



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 2 May 2017

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 2 May 2017

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DELEGATED POWERS AND LAW REFORM COMMITTEE

14th 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 2 May 2017

[The Convener opened the meeting at 10:00]

Instruments subject to Affirmative Procedure

Public Bodies (Joint Working) (Prescribed Local Authority Functions etc) (Scotland) Amendment Regulations 2017 [Draft]

The Convener (John Scott): I welcome members to the Delegated Powers and Law Reform Committee's 14th meeting in 2017. We have received apologies from Monica Lennon.

Agenda item 1 is the consideration of instruments that are subject to the affirmative procedure. No points have been raised by our legal advisers on the regulations. Is the committee content with them?

Members *indicated agreement.*

Instruments subject to Negative Procedure

Forestry (Environmental Impact Assessment) (Scotland) Regulations 2017 (SSI 2017/113)

10:01

The Convener: The purpose of the regulations is to amend and consolidate the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999 (SSI 1999/43) in order to implement directive 2014/52/EU.

Our legal advisers have identified that regulations 14(4)(a) and 15(5)(a) of SSI 2017/113 could be clearer. The regulations also contain a drafting error, as regulation 15(2)(a) is inconsistent with regulation 12(2)(b)(ii) and equivalent provisions in the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (SSI 2017/101), which we considered last week.

Accordingly, does the committee agree to draw the regulations to the Parliament's attention under reporting ground (h), as the meaning of certain provisions could be clearer, and under the general reporting ground, because of the inconsistency that I just mentioned?

Members *indicated agreement.*

The Convener: Does the committee also agree to welcome the Scottish Government's intention to bring forward an amending instrument to rectify the errors?

Members *indicated agreement.*

Agriculture, Land Drainage and Irrigation Projects (Environmental Impact Assessment) (Scotland) Regulations 2017 (SSI 2017/114)

The Convener: The purpose of the regulations is to update and replace the Environmental Impact Assessment (Agriculture) (Scotland) Regulations 2006 (SSI 2006/582) and part IV of the Environmental Impact Assessment (Scotland) Regulations 1999 (SSI 1999/1) in order to implement directive 2014/52/EU.

Our legal advisers have identified that the definition of "project" in regulation 2(1) of SSI 2017/114, which is used throughout the regulations, could be clearer. There is also an instance of defective drafting, as the definition of "scoping opinion" in regulation 2(1) includes an informal drafting comment that should have been omitted before the instrument was made.

Accordingly, does the committee agree to draw the regulations to the Parliament's attention under reporting ground (h), as they could be clearer, and under ground (i), as there is an instance of defective drafting as a result of the inclusion of the informal drafting comment?

Members *indicated agreement.*

The Convener: Does the committee also agree to welcome the Scottish Government's intention to bring forward an amending instrument to rectify the errors?

Members *indicated agreement.*

Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (SSI 2017/115)

The Convener: The purpose of the regulations is to replace the Marine Works (Environmental Impact Assessment) Regulations 2007 (SI 2007/1518) in order to implement directive 2014/52/EU in Scotland.

Our legal advisers have identified that SSI 2017/115 contains instances of defective drafting, as regulations 40 to 42 purport to revoke and make transitional provision in respect of "the 2007 Regulations", which are not defined. In addition, paragraphs 19 and 20 of schedule 1 and paragraph 3(k) of the table in schedule 2 refer to "the CCS Directive", which is not defined.

There are instances in which the regulations could be clearer. Regulation 11(2) refers to

"the date of the request",

but the intention was to refer to "the date of receipt of the request". In addition, it is not clear whether regulation 16(1) permits publication of an EIA report other than by notice or whether such an alternative method of publication would engage regulation 16(2).

There are relatively minor drafting errors in relation to cross-referencing in paragraphs (4)(b) and (4)(c) of regulation 34, and the word "regulation" is missing from the third line of regulation 41.

Accordingly, does the committee agree to draw the regulations to the Parliament's attention under reporting ground (i), as there are instances of defective drafting in regulations 40 to 42, paragraphs 19 and 20 of schedule 1 and paragraph 3(k) of the table in schedule 2; under reporting ground (h), as the regulations could be clearer; and under the general reporting ground, in relation to the minor drafting errors that I mentioned?

Members *indicated agreement.*

The Convener: Does the committee also agree to welcome the Scottish Government's intention to bring forward an amending instrument to rectify the errors?

Members *indicated agreement.*

Disabled Persons (Badges for Motor Vehicles) (Scotland) Amendment Regulations 2017 (SSI 2017/118)

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

Members *indicated agreement.*

Instruments not subject to Parliamentary Procedure

10:07

The Convener: Under agenda item 3, no points have been raised by our legal advisers on the following two instruments.

**Air Weapons and Licensing (Scotland) Act
2015 (Commencement No 6 and Saving
Provisions) Order 2017 (SSI 2017/119 (C
9))**

**Mental Health (Scotland) Act 2015
(Commencement No 3) Order 2017 (SSI
2017/126 (C 10))**

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

The Convener: At our next meeting, in addition to our regular consideration of Scottish statutory instruments, we will consider a draft report on the Contract (Third Party Rights) (Scotland) Bill at stage 1.

Meeting closed at 10:08.

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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