



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 12 March 2019

Session 5



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE

9th 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 12 March 2019

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

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

Under agenda item 1, it is proposed that the committee takes item 7, which is on our work programme, in private. Does the committee agree to do so?

Members *indicated agreement.*

European Union (Withdrawal) Act 2018: Instrument Category

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

10:00

The Convener: Agenda item 2 is consideration of an instrument that has been laid under the European Union (Withdrawal) Act 2018; we are looking at the instrument under the Scottish statutory instrument protocol. It has been laid under the affirmative procedure, as is required by the 2018 act, so we are considering only the categorisation that the Government has recommended. Our advisers indicate that the low categorisation could be appropriate.

Is the committee content that the instrument has been appropriately categorised as being of low significance?

Members *indicated agreement.*

Instruments subject to Affirmative Procedure

Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2019 [Draft]

10:01

The Convener: The first instrument for consideration under agenda item 3 relates to the assessment of the environmental impact of electricity generating stations situated in the Scottish part of the renewable energy zone. As a Scotland Act 1998 order, it is also being considered in each house at Westminster.

The order contains a minor drafting error relating to the citation of the Scotland Act 1998. Full details can be found in our correspondence with the Government, which is included in our published papers. It appears that there is currently no need to correct the minor error, but if the order requires to be amended at a later date, the Scottish Government has undertaken to work with the United Kingdom Government to adjust the provision.

Does the committee wish to draw the order to the attention of the Parliament under the general reporting ground, as it contains a minor drafting error in article 4(1)?

Members indicated agreement.

The Convener: There are a further two draft affirmative instruments on our agenda, and we must undertake the technical scrutiny of the forestry regulations that we looked at under item 2.

Motor Sport on Public Roads (Scotland) Regulations 2019 [Draft]

Plant Health (EU Exit) (Scotland) (Amendment etc) Regulations 2019 [Draft]

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

The Convener: No points have been raised by our advisers on the instruments, but it is worth highlighting that the forestry regulations and the plant health regulations have been relaid by the Scottish Government to correct a couple of errors.

Is the committee content with the instruments?

Members indicated agreement.

Instruments subject to Negative Procedure

Seed and Propagating Material (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/59)

10:03

The Convener: The first instrument for consideration under agenda item 4 amends a number of marketing regulations for seed and plant propagating materials. It contains errors relating to the definition of a European Union regulation, a reference to an EU directive and a redundant provision. The full detail of the issues identified by our legal advisers can be found in our correspondence with the Government, which is included in our published papers.

Does the committee wish to draw the instrument to the attention of the Parliament under reporting ground (h), on the basis that regulation 9(2)(a)(ix) contains an unnecessary definition of regulation EC 1829/2003?

Members indicated agreement.

The Convener: Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground in respect of the issues that are identified in the papers in regulations 13(5)(c) and (d) and 16(7)(a)?

Members indicated agreement.

The Convener: Does the committee wish to welcome the Government's undertaking to rectify the errors in regulations 9 and 16 at the next available opportunity?

Members indicated agreement.

The Convener: Does the committee wish to call on the Government to use that opportunity to also amend the error referred to in regulation 13?

Members indicated agreement.

The Convener: Furthermore, part 3 of the instrument inserts provisions into a number of the marketing regulations for seed and plant propagating material that refer to

"legislation recognised by the Scottish Ministers to have equivalent effect"

to various regulations. Does the committee wish to welcome the Government's intention in due course to amend the relevant marketing regulations to insert appropriate references to any specific legislation that is recognised as being equivalent?

Members indicated agreement.

**Education (Fees and Student Support)
(Miscellaneous Amendments) (EU Exit)
(Scotland) Regulations 2019 (SSI 2019/70)**

The Convener: The regulations contain drafting errors relating to references to provisions that do not exist. The Scottish Government has undertaken to correct the references at the next legislative opportunity. Again, full details can be found in our correspondence with the Government, which is included in our published papers.

Does the committee wish to draw the regulations to the attention of the Parliament on the general reporting ground, as there are drafting errors in regulation 9(2)?

Members *indicated agreement.*

**Agriculture Market Measures (EU Exit)
(Scotland) (Amendment) Regulations 2019
(SSI 2019/73)**

The Convener: The instrument appears to be defectively drafted, as it removes an offence provision, which is contrary to the Scottish Government's intention. The Government has undertaken to make an amending instrument by the end of this month, so that the errors do not have any effect. Again, full details can be found in our correspondence with the Government, which is included in our published papers.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (i), as regulation 5(3) appears to be defectively drafted?

Members *indicated agreement.*

The Convener: There are a further four negative instruments on our agenda, on which no points have been raised by our advisers.

**Animal Health (EU Exit) (Scotland)
(Amendment) Regulations 2019 (SSI
2019/71)**

**Act of Sederunt (Taxation of Judicial
Expenses Rules) 2019 (SSI 2019/75)**

**Non-Domestic Rating (Valuation of
Utilities) (Scotland) Amendment (No 2)
Order 2019 (SSI 2019/77)**

**Legal Aid and Advice and Assistance
(Scotland) (Miscellaneous Amendments)
Regulations 2019 (SSI 2019/78)**

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

**Instrument not subject to
Parliamentary Procedure**

**Act of Sederunt (Rules of the Court of
Session 1994 Amendment) (Sanctions and
Anti-Money Laundering) 2019 (SSI
2019/72)**

10:07

The Convener: Agenda item 5 is consideration of an instrument that is not subject to parliamentary procedure, on which no points have been raised by our advisers.

Is the committee content with the instrument?

Members *indicated agreement.*

Management of Offenders (Scotland) Bill: After Stage 1

10:07

Meeting continued in private until 10:19.

10:07

The Convener: Agenda item 6 is consideration of the Government's response to our stage 1 report on the Management of Offenders (Scotland) Bill.

Does the committee wish to note the Government's response?

Members *indicated agreement.*

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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