AGENDA

26th Meeting, 2010 (Session 3)

Tuesday 28 September 2010

The Committee will meet at 2.15 pm in Committee Room 4.

1. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.

2. **Draft instruments subject to approval:** The Committee will consider the following—

   - the Climate Change (Annual Targets) (Scotland) Order 2010 (SSI 2010/draft).

3. **Instruments subject to annulment:** The Committee will consider the following—

   - the Public Services Reform (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (SSI 2010/322);
   - the Education (Lower Primary Class Sizes) (Scotland) Amendment Regulations 2010 (SSI 2010/326);
   - the Contaminants in Food (Scotland) Regulations 2010 (SSI 2010/329);
   - the Beef and Pig Carcase Classification (Scotland) Regulations 2010 (SSI 2010/330);
   - the Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010 (SSI 2010/334).

4. **Instruments not laid before the Parliament:** The Committee will consider the following—

   - Act of Sederunt (Sheriff Court Rules) (Enforcement of Securities over Heritable Property) 2010 (SSI 2010/324).

5. **Draft Report on SSIs laid in 2009:** The Committee will consider a draft report on SSIs laid in 2009.
The papers for this meeting are as follows—

- Legal Brief (private) SL/S3/10/26/1(P)
- Summary of Recommendations SL/S3/10/26/2
- **Agenda Items 3 and 4** SL/S3/10/26/3
  - Instrument Responses
- **Agenda Item 5** SL/S3/10/26/4(P)
  - Draft Report (private)
SUBORDINATE LEGISLATION COMMITTEE

26th Meeting, 2010 (Session 3)

Tuesday 28 September 2010

Summary of Recommendations

The Committee will be invited to consider the following recommendations at the meeting. Decisions are a matter for the Committee.

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**Agenda Item 2**  Draft instruments subject to approval

The Climate Change (Annual Targets) (Scotland) Order 2010 (SSI 2010/Draft)

The Committee may wish to be content with this instrument.

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**Agenda Item 3**  Instruments subject to annulment

The Public Services Reform (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (SSI 2010/322)

The Committee may wish to report this instrument on the basis that with reference to the matters addressed within articles 4 and 6 it is considered that it would, as a matter of proper drafting practice, have been appropriate to have incorporated within the Order suitable saving provision, saving the effect of the relevant provisions of the Public Finance and Accountability (Scotland) Act 2000, so as to clarify fully the continuing statutory status of office holders appointed before the date on which this instrument comes into force.

The Education (Lower Primary Class Sizes) (Scotland) Amendment Regulations 2010 (SSI 2010/326)

The Contaminants in Food (Scotland) Regulations 2010 (SSI 2010/329)

The Beef and Pig Carcase Classification (Scotland) Regulations 2010 (SSI 2010/330)

The Committee may wish to be content with the Regulations.
The Sea Fishing (EU Recording and Reporting Requirements) (Scotland) Order 2010 (SSI 2010/334)

The Committee may wish to be content with this instrument.

Agenda Item 4 Instruments not laid before the Parliament

Act of Sederunt (Sheriff Court Rules) (Enforcement of Securities over Heritable Property) 2010 (SSI 2010/324)

The Committee may wish to report the instrument on the basis that it contains two typographical errors which are not considered to affect the proper operation of the instrument.
INSTRUMENTS SUBJECT TO ANNULMENT

The Public Services Reform (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (SSI 2010/322)

On 17 September 2010 the Scottish Government was asked:  
To explain, with particular reference to article 4, (but also so far as any similar considerations arise elsewhere within this Order) why it was not felt necessary or appropriate to provide for a saving provision relative to section 10(2)(c) of the Public Finance and Accountability (Scotland) Act 2000, which is amended in terms of provisions being introduced by the Public Services Reform (Scotland) Act 2010, as detailed in article 4. Is it not necessary for this Order to have included appropriate provision saving the effect of section 10(2)(c), in order to properly underpin the statutory status of the Audit Scotland members referred to within section 10(2)(c)?

The Scottish Government responds as follows:  
Section 10(2)(c) of the Public Finance and Accountability (Scotland) Act 2000 as amended by the provisions specified in article 4, applies only to an office-holder appointed on or after 1st October 2010. It was not felt necessary to include any further savings provision because the Scottish Government considers that section 10(2)(c) otherwise continues to apply, unamended, to an office-holder appointed before 1st October 2010.

A similar consideration arises in relation to article 6. Section 13(4A) and (5) of the 2000 Act as amended by the provisions specified in that article, applies only to a person appointed on or after 1st October 2010. The Scottish Government considers that section 13(4A) and (5) otherwise continues to apply, unamended, to a person appointed before 1st October 2010.
INSTRUMENTS NOT LAIDED BEFORE THE PARLIAMENT

Act of Sederunt (Sheriff Court Rules) (Enforcement of Securities over Heritable Property) 2010 (SSI 2010/324)

On 14 September 2010 the Lord President’s Private Office was asked:
The Lord President’s Private Office is asked to confirm that it agrees that the following are minor typographical errors and whether it proposes to correct them or is satisfied that they will not affect the proper operation of the instrument:

- In paragraph 2(3) it is rule 2.22A that is to be omitted not rule 22.2A; and

The Lord President’s Private office responds as follows:
The Lord President's Private Office acknowledges the two typographical errors at paragraph 2(3) and paragraph 2(12) of the instrument, but is satisfied that they will not affect the proper operation of the instrument.

1. The Lord President’s Private Office acknowledges the two typographical errors at paragraph 2(3) and paragraph 2(12) of the instrument, but is satisfied that they will not affect the proper operation of the instrument.

2. In relation to the incorrect reference at paragraph 2(3), the Lord President’s Private Office observes that i) the incorrect reference to rule 22.2A is accompanied by a reference to the subject-matter of the correct rule; ii) the relevant footnote contains a reference to the correct rule; and iii) the summary application rules do not in any event include a rule 22.2A.

3. In relation to the incorrect citation at paragraph 2(12), the Lord President’s Private Office observes that i) the citation of the instrument in the body of the text is in all other respects correct and ii) the SSI number of the order referred to is correctly given in the footnote.