



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 6 February 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE

4th Meeting 2018, Session 5

CONVENER

*Graham Simpson (Central Scotland) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

*Neil Findlay (Lothian) (Lab)

*Alison Harris (Central Scotland) (Con)

*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 6 February 2018

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Graham Simpson): I welcome members to the fourth meeting in 2018 of the Delegated Powers and Law Reform Committee.

Under agenda item 1, it is proposed that we take items 6 and 7 in private. Item 6 is consideration of correspondence from the Social Security Committee on amendments to the Social Security (Scotland) Bill, and item 7 is consideration of a paper from the clerk setting out a suggested response to the House of Commons Procedure Committee's inquiry on the European Union (Withdrawal) Bill.

Does the committee agree to take those items in private?

Members indicated agreement.

Instruments subject to Affirmative Procedure

10:00

The Convener: Under agenda item 2, no points have been raised by our legal advisers on the following four instruments.

Proceeds of Crime Act 2002 (Searches under Part 5: Constables in Scotland: Code of Practice) Order 2018 [Draft]

Courts Reform (Scotland) Act 2014 (Consequential and Supplemental Provisions) Order 2018 [Draft]

National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2018 [Draft]

Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2018 [Draft]

The Convener: Is the committee content with the instruments?

Members indicated agreement.

Instruments subject to Negative Procedure

Community Care (Provision of Residential Accommodation Outwith Scotland) (Scotland) Amendment Regulations 2018 (SSI 2018/16)

10:01

The Convener: The first instrument for consideration under agenda item 3 is a set of regulations that amends the Community Care (Provision of Residential Accommodation Outwith Scotland) (Scotland) Regulations 2015 (SSI 2015/202) to reflect the fact that, as respects Wales, an "appropriate establishment" for the provision of residential accommodation outwith Scotland is

"a place at which a care home service, within the meaning of Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016, is provided wholly or mainly to persons aged 18 or over".

Regulation 1 provides that the regulations will come into force on 3 April. It is intended that the commencement date should be 2 April, which is the commencement date of the provisions of the 2016 act that are referred to in regulation 2(2). The Scottish Government has undertaken to lay a further instrument that will revoke the regulations and substitute equivalent regulations, which would come into force timeously.

Does the committee agree to draw the regulations to the attention of the Parliament on the general reporting ground, as they contain an error in the date on which they will come into force?

Members indicated agreement.

The Convener: Does the committee agree to note the Scottish Government's intention to lay a further instrument to correct the error?

Members indicated agreement.

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

Plant Health (Import Inspection Fees) (Scotland) Amendment Regulations 2018 (SSI 2018/22)

Functions of Health Boards and Special Health Boards (Scotland) (Miscellaneous Amendments) Order 2018 (SSI 2018/27)

The Convener: Is the committee content with the instruments?

Members indicated agreement.

Instruments not subject to Parliamentary Procedure

10:03

The Convener: Under agenda item 4, no points have been raised by our legal advisers on the following two instruments.

Carers (Scotland) Act 2016 (Commencement No 3) Regulations 2018 (SSI 2018/25 (C3))

Health (Tobacco, Nicotine etc and Care) (Scotland) Act 2016 (Commencement No 3) Regulations 2018 (SSI 2018/26 (C4))

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Budget (Scotland) (No 2) Bill

10:03

The Convener: Agenda item 5 is consideration of the delegated powers provisions in the Budget (Scotland) No 2 Bill. The bill confers one power to make subordinate legislation on the Scottish ministers. Section 7 provides that the Scottish ministers may by regulations amend the amounts that are specified in sections 4(2) and 4(3) and schedules 1 to 3.

As the delegated powers memorandum explains, the power in section 7 is necessary to permit the Scottish ministers to amend the bill as enacted to take account of inevitable changes to the Government's spending plans during the financial year. Such powers are a standard part of the budget process and are periodically exercised by the Government in the spring, summer and autumn.

Does the committee agree to report to the Parliament that it is content with the delegated power that is conferred on the Scottish ministers in the bill and the procedure to which that power is subject?

Members *indicated agreement.*

10:04

Meeting continued in private until 10:18.

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