



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 5 February 2019

Session 5



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE
5th Meeting 2019, Session 5

CONVENER

*Graham Simpson (Central Scotland) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

*Mary Fee (West Scotland) (Lab)

*Alison Harris (Central Scotland) (Con)

*attended

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 5 February 2019

[The Convener opened the meeting at 10:03]

European Union (Withdrawal) Act 2018

Jurisdiction and Judgments (Family, Civil Partnership and Marriage (Same Sex Couples)) (EU Exit) (Scotland) (Amendment etc) Regulations 2019 [Draft]

The Convener (Graham Simpson): I welcome everyone to the fifth meeting in 2019 of the Delegated Powers and Law Reform Committee.

The first item of business is consideration of a Scottish statutory instrument that has been laid under the European Union (Withdrawal) Act 2018. We are considering the instrument under the SSI protocol, so we are looking at the scrutiny procedure under which it has been laid and the categorisation that the Scottish Government has applied to it. We will look at the technical aspects of the instrument at another meeting.

The instrument has been laid under the affirmative procedure. It relates to European Union legislation on family law and concerns cross-border family cases. The EU legislation provides EU-level rules about which member state's court should have the authority to resolve a dispute.

The instrument has been categorised by the Scottish Government as being of medium significance. Our advisers indicate that the scrutiny procedure is appropriate, as is its categorisation, given that it has significant implications for people who are involved in cross-EU border family law disputes.

Do members have any comments?

Mary Fee (West Scotland) (Lab): Would it be possible to get some clarity on custody disputes involving individuals who live in different countries? I want to make sure that the instrument will have no unintended consequences and that the process will be mirrored across both the countries concerned.

The Convener: Thank you. That is a very good point, which we can flag up to the lead committee. Are you content that we do that?

Mary Fee: Yes—thank you.

The Convener: Thank you for raising the issue.

Is the committee content that the appropriate scrutiny procedure has been applied to the instrument?

Members indicated agreement.

The Convener: Is the committee content that the instrument is categorised as being of medium significance?

Members indicated agreement.

INSPIRE (EU Exit) (Scotland) (Amendment) Regulations 2019 [Draft]

10:06

The Convener: Agenda item 2 is consideration of another instrument that has been laid under the European Union (Withdrawal) Act 2018. The instrument, which has been laid under the affirmative procedure, has been categorised as being of low significance, and our advisers have raised no issues with that categorisation.

Do members have any comments?

Members: No.

The Convener: Is the committee content that the instrument is categorised as being of low significance?

Members indicated agreement.

Instruments subject to Affirmative Procedure

INSPIRE (EU Exit) (Scotland) (Amendment) Regulations 2019 [Draft]

10:06

The Convener: The first instrument for consideration under agenda item 3 is the instrument that we have just considered under the SSI protocol. We are now considering the technical aspects to ensure that it is fit for purpose.

Although no points have been raised by our legal advisers, members might wish to note that the instrument was withdrawn and relaid following questions that were asked in advance of it appearing on our agenda.

Do members have any comments?

Members: No.

The Convener: Is the committee content with the instrument?

Members *indicated agreement.*

Public Procurement etc (Scotland) (Amendment) (EU Exit) Regulations 2019 [Draft]

The Convener: The next instrument is one that we considered under the SSI protocol last week. As well as withdrawing and relaying the instrument, the Government accepted our recommendation that it be recategorised from medium to high significance.

Today, we are looking at the technical aspects of the instrument to ensure that it is fit for purpose. Our advisers have raised no points.

Do members have any comments?

Stuart McMillan (Greenock and Inverclyde) (SNP): I would be grateful for further clarification of the intended meaning of the final sentence of the policy note that is quoted in our briefing because, on reading it, it appears to suggest that a company that had been convicted of a financial crime against the EU would be allowed to bid for work.

The Convener: I completely agree. I think that we need clarity on that, so we will seek that when we issue our report.

Other than that, is the committee content with the instrument?

Members *indicated agreement.*

The Convener: No points have been raised by our legal advisers on the next four draft affirmative instruments, which cover a variety of topics.

Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2019 [Draft]

National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2019 [Draft]

Continuing Care (Scotland) Amendment Order 2019 [Draft]

Asset Transfer Request (Designation of Relevant Authority) (Scotland) Order 2019 [Draft]

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments subject to Negative Procedure

Zootechnical Standards (Scotland) Regulations 2019 (SSI 2019/5)

10:09

The Convener: The first instrument for consideration under agenda item 4 is SSI 2019/5, which fails to follow proper drafting practice, in that regulations 3 and 6 contain provisions that are already directly legally applicable by virtue of the content of the EU animal breeding regulation.

Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground in respect of a failure to follow proper drafting practice?

Members *indicated agreement.*

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

National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2019 (SSI 2019/12)

National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2019 (SSI 2019/13)

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Meeting closed at 10:10.

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