



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 12 November 2019

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 12 November 2019

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DELEGATED POWERS AND LAW REFORM COMMITTEE

30th 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 12 November 2019

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Graham Simpson): I welcome everyone to the 30th meeting in 2019 of the Delegated Powers and Law Reform Committee.

Under agenda item 1, it is proposed that the committee take item 6 in private. Do members agree to do that?

Members *indicated agreement.*

European Union (Withdrawal) Act 2018: Instrument Procedure and Category

Agriculture Market Measures (EU Exit) (Scotland) (Amendment) (No 2) Regulations 2019 (SSI 2019/347)

10:01

The Convener: Agenda item 2 is consideration of a Scottish statutory instrument that has been laid under the European Union (Withdrawal) Act 2018. We are considering the scrutiny procedure under which it has been laid and the categorisation that the Scottish Government has applied.

SSI 2019/347 has been laid under the negative procedure and has been categorised as being of low significance. The instrument will make minor and technical amendments to correct deficiencies that will occur on the United Kingdom's exit from the European Union.

Our advisers indicate that the scrutiny procedure and categorisation are appropriate. Is the committee content with that?

Members *indicated agreement.*

Instruments subject to Affirmative Procedure

10:01

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

Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2020 [Draft]

Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019 [Draft]

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments subject to Negative Procedure

Public Health Scotland Order (SSI 2019/336)

10:02

The Convener: The first instrument for consideration under agenda item 4 is SSI 2019/336, which creates a new special health board that will be known as “Public Health Scotland” and dissolves NHS Health Scotland. It consolidates a number of health functions and confers them on the new board.

Schedule 1 modifies sections 13 and 13A of the National Health Service (Scotland) Act 1978 by inserting references to “Health Boards” in both sections. However, as those sections already make reference to “Health Boards”, the modification has the effect of repeating the term twice in each section.

Does the committee wish to draw the order to the attention of Parliament on the general reporting ground, because of duplication of the term “Health Boards” in sections 13 and 13A of the 1978 act?

Members *indicated agreement.*

The Convener: Does the committee wish to call on the Scottish Government to correct that error when a suitable opportunity arises?

Members *indicated agreement.*

Fishing Boats Designation (EU Exit) (Scotland) Order 2019 (SSI 2019/345)

The Convener: SSI 2019/345 designates countries for the purposes of detailing access to fisheries for vessels from those countries after the UK’s exit from the EU.

Schedule 1 of the order contains a table that sets out the countries that are designated as having special fishing access arrangements for Scottish waters. Column 1 lists the designated countries, column 2 designates the areas in which vessels from the designated country are permitted to fish and column 3 provides descriptions of the sea fish that can be caught by vessels from designated countries in each of the designated areas.

In relation to the Republic of Ireland, column 2 of the table lists 4 designated areas. However, the third designated area does not have a corresponding description of the sea fish that could be caught in that area. It is therefore not immediately clear from the order what fish it is

intended vessels will be permitted to catch in that area.

Does the committee wish to draw the order to the attention of Parliament under reporting ground (h), as the meaning of that provision could be clearer?

Members indicated agreement.

The Convener: The entries in the table for the Netherlands and Norway appear to have been combined. It appears that the designated areas and the corresponding descriptions of sea fish that are applicable to vessels from the Netherlands have not been included in the schedule. That is a more significant error than the one in the entry for the Republic of Ireland, because it would cause confusion in establishing what access arrangements are intended to be provided to vessels from the Netherlands.

Does the committee therefore wish to draw the order to the attention of Parliament under reporting ground (i), as the drafting of that provision is defective?

Members indicated agreement.

The Convener: Does the committee wish to welcome the Scottish Government's commitment to remedy both the errors that have been identified in the order before it comes into force?

Members indicated agreement.

The Convener: No points have been raised on the following six negative instruments.

National Health Service (Charges to Overseas Visitors) (Scotland) (Amendment) (EU Exit) Regulations 2019 (SSI 2019/333)

Agriculture Market Measures (EU Exit) (Scotland) (Amendment) (No 2) Regulations 2019 (SSI 2019/347)

Waste (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI 2019/356)

Firefighters' Pension Scheme (Scotland) (Amendment) Regulations 2019 (SSI 2019/357)

Firefighters' Pension Schemes (Scotland) (Amendment) Order 2019 (SSI 2019/358)

Robert Gordon University (Scotland) Order of Council 2019 (SSI 2019/375)

The Convener: Is the committee content with the instruments?

Members indicated agreement.

Instruments not subject to Parliamentary Procedure

10:06

Meeting continued in private until 10:12.

10:06

The Convener: Agenda item 5 is consideration of two instruments that are not subject to parliamentary procedure, and on which no points have been raised.

Age of Criminal Responsibility (Scotland) Act 2019 (Commencement No 1 and Transitory Provision) Regulations 2019 (SSI 2019/349 (C 17))

Criminal Justice (Scotland) Act 2016 (Commencement No 6 and Transitional Provision) Order 2019 (SSI 2019/363 (C 18))

The Convener: Is the committee content with the instruments?

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.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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