



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 29 October 2019

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE

28th 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)

Jeremy Balfour (Lothian) (Con)

Mary Fee (West Scotland) (Lab)

*attended

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 29 October 2019

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Graham Simpson): I welcome everyone to the 28th meeting in 2019 of the Delegated Powers and Law Reform Committee. I welcome committee members back after the parliamentary recess. I hope that you all had a good time.

Agenda item 1 is to propose that the committee take items 6, 7 and 8 in private. Do members agree to that?

Members *indicated agreement.*

Instrument subject to Affirmative Procedure

Conservation (Natural Habitats, &c) (Miscellaneous Amendments) (Scotland) Regulations 2019 [Draft]

10:00

The Convener: Agenda item 2 is consideration of an affirmative instrument, on which no points have been raised. Is the committee content with the instrument?

Members *indicated agreement.*

Instruments subject to Negative Procedure

10:00

The Convener: Agenda item 3 is consideration of three negative instruments, on which no points have been raised.

M8 Motorway (Junction 29A Off Slip Road) (40mph Speed Limit) Regulations 2019 (SSI 2019/312)

Conservation (Natural Habitats, &c) Amendment (No 2) (Scotland) Regulations 2019 (SSI 2019/320)

Environmental Impact Assessment (Transport) (Scotland) Regulations 2019 (SSI 2019/322)

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Drafts Laid for Consultation

Deposit and Return Scheme for Scotland Regulations 2020 (SG/2019/164)

Deposit and Return Scheme for Scotland Regulations 2020—Accompanying Statement (SG/2019/165)

10:01

The Convener: Agenda item 4 is consideration of the proposed draft Deposit and Return Scheme for Scotland Regulations 2020 (SG/2019/164), the purpose of which is to establish a deposit and return scheme for drinks containers.

Several errors have been identified in the proposed draft regulations. Regulation 9 provides that the Scottish Environment Protection Agency must consider any representations that are made by a “scheme administrator” before a producer’s registration may be cancelled. In addition, it should provide that SEPA must consider any representations that are made by producers themselves, as well as those that are made by scheme administrators on producers’ behalf.

Regulations 14(1), 15(1)(a) and 15(5) make reference to a “scheme administrator” applying for approval when they should instead refer to an “applicant” applying for approval. The definition of “scheme administrator” also means that the reference to “approved scheme administrators” in regulations 15(4) and 16 should not include the word “approved” as, by definition, “scheme administrators” are approved.

There is also an error in regulation 27(8), which mistakenly refers to paragraph (7), rather than to paragraph (6).

The Scottish Government has acknowledged those errors and has undertaken to correct them when the draft regulations are laid.

Does the committee wish to draw the proposed draft regulations to the attention of Parliament under the general reporting ground because of the errors that have been identified?

Members *indicated agreement.*

The Convener: Secondly, does the committee wish to welcome the Scottish Government’s undertaking to correct the errors?

Members *indicated agreement.*

Instruments not subject to Parliamentary Procedure

10:03

The Convener: Agenda item 5 is consideration of a number of instruments that are not subject to any parliamentary procedure, on which no points have been raised by our advisers.

Regulatory Reform (Specification of EU Instruments) (Scotland) Order 2019 (SSI 2019/304)

Bovine Viral Diarrhoea (Scotland) Order 2019 (SSI 2019/310)

Planning (Scotland) Act 2019 (Commencement No 1) Regulations 2019 (SSI 2019/314 (C 15))

Homelessness etc (Scotland) Act 2003 (Commencement No 4) Order 2019 (SSI 2019/316 (C 16))

Social Security (Iceland) (Liechtenstein) (Norway) (Citizens' Rights Agreement) (Further provision in respect of Scotland) Order 2019 (SSI 2019/317)

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Act of Sederunt (Challenges to Validity of EU Instruments (EU Exit) in the Court of Session) 2019 (SSI 2019/328)

Act of Sederunt (Challenges to Validity of EU Instruments (EU Exit) in the Sheriff Appeal Court and Sheriff Court) 2019 (SSI 2019/329)

Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Challenges to Validity of EU Instruments (EU Exit)) 2019 (SSI 2019/330)

The Convener: SSI 2019/316 will bring into force sections 4 and 8 of the Homelessness etc (Scotland) Act 2003. The act dates from 2003, so there has been quite a gap. I propose that the committee write to the Government to ask for an explanation of why there has been such a delay. Do members agree?

Members indicated agreement.

The Convener: Notwithstanding that, is the committee content with the instruments?

Members indicated agreement.

10:04

Meeting continued in private until 10:24.

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