



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 15 November 2016

Session 5



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE

11th 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

THE FOLLOWING ALSO PARTICIPATED:

George Adam (Paisley) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament
Delegated Powers and Law
Reform Committee

Tuesday 15 November 2016

[The Convener opened the meeting at 10:15]

Instruments subject to
Affirmative Procedure

Arbitration (Scotland) Act 2010
(Transitional Provisions) Order 2016
[Draft]

The Convener (John Scott): Good morning. I welcome members to the Delegated Powers and Law Reform Committee's 11th meeting in session 5. Apologies have been received from Stuart McMillan, David Torrance and Rachael Hamilton. We welcome George Adam, who is attending as a substitute for Stuart McMillan.

Agenda item 1 is consideration of instruments that are subject to the affirmative procedure. No points have been raised by our legal advisers on the draft Arbitration (Scotland) Act 2010 (Transitional Provisions) Order 2016. Is the committee content with the instrument?

Members *indicated agreement.*

Instruments subject to Negative
Procedure

First-tier Tribunal for Scotland Housing
and Property Chamber (Procedure)
Regulations 2016 (SSI 2016/339)

10:15

The Convener: The regulations fail to follow normal drafting practice, as several provisions are not drafted in gender-neutral terms—there are several references to “he”, “his” and “him”. There is a reference to “him” in rule 60(4)(a) in schedule 1. The other relevant provisions are in schedule 2. The references in question occur in part 6(b) of form AT1(L) and in the notes to that form at paragraphs 2, 3(b) and 7, in which there are three references, and in the part of paragraph 9(2) that is in bold type; in the notes to form AT1(T) at paragraph 7, in which there are three references, and in the part of paragraph 9(2) that is in bold type; in the eighth line of the first paragraph of form AT2, which is in bold type, in the notes to that form in the part of paragraph 2 that is in bold type, in paragraph 7, in which there are three references, and in the part of paragraph 9(b) that is in bold type; in form AT3(L) in the ninth line of text on page 51 and in part 7, “Improvements”, in which there are two references; in form AT3(T) in the ninth line of text on page 57, in part 7, “Improvements”, in which there are two references, and in the notes to that form at paragraph 4; in form AT5 in the box on page 74, in which there are three references; in the notes to form AT6 at paragraphs 4.2, 6.6, 6.7, 6.8, 6.9, 9—in which there are five references—and 11, in which there are three references; in form AT7 in the box on page 86 at note 2, in paragraph 4 on page 87, in which there are three references, and in paragraph 5(a) on page 88.

On account of those failures to draft in gender-neutral terms, does the committee agree to draw the regulations to the Parliament's attention on the general reporting ground?

Members *indicated agreement.*

The Convener: Excellent—many thanks.

Does the committee wish to note that the Scottish Government intends to replace the rules in the regulations and the forms in schedule 2 by means of a further instrument, which would be drafted in gender-neutral terms, to be laid in 2017?

Members *indicated agreement.*

The Convener: At the same time, does the committee agree that the opportunity should have been taken in the regulations to draft the provisions in accordance with normal practice?

Members indicated agreement.

**Court Fees (Miscellaneous Amendments)
(Scotland) Order 2016 (SSI 2016/332)**

The Convener: No points have been raised by our legal advisers on the instrument. Is the committee content with it?

Members indicated agreement.

The Convener: Notwithstanding that, does the committee agree that it was unusual and not wholly satisfactory that the business and regulatory impact assessment and the equality impact assessment were not made publicly available when the order was laid before Parliament, although copies were provided to the committee after the order was laid?

Members indicated agreement.

The Convener: Does the committee also consider it unusual and not wholly satisfactory that the non-confidential public responses to the Scottish Government's consultation, and the consultation analysis, are unavailable for consideration?

Members indicated agreement.

Policing and Crime Bill

10:20

The Convener: Item 3 is consideration of the legislative consent memorandum on the United Kingdom Parliament's Policing and Crime Bill. The committee is invited to consider the powers to make subordinate legislation that are conferred on the Scottish ministers in the bill. A briefing paper has been provided that sets out the relevant aspects of the bill and comments on their effect.

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

Members indicated agreement.

Meeting closed at 10:20.

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