



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 7 January 2020

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Tuesday 7 January 2020

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
INSTRUMENT SUBJECT TO AFFIRMATIVE PROCEDURE	2
Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2020 [Draft].....	2
INSTRUMENTS SUBJECT TO NEGATIVE PROCEDURE	3
Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/415)	3
Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (SSSI 2019/421)	3
Restriction of Liberty Order etc (Scotland) Amendment Regulations 2019 (SSI 2019/423)	4
INSTRUMENT NOT SUBJECT TO PARLIAMENTARY PROCEDURE	5
Land Reform (Scotland) Act 2016 (Commencement No 9) Regulations 2019 (SSI 2019/420 (C 24)).....	5
DRAFT INSTRUMENT AND DOCUMENT LAID FOR CONSULTATION	6
Public Services Reform (Registers of Scotland) Order 2020 (SG/2019/248)	6
Public Services Reform (Registers of Scotland) Order 2020 (SG/2019/249)	6

DELEGATED POWERS AND LAW REFORM COMMITTEE
1st Meeting 2020, 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 7 January 2020

[The Convener opened the meeting at 10:02]

Decision on Taking Business in Private

The Convener (Graham Simpson): I welcome everyone to the first meeting in 2020 of the Delegated Powers and Law Reform Committee. Happy new year to all members, and to the army of officials that we have with us today.

The first item of business is to propose that the committee take in private items 6, 7 8 and 9, which involve consideration of reports that will be published once agreed. Does the committee agree to do that?

Members *indicated agreement.*

Instrument subject to Affirmative Procedure

Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2020 [Draft]

10:02

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

Members *indicated agreement.*

Instruments subject to Negative Procedure

Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/415)

10:02

The Convener: Agenda item 3 is consideration of negative instruments. Scottish statutory instrument 2019/415 amends provisions that will, on exit day, become retained European Union law on environmental impact assessments relating to the construction of new roads and other road and transport works.

The wording of the provision that is inserted by regulation 3(4) suggests that rights can be derived from a provision of a particular EU directive after the United Kingdom leaves the EU. However, section 4(2)(b) of the European Union Withdrawal Act 2018 provides expressly that rights under EU directives do not become part of domestic law on exit day, subject to certain exceptions. The Scottish Government agrees that the directive does not have legal effect after exit day; however, that could be clearer in the drafting of the regulations. As the meaning could be clearer, does the committee agree to draw the regulations to the attention of the Parliament on reporting ground (h)?

Members indicated agreement.

Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Regulations 2019 (SSI 2019/421)

The Convener: SSI 2019/421 implements the new EU plant health regulation and the plant health elements of the new official controls regulation and associated tertiary legislation. The regulations were laid before the Parliament on 11 December 2019 and came into force on 14 December 2019. Accordingly, they do not comply with the requirement that at least 28 days should elapse between the laying of an instrument that is subject to the negative procedure and the coming into force of the instrument.

As the regulations fail to comply with the requirements of section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, the committee is required under standing orders to draw them to the attention of Parliament on reporting ground (j). Does the committee agree to do so?

Members indicated agreement.

The Convener: Is the committee content with the reasons given for the failure to comply with section 28?

Members indicated agreement.

Restriction of Liberty Order etc (Scotland) Amendment Regulations 2019 (SSI 2019/423)

The Convener: SSI 2019/423 updates the list of specified equipment that can be used for the purposes of electronic monitoring in Scotland. The regulations were laid before the Parliament on 17 December 2019 and came into force on 20 December 2019. As such, as with the previous instrument, they do not comply with the 28-day requirement, and the committee is required by standing orders to draw them to the attention of the Parliament. Does the committee agree to do so?

Members indicated agreement.

The Convener: In addition, upon reading what we have in front of us, the committee may wish to ask a number of questions and, specifically, why it came about that we had to get the regulations through in three days at the end of last year. I propose that we write to the Scottish Government this week to find out a bit more. Does the committee agree to do so?

Members indicated agreement.

Instrument not subject to Parliamentary Procedure

**Land Reform (Scotland) Act 2016
(Commencement No 9) Regulations 2019
(SSI 2019/420 (C 24))**

10:07

The Convener: Agenda item 4 is consideration of regulations that are not subject to any parliamentary procedure and on which no points have been raised. Is the committee content with the regulations?

Members *indicated agreement.*

Draft Instrument and Document Laid for Consultation

**Public Services Reform (Registers of
Scotland) Order 2020 (SG/2019/248)**

**Public Services Reform (Registers of
Scotland) Order 2020 (SG/2019/249)**

10:07

The Convener: Agenda item 5 is consideration of a proposed draft order. No points have been raised on SG/2019/248 or its accompanying explanatory document SG/2019/249. Is the committee content with the items?

Members *indicated agreement.*

10:07

Meeting continued in private until 11:26.

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

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba