



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 10 January 2017**

**Session 5**



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Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**

**1<sup>st</sup> 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 10 January 2017

[The Convener opened the meeting at 10:04]

### Instruments subject to Negative Procedure

#### Town and Country Planning (Miscellaneous Amendments and Transitional Saving Provision) (Scotland) Order 2016 (SSI 2016/421)

**The Convener (John Scott):** Good morning. I welcome members to the Delegated Powers and Law Reform Committee's first meeting in 2017. Monica Lennon has an interest to declare in relation to SSI 2016/421.

**Monica Lennon (Central Scotland) (Lab):** I draw the committee's attention to my entry in the register of members' interests, as I am a member of the Royal Town Planning Institute.

**The Convener:** Thank you—that is helpful.

The order's primary purpose is to amend the Town and Country Planning (Use Classes) (Scotland) Order 1997 (SI 1997/3061) with the effect that any material change of use of premises to a betting office or a payday loan shop would require a planning application to be made.

Article 4 of SSI 2016/421 makes a transitional provision so that the new rules will not apply to a change of use to a betting office that occurs before 10 February 2020. That provision will apply when the building is authorised by a betting premises licence that has been issued before 10 February 2017.

Paragraph (2) of article 4 includes a definition of "pay day loan shop" as it applies to article 4, but no other reference is made to "pay day loan shop" in that article. The Scottish Government has confirmed that the inclusion of that definition in the article has no purpose.

Does the committee agree to draw the order to the Parliament's attention under the general reporting ground, on the basis that the definition of "pay day loan shop" as it applies to article 4 is a drafting error, because no other reference is made to "pay day loan shop" in article 4?

**Members indicated agreement.**

**The Convener:** Further to that, does the committee agree to invite the Scottish Government to amend the order at the next available opportunity to remove the definition of "pay day loan shop" by removing article 4(2)?

**Stuart McMillan (Greenock and Inverclyde) (SNP):** I am happy to agree to that. I am keen for the order to proceed and for it to be amended in the future. I have been involved for quite some time in the issue that the order deals with, and the proposed change has been a long time coming. I am delighted that it is now before the committee and the Parliament.

**The Convener:** Would anyone else like to comment?

**Monica Lennon:** I agree with Stuart McMillan.

**The Convener:** Does the committee agree that we would like the order to proceed but that we would also like the issue that has been identified to be tidied up at the next available opportunity?

**Members indicated agreement.**

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

#### Police Service of Scotland (Amendment) Regulations 2016 (SSI 2016/419)

#### Gaelic Medium Education (Assessment Requests) (Scotland) Regulations 2016 (SSI 2016/425)

#### Civil Partnership, Marriage Between Persons of Different Sexes and Same Sex Marriage (Prescribed Bodies) (Scotland) Amendment Regulations 2016 (SSI 2016/427)

#### Firemen's Pension Scheme (Amendment and Transitional Provisions) (Scotland) Order 2016 (SSI 2016/431)

#### Letting Agent Registration (Scotland) Regulations 2016 (SSI 2016/432)

**The Convener:** Is the committee content with the instruments?

**Members indicated agreement.**

**The Convener:** Excellent. Thank you very much.

## Instruments not subject to Parliamentary Procedure

### Housing (Scotland) Act 2014 (Commencement No 6 and Transitional Provision) Order 2016 (SSI 2016/412 (C 42))

10:09

**The Convener:** The order brings into force various provisions of the Housing (Scotland) Act 2014. The date that is appointed for the coming into force of the remaining provisions in part 5 of the act, which relates to mobile home sites with permanent residents, is 1 May 2017.

The date that is appointed for the coming into force of the majority of the provisions in part 4 of the act, which relates to letting agents, is 31 January 2018. The order provides that section 44 of the act, which establishes the offence of operating as a letting agent without registration, will come into force on "31st September 2018". The intention is to give a period of eight months from the date on which the register of letting agents is established before the offence provision comes into force.

Article 3 of the order aims to ensure that the offence provision will not apply if, by the specified date, an application has been made but has not been finally determined. Article 3(1) purports to make a transitional provision when a person has, "before 31st September 2018", made an application under section 30 of the act for registration in the register of letting agents. The last entry in column 3 of the schedule to the order purports to commence section 44 of the act on that supposed date. The date that should have appeared in those provisions is 30 September 2018.

Accordingly, does the committee agree to draw the order to the Parliament's attention on reporting ground (i), as it appears that article 3(1)(a) and the last entry in column 3 of the schedule are defectively drafted?

**Members indicated agreement.**

**The Convener:** Does the committee also agree to note that the Scottish Government intends to correct those provisions before they have effect, in the next commencement order for the Housing (Scotland) Act 2014, which will be made this year?

**Members indicated agreement.**

**The Convener:** Does the committee wish to indicate that, although such correction would be acceptable, given that the order refers in two places to a non-existent date, it would be

preferable to correct the provisions as soon as practicable?

**Members indicated agreement.**

**The Convener:** Thanks.

### Criminal Justice (Scotland) Act 2016 (Commencement No 3 and Saving Provision) Order 2016 (SSI 2016/426 (C 44))

**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:** At our next meeting, which will be on 17 January, we will among other things discuss Scottish statutory instruments and return to our consideration of the Limitation (Childhood Abuse) (Scotland) Bill. We look forward to that with bated breath.

*Meeting closed at 10:12.*

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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