



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

8th Meeting, 2018 (Session 5)

Tuesday 6 March 2018

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.
2. **Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill:** The Committee will consider the Bill at Stage 2 (Day 2).
3. **Alternative dispute resolution:** The Committee will take evidence from—
 - Nicos Scholarios, Secretary, CALM Scotland;
 - Isabella Ennis, Chair, Family Law Arbitration Group Scotland;
 - Rosanne Cubitt, Head of Practice Mediation, Relationships Scotland;
 - Dr Marsha Scott, Chief Executive, Scottish Women's Aid.
4. **Subordinate legislation:** The Committee will consider the following negative instrument—
 - Premises Licence (Scotland) Amendment Regulations 2018 (SSI 2018/49).
5. **Work programme:** The Committee will consider its work programme.

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The papers for this meeting are as follows—

Agenda item 2

[Civil Litigation \(Expenses and Group Proceedings\) \(Scotland\) Bill and all associated documents](#)

Agenda item 3

Paper by the clerk - Alternative Dispute Resolution

J/S5/18/8/1

Private paper - Alternative Dispute Resolution

J/S5/18/8/2 (P)

[Written submission from the Family Law Arbitration Group Scotland](#)

[Written submission from Relationships Scotland](#)

[Written submission from Scottish Women's Aid](#)

[All written submissions received](#)

Agenda item 4

Paper by the clerk - Premises License (Scotland) Amendment Regulations 2018 (SSI 2018-49)

J/S5/18/8/3

Agenda item 5

Private paper - Work Programme

J/S5/18/8/4 (P)

Justice Committee

8th Meeting, 2018 (Session 5), Tuesday 6 March 2018

Alternative Dispute Resolution

Note by the clerk

Introduction

1. At its meeting on [6 February 2018](#), the Justice Committee held a round-table evidence session on Alternative Dispute Resolution (ADR). The purpose of the round-table evidence session was to explore issues around the availability of ADR in Scotland and any barriers to its use. The Committee heard from representatives of the Edinburgh Sheriff Court Mediation Service, the Faculty of Advocates, the Scottish Arbitration Centre, the Scottish Legal Aid Board, and Scottish Mediation, as well as Craig Connal QC, Partner, Pinsent Masons LLP, and John Sturrock QC, Chief Executive and Senior Mediator, Core Solutions Group.
2. Following the round-table evidence session, the Committee agreed to take more evidence on ADR with a focus on its use in the family law context.

Justice Committee consideration

3. At its meeting on 6 March 2018, the Committee will take evidence from representatives of CALM Scotland, the Family Law Arbitration Group Scotland, Relationships Scotland and Scottish Women's Aid. The evidence session will explore issues around the use of ADR in family cases, including issues such as the advantages and disadvantages of using ADR in such cases and the role of the courts.
4. Written submissions were received from the Family Law Arbitration Group Scotland, Relationships Scotland and Scottish Women's Aid. All written submissions received can be accessed [here](#).

Justice Committee

8th Meeting, 2017 (Session 5), Tuesday 6 March 2018

Subordinate legislation

Note by the clerk

Purpose

1. This paper invites the Committee to consider the following negative instrument:
 - [Premises Licence \(Scotland\) Amendment Regulations 2018 \(SSI 2018/49\)](#) [see page 3].
2. If the Committee agrees to report to the Parliament on the instrument it is required to do so by 29 March 2018.

Procedure for negative instruments

3. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
4. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
5. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
6. Each negative instrument appears on the Justice Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not *always* possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
7. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Guidance on subordinate legislation

8. Further guidance on subordinate legislation is available on the Delegated Powers and Law Reform Committee's web page at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/delegated-powers-committee.aspx>

Recommendation

9. **The Committee is invited to consider the instrument.**

**PREMISES LICENCE (SCOTLAND) AMENDMENT REGULATIONS 2018
(SSI 2018/49)**

Introduction

10. The instrument is made under sections 20(6), 146 and 147(1) of the Licensing (Scotland) Act 2005 and all other relevant enabling powers.

11. The Regulations require individuals applying for an alcohol premises or provisional premises licence for the sale of alcohol for consumption either on or off the premises to provide a Disabled Access and Facilities Statement in a form prescribed by the Scottish Ministers, along with their application.

12. Further details on the purpose of the instrument can be found in the policy note (see below).

13. The instrument comes into force on 30 March 2018.

DELEGATED POWERS AND LAW REFORM COMMITTEE CONSIDERATION

14. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on 20 February 2018 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

JUSTICE COMMITTEE CONSIDERATION

15. If the Committee agrees to report to the Parliament on this instrument, it is required to do so by 29 March 2018.

**Policy Note: Premises Licence (Scotland) Amendment Regulations 2018
(SSI 2018/49)**

Policy Objectives

1. This instrument amends The Premises Licence (Scotland) Regulations 2007, which provide for the alcohol premises licence application form, to specify at Schedule 6 the additional details required by the provisions at section 179 of the Criminal Justice and Licensing (Scotland) Act 2010 Act (the “2010 Act”). The provisions at section 179 of the 2010 Act and this instrument come into force on 30 March 2018.
2. Section 179 of the 2010 Act amends section 20 of the 2005 Act to require individuals applying for an alcohol premises or provisional premises licence, for the sale of alcohol for consumption either on or off the premises, to provide a Disabled Access and Facilities Statement in a form prescribed by the Scottish Ministers, along with their application. Section 179 also sets out that the statement is to contain information about disabled access to the premises and the facilities and any other provision available to aid the use of the premises by disabled people. These provisions cannot be fully implemented without the required prescribed form being available.
3. This means that any application for a new premises licence which is received by the Licensing Board after 30 March 2018 will need to be accompanied by the

new Disabled Access and Facilities Statement as well as an operating plan, a layout plan and any certificates required. However, the Disabled Access and Facilities Statement does not form part of the premises licence application and applicants will therefore not be required to submit a variation should the details provided change in the future.

Consultation

4. No formal consultation was carried out in relation to The Premises Licence (Scotland) Amendment Regulations 2018 (the “2018 Regulations”). However, focussed stakeholder engagement was undertaken on both the prescribed form and the non-statutory guidance developed to help those applying for an alcohol premises licence to prepare their Disabled Access and Facilities Statement and to assist Licensing Boards in assessing that statement prior to the 2018 Regulations and the guidance being finalised.

Impact Assessments and Financial Effects

5. As the regulations are required as part of the implementation of primary legislation, no impact assessment or assessment of the financial effects was undertaken. However, the impact is not thought significant as it requires one additional prescribed form to be completed on only one occasion by an applicant for an alcohol premises licence. The Licensing Board will then be required to check that the form has been completed alongside checking the prescribed forms which are already required.