



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 13 June 2017

Session 5



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Pàrlamaid na h-Alba

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CONTENTS

	Col.
INSTRUMENTS SUBJECT TO AFFIRMATIVE PROCEDURE	1
Carers (Scotland) Act 2016 (Agreements of a Specified Kind) Regulations 2017 [Draft]	1
INSTRUMENTS SUBJECT TO NEGATIVE PROCEDURE.....	2
Environmental Impact Assessment (Miscellaneous Amendments) (Scotland) Regulations 2017 (SSI 2017/168)	2
Police Act 1997 (Criminal Records) (Scotland) Amendment Regulations 2017 (SSI 2017/171)	3
Mental Health Tribunal for Scotland (Practice and Procedure) (No 2) Amendment Rules 2017 (SSI 2017/172)	3
Mental Health (Conflict of Interest) (Scotland) Regulations 2017 (SSI 2017/174)	3
Mental Health (Patient Representation) (Prescribed Persons) (Scotland) Regulations 2017 (SSI 2017/175)	3
Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2017 (SSI 2017/176)	3
Milk and Other Products (Pupils in Educational Establishments) (Scotland) Regulations 2017 (SSI 2017/178)	3
Seed (Fees etc) (Scotland) Regulations 2017 (SSI 2017/179)	3
Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment (No 3) Regulations 2017 (SSI 2017/187)	3
Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2017 (SSI 2017/189)	3
INSTRUMENTS NOT SUBJECT TO PARLIAMENTARY PROCEDURE.....	4
Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (Commencement No 2) Regulations 2017 (SSI 2017/183 (C 15))	4
Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Lay Representation) 2017 (SSI 2017/186)	4
CHILD POVERTY (SCOTLAND) BILL: STAGE 1	5

DELEGATED POWERS AND LAW REFORM COMMITTEE
20th Meeting 2017, Session 5

CONVENER

*John Scott (Ayr) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

*Alison Harris (Central Scotland) (Con)
*Monica Lennon (Central Scotland) (Lab)
David Torrance (Kirkcaldy) (SNP)

*attended

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament
Delegated Powers and Law
Reform Committee

Tuesday 13 June 2017

[The Convener opened the meeting at 10:00]

Instruments subject to
Affirmative Procedure

Carers (Scotland) Act 2016 (Agreements of
a Specified Kind) Regulations 2017 [Draft]

The Convener (John Scott): Good morning, everyone. I welcome members to the Delegated Powers and Law Reform Committee's 20th meeting in 2017. We have received apologies from David Torrance and regret that he will be unable to join us.

Agenda item 1 is consideration of an affirmative instrument, on which no points have been raised by our legal advisers. Is the committee content with the instrument?

Members *indicated agreement.*

Instruments subject to Negative
Procedure

Environmental Impact Assessment
(Miscellaneous Amendments) (Scotland)
Regulations 2017 (SSI 2017/168)

10:00

The Convener: The purpose of the regulations is to amend five instruments that the committee drew to the Parliament's attention in reports that were dated 26 April and 3 May 2017. Our legal advisers have identified an issue in relation to an amendment that the regulations make to the Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017 (SSI 2017/114). The definition of "project" in regulation 2(1) of SSI 2017/114 could still be clearer, despite the minor amendments that regulation 5(2) of SSI 2017/168 makes. In particular, it could still be clearer that subparagraphs (i) to (iv) apply to paragraph (a) in addition to paragraph (b) in the definition in regulation 2(1) of SSI 2017/114. Accordingly, does the committee agree to draw the regulations to the Parliament's attention under reporting ground (h), for the reason that I just outlined?

Members *indicated agreement.*

The Convener: The Scottish Government did not take the opportunity that was afforded by the amending instrument to amend schedule 6 to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (SSI 2017/102), despite the committee calling on it to do so. The reference in that schedule to the

"Waste (Meaning of Hazardous Waste and European Waste Catalogue) (Miscellaneous Amendments) (Scotland) Regulations 2016"

remains incorrect, because those regulations are 2015 regulations. Does the committee therefore agree to express its disappointment that the Scottish Government did not take the opportunity to amend schedule 6 to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017?

Members *indicated agreement.*

The Convener: Nonetheless, does the committee agree to welcome the fact that the Scottish Government has laid an amending instrument that seeks to rectify the errors in the instruments that the committee identified at its meetings of 25 April and 2 May 2017?

Members *indicated agreement.*

The Convener: No points have been raised by our legal advisers on the following nine instruments.

Police Act 1997 (Criminal Records) (Scotland) Amendment Regulations 2017 (SSI 2017/171)

Mental Health Tribunal for Scotland (Practice and Procedure) (No 2) Amendment Rules 2017 (SSI 2017/172)

Mental Health (Conflict of Interest) (Scotland) Regulations 2017 (SSI 2017/174)

Mental Health (Patient Representation) (Prescribed Persons) (Scotland) Regulations 2017 (SSI 2017/175)

Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2017 (SSI 2017/176)

Milk and Other Products (Pupils in Educational Establishments) (Scotland) Regulations 2017 (SSI 2017/178)

Seed (Fees etc) (Scotland) Regulations 2017 (SSI 2017/179)

Town and Country Planning (Fees for Applications and Deemed Applications) (Scotland) Amendment (No 3) Regulations 2017 (SSI 2017/187)

Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2017 (SSI 2017/189)

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments not subject to Parliamentary Procedure

10:05

The Convener: No points have been raised by our legal advisers on the following two instruments.

Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (Commencement No 2) Regulations 2017 (SSI 2017/183 (C 15))

Act of Sederunt (Rules of the Court of Session, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Lay Representation) 2017 (SSI 2017/186)

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Child Poverty (Scotland) Bill: Stage 1

Meeting closed at 10:07.

10:06

The Convener: Agenda item 4 is consideration of the Scottish Government's response to the one recommendation that the committee made at stage 1 of the Child Poverty (Scotland) Bill. Section 3(2) provides that the Scottish ministers may by regulations change the base date that is mentioned for the time being in section 3(1) for measuring the absolute poverty target. The base date is set as the financial year beginning 1 April 2010. Section 3(3) provides that the regulations in question will be subject to the negative procedure. The committee recommended that section 3(3) should be amended so that the regulations will be subject to the affirmative procedure.

The Scottish Government responded to the stage 1 report of the Social Security Committee, which is the lead committee on the bill. In doing so, it agreed to our recommendation. Accordingly, does the committee agree to welcome the Scottish Government's intention to lodge at stage 2 an amendment that will make the change that I just outlined?

Members *indicated agreement.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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