

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT INQUIRIES INTO FATAL ACCIDENTS AND
SUDDEN DEATHS ETC. (SCOTLAND) ACT 2016
(CONSEQUENTIAL PROVISIONS AND
MODIFICATIONS) ORDER 2016

Tuesday 15 November 2016

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The Committee consisted of the following Members:

Chair: MR NIGEL EVANS

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| † Campbell, Mr Alan (<i>Tynemouth</i>) (Lab) | † Morris, David (<i>Morecambe and Lunesdale</i>) (Con) |
| Chapman, Douglas (<i>Dunfermline and West Fife</i>)
(SNP) | Murray, Ian (<i>Edinburgh South</i>) (Lab) |
| † Costa, Alberto (<i>South Leicestershire</i>) (Con) | O'Hara, Brendan (<i>Argyll and Bute</i>) (SNP) |
| Cruddas, Jon (<i>Dagenham and Rainham</i>) (Lab) | Onn, Melanie (<i>Great Grimsby</i>) (Lab) |
| † Davies, Chris (<i>Brecon and Radnorshire</i>) (Con) | † Opperman, Guy (<i>Lord Commissioner of Her
Majesty's Treasury</i>) |
| † Ellis, Michael (<i>Deputy Leader of the House of
Commons</i>) | † Pound, Stephen (<i>Ealing North</i>) (Lab) |
| † Fernandes, Suella (<i>Fareham</i>) (Con) | † Stevenson, John (<i>Carlisle</i>) (Con) |
| Gove, Michael (<i>Surrey Heath</i>) (Con) | † Whittingdale, Mr John (<i>Maldon</i>) (Con) |
| Jones, Mr Kevan (<i>North Durham</i>) (Lab) | Clementine Brown, <i>Committee Clerk</i> |
| † Morris, Anne Marie (<i>Newton Abbot</i>) (Con) | † attended the Committee |

Fourth Delegated Legislation Committee

Tuesday 15 November 2016

[MR NIGEL EVANS *in the Chair*]

Draft Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016

2.30 pm

The Deputy Leader of the House of Commons (Michael Ellis): I beg to move,

That the Committee has considered the draft Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016.

It is a pleasure to serve under your chairmanship, Mr Evans. The order was laid before the House on 13 October 2016 and is made under section 104 of the Scotland Act 1998, which allows for necessary or expedient legislative provision in consequence of an Act of the Scottish Parliament. The order is made in consequence of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, which I will refer to as the 2016 Act. The Act was passed by the Scottish Parliament and received Royal Assent on 14 January.

The purpose of the 2016 Act is to modernise the system of fatal accident inquiries in Scotland in line with the recommendations of Lord Cullen of Whitekirk, following his independent review of fatal accident inquiry legislation in 2009. The order will enable the 2016 Act to be implemented in full by making the necessary consequential amendments to reserved legislation. It gives certain provisions in the 2016 Act effect in the rest of the UK where that is required, and makes expedient substantive legislative provision in relation to matters reserved to Westminster.

Members will be aware that FAIs are held to establish the circumstances surrounding certain deaths. Mandatory fatal accident inquiries must be held when, for example, someone dies in legal custody or in relation to their work. Among the changes brought forward by the 2016 Act is the extension of the categories of death for which it is mandatory to hold a fatal accident inquiry in Scotland to include the deaths of children in secure accommodation and deaths in police detention. The changes relate to devolved matters, so it is right that the Scottish Parliament has legislated for them.

This section 104 order, on the other hand, will enact changes to reserved matters to ensure that there is consistency with the 2016 Act of the Scottish Parliament and make some substantive provisions. Perhaps the most significant of those is to make clear that it will become mandatory for a fatal accident inquiry to be held into deaths of military service personnel in the course of active duty in Scotland. Up to this point, under legislation reserved to the UK Government, that has been at the discretion of the Lord Advocate. The order also proposes that a military death in the offshore area of the continental shelf adjacent to Scotland would require a mandatory FAI.

Alberto Costa (South Leicestershire) (Con): I declare that I am a non-practising Scottish solicitor. I welcome the order on behalf of those of us who have practised in both jurisdictions. Does the Minister agree that the order is an example of the UK Government being cognisant of the needs of Scotland and respecting Scottish devolution?

Michael Ellis: I am grateful to my hon. Friend for his intervention. The order is an example of Westminster working well with the Scottish Parliament. It is a most appropriate measure.

The proposed change has become of some relevance in recent days following the tragic death of Lance Corporal Joe Spencer of 3rd Battalion The Rifles. The death occurred at Royal Air Force Tain, near Inverness, on Tuesday 1 November. I take this opportunity to offer my sincere condolences to Lance Corporal Spencer's family and friends. In legal terms, the mandatory requirement for a fatal accident inquiry proposed in the order is not retrospective, so even if the death is found to have been in the circumstances provided for, it will not apply to the death of Lance Corporal Spencer. Instead, the arrangements that have existed for some time under the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 will apply, and it will therefore be within the discretion of the Lord Advocate to rule on whether a fatal accident inquiry is held in that case.

That sad incident none the less highlights the relevance and importance of the order. It highlights why the UK and Scottish Governments, Ministers of the Crown and officials have worked closely together to ensure that the order makes reserved legislative provision in consequence of the 2016 Act of the Scottish Parliament, the aim of which is to ensure that the fatal accident inquiry legislation in Scotland is fit for purpose. That collaboration represents another example of the Westminster Government's commitment to working with the Scottish Government to make the devolution settlement work. I commend the order to the Committee.

2.36 pm

Stephen Pound (Ealing North) (Lab): There is no one I would rather spend an afternoon with than yourself, Mr Evans, but may I disappoint you on this occasion, as I will not detain the Committee for long. I apologise for the absence of my hon. Friend the Member for Blaydon (Mr Anderson). He would normally be in my place, but has been unavoidably detained in his constituency. I notified the Speaker's Office and the Government Whips Office that I would be attempting to fill his shoes, but you will have noticed that I am not him.

I associate the Opposition most strongly with the sentiments expressed in respect of Lance Corporal Spencer. Any death in military service is a tragedy—any death is a tragedy—but in some ways this piece of legislation will make life a little easier. The bespoke provisions of article 6(3) will go a long way towards assisting people in that position.

Having read through the order—in view of my long-standing interest in Scottish legal matters, I obviously spent a fairly long time studying it—I have come to the conclusion that there are one or two very minor points, but that they all seem to be covered within the substance of the order. There is therefore very little that the

Opposition will do to object to it. With the House's permission, I say that we thoroughly support and endorse this piece of legislation. We lend our support to it, timely and appropriate as it is.

Question put and agreed to.

2.38 pm

Committee rose.

