisions are made to the bill at stage 2, the committee will not consider it again. Do members have any comments or are we content to note the response and, if necessary, consider the bill after stage 2?

Stewart Stevenson: In noting the response, we should welcome the fact that there has been positive engagement in response to the committee's input.

John Scott: I have nothing to add to what Stewart Stevenson said. I agree with him.

The Convener: We are agreed.

Our next meeting will be next Tuesday, 23 April. Thank you for your attendance today.

Meeting closed at 10:06.

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