



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 25 October 2016

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 25 October 2016

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DELEGATED POWERS AND LAW REFORM COMMITTEE
8th Meeting 2016, Session 5

CONVENER

*John Scott (Ayr) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

*Rachael Hamilton (South 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 25 October 2016

[The Convener opened the meeting at 10:00]

Instruments subject to Affirmative Procedure

Courts Reform (Scotland) Act 2014 (Relevant Officer and Consequential Provisions) Order 2016 [Draft]

Home Detention Curfew Licence (Amendment) (Scotland) Order 2016 [Draft]

The Convener (John Scott): Good morning, everyone, and welcome to the eighth meeting in session 5 of the Delegated Powers and Law Reform Committee.

Agenda item 1 is consideration of two affirmative instruments. No points have been raised by our legal advisers on the instruments. Is the committee content with them?

Members indicated agreement.

The Convener: The committee might wish to welcome the fact that, following the committee's report on the original draft courts reform order, the Scottish Government complied with the committee's request for that draft order to be withdrawn and relaid, with the errors identified therein corrected. Are we content that that has happened?

Members indicated agreement.

Stuart McMillan (Greenock and Inverclyde) (SNP): It would be useful to put on record our thanks to the Government for what it has done. We were quite critical of the initial draft order, and it is very much to be welcomed that the Government has listened to our concerns.

Rachael Hamilton (South Scotland) (Con): I second that.

The Convener: That is great—thank you very much. I, too, agree with that.

Instruments subject to Negative Procedure

10:01

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

Additional Support for Learning (Sources of Information) (Scotland) Order 2016 (SSI 2016/299)

Community Justice Outcomes Improvement Plan and Performance Report (Scotland) Regulations 2016 (SSI 2016/309)

Civil Legal Aid (Scotland) (Fees) Amendment (No 2) Regulations 2016 (SSI 2016/317)

The Convener: Is the committee content with the instruments?

Members indicated agreement.

The Convener: The committee might wish to welcome the fact that the Scottish Government responded positively to the committee's seventh report in session 5, in which the committee called on the Scottish Government to correct drafting errors that had been identified in the Civil Legal Aid (Scotland) (Fees) Amendment Regulations 2016 (SSI 2016/290) by bringing forward quickly what has become SSI 2016/317. I thank the Government for responding positively. Is that view shared by other committee members?

Members indicated agreement.

Instruments not subject to Parliamentary Procedure

Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (No 3) (Supervision Default Orders) 2016 (SSI 2016/300)

10:03

The Convener: First, there is a minor drafting error in rule 20.23(2) of the Criminal Procedure Rules 1996 as inserted by paragraph 2(4) of the instrument. Rule 20.23(2) refers incorrectly to a supervision default order made under section 256AC(1)(a) of the Criminal Justice Act 2003. Such an order is made under section 256AC(4)(c) of that act.

Secondly, there has been a failure to follow the normal drafting practice in relation to the instrument's title. The title indicates that the instrument is the third amendment of the Criminal Procedure Rules 1996, but the Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (No 3) (Instruction of Representation in the High Court) 2016 (SSI 2016/201) has already been laid before the Parliament. The normal practice would have been to number SSI 2016/300 as the fourth amendment of the rules rather than the third.

Does the committee wish to draw the instrument to the attention of the Parliament under the general reporting ground on account of the aforementioned minor drafting error and the failure to follow normal drafting practice in relation to the instrument's title?

Members *indicated agreement.*

The Convener: Does the committee accept that the Lord President's private office intends to rectify the drafting error by means of a further instrument, which is to be laid at the next available legislative opportunity, and that the Lord President's private office is taking the opportunity to review its drafting practice in relation to numbering in the titles of instruments that amend a principal instrument?

Members *indicated agreement.*

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

Act of Sederunt (Electronic Authentication) 2016 (SSI 2016/306)

Air Weapons and Licensing (Scotland) Act 2015 (Commencement No 5 and Saving Provisions) Order 2016 (SSI 2016/307 (C 29))

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

The Convener: Excellent. That concludes the committee's business for today. Thank you all for your attendance.

Meeting closed at 10:05.

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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