



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

DELEGATED POWERS AND LAW REFORM COMMITTEE

Tuesday 1 October 2013

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DELEGATED POWERS AND LAW REFORM COMMITTEE
26th Meeting 2013, Session 4

CONVENER

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

DEPUTY CONVENER

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

COMMITTEE MEMBERS

*Christian Allard (North East Scotland) (SNP)
*Richard Baker (North East Scotland) (Lab)
*Mike MacKenzie (Highlands and Islands) (SNP)
*Margaret McCulloch (Central Scotland) (Lab)
*John Scott (Ayr) (Con)

*attended

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

Committee Room 3

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 1 October 2013

[The Convener *opened the meeting at 11:32*]

Decision on Taking Business in Private

The Convener (Nigel Don): I welcome members to the 26th meeting in 2013 of the Delegated Powers and Law Reform Committee and, as ever, ask them to switch off mobile phones.

Under agenda item 1 it is proposed that the committee takes in private items 5, 6 and 7. Items 5 and 6 are on the committee's consideration of its draft reports on the delegated powers in the Children and Young People (Scotland) Bill and the Marriage and Civil Partnership (Scotland) Bill, respectively. Item 7 is consideration of a draft report that outlines the committee's work during the parliamentary year 2012-13.

Does the committee agree to take those items in private?

Members *indicated agreement.*

Instruments subject to Negative Procedure

Food Additives, Flavourings, Enzymes and Extraction Solvents (Scotland) Regulations 2013 (SSI 2013/266)

11:32

The Convener: Articles 9.4 and 9.5 of European Union regulation (EC) 2065/2003, which are specified in schedule 3 of the instrument, apply to both "an authorised product" and

"a derived smoke flavouring produced from an authorised product".

The effect of being specified in the schedule is to make non-compliance with the provision an offence. The description of the subject matter of article 9.4 refers to both regulated substances, but the description of the subject matter of article 9.5 refers only to authorised products.

The committee may wish to accept the Scottish Government's view that the operation of the instrument will not be affected, as the description of the subject matter is intended only to be descriptive rather than definitive of the offence. Nevertheless, the committee may consider that it is undesirable for there to be inconsistency in the approach to describing identical subject matter, or for that description to be inaccurate, particularly in the context of describing conduct that amounts to an offence.

Does the committee therefore agree to draw the instrument to the attention of the Parliament under reporting ground (h), as the explanation of the specified provisions in schedule 3 of the instrument could have been clearer?

Before the committee decides whether to do that, John Scott has a comment.

John Scott (Ayr) (Con): I agree with that recommendation, but I do not accept the Government's view that the issue that has been raised is unimportant. I declare a tenuous interest as a food producer. If the instrument is left to stand in its present form, as the Government tacitly suggests should happen, that will be unhelpful to the food industry and will put doubt and confusion in the minds of those who read such instruments. I think that when we make such an instrument, we should do it properly from the outset, otherwise the industry will have to consult lawyers and so on, because they will not understand it, which will involve a cost. We should do things properly at this stage.

The Convener: Do members have any other comments to make? Are we content to draw the instrument to the Parliament's attention?

Members *indicated agreement.*

The Convener: A further point has been raised on the instrument. Paragraphs (3) and (4) of regulation 2 of the instrument declare that references to regulation (EC) 1331/2008 are to be of ambulatory effect, but regulation (EC) 1331/2008 is not referred to in the instrument. The committee may accept that that error will have no detrimental effect on the operation of the instrument, and it may wish to note that the Scottish Government has undertaken to remove the erroneous reference the next time the regulations are amended.

However, in light of that drafting error, does the committee agree to draw the instrument to the attention of the Parliament under the general reporting ground?

Members *indicated agreement.*

Town and Country Planning (Marine Fish Farming) (Scotland) Regulations 2013 (SSI 2013/277)

The committee agreed that no points arose on the instrument.

Instrument not subject to Parliamentary Procedure

Marine (Scotland) Act 2010 (Commencement No 3 and Consequential Provisions) Order 2013 (SSI 2013/276)

11:36

The committee agreed that no points arose on the instrument.

Regulatory Reform (Scotland) Bill: Stage 1

11:36

The Convener: Agenda item 4 is consideration of the Scottish Government's response to the committee's stage 1 report on the Regulatory Reform (Scotland) Bill. Members have seen the briefing paper and the response from the Scottish Government.

Do members have any comments? Are we content to note the response and to reconsider the bill after stage 2? We will undoubtedly do that, because it is clear that amendments to the bill will be lodged.

Mike MacKenzie (Highlands and Islands) (SNP): I suggest that we welcome the Scottish Government's response.

The Convener: I am happy to do so, if members are content with that. Are members content?

Members *indicated agreement.*

The Convener: Thank you very much indeed. That completes agenda item 4. We now move into private.

11:37

Meeting continued in private until 12:29.

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e-format first available
ISBN 978-1-78351-798-5

Revised e-format available
ISBN 978-1-78351-816-6

