



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Wednesday 1 April 2020

Session 5



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE
12th Meeting 2020, Session 5

CONVENER

*Bill Bowman (North East Scotland) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

Mary Fee (West Scotland) (Lab)

*Gordon Lindhurst (Lothian) (Con)

Gil Paterson (Clydebank and Milngavie) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Tom Arthur (Renfrewshire South) (SNP) (Committee Substitute)

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Delegated Powers and Law Reform Committee

Wednesday 1 April 2020

[The Convener opened the meeting at 13:24]

Interests

The Convener (Bill Bowman): Good afternoon. I welcome everyone to the 12th meeting in 2020 of the Delegated Powers and Law Reform Committee. We have received apologies from two of our members—Mary Fee and Gil Paterson—and I welcome Tom Arthur to the committee.

Under agenda item 1, in accordance with section 3 of the “Code of Conduct for Members of the Scottish Parliament”, I invite Tom Arthur to declare any interests that are relevant to the committee’s remit.

Tom Arthur (Renfrewshire South) (SNP): I have no relevant interests to declare.

Instruments subject to Affirmative Procedure

Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (SSI 2020/103)

Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment Regulations 2020 (SSI 2020/106)

13:24

The Convener: Agenda item 2 is consideration of a number of affirmative instruments. Earlier today, members were sent a revised agenda that includes an additional instrument, SSI 2020/106, which has been laid to correct drafting points that the committee’s legal advisers identified in relation to SSI 2020/103. As our advisers are satisfied that the amending instrument corrects the problems, no points have been raised on either instrument.

Do members have any comments to make on the instruments?

Gordon Lindhurst (Lothian) (Con): In SSI 2020/103, regulation 8(4) provides for the defence of “reasonable excuse” and regulation 8(5) refers, in subparagraph (d), to the need

“to provide care or assistance to a vulnerable person, including to provide emergency assistance”.

Regulation 10(b) indicates that a “vulnerable person” includes someone under the age of 70

“who has an underlying health condition”,

and schedule 2 sets out a number of physical health conditions that are included. The regulations do not appear to make any reference to non-physical health conditions, such as mental health needs, which might equally make someone a vulnerable person who needs care or assistance.

I know that the list of conditions in schedule 2 is a list of examples rather than a strict definition, but I wonder about the lack of inclusion—which I think is probably unintentional—of any reference to non-physical health conditions. In the circumstances, could we raise that matter with the lead committee in a note in our report?

The Convener: Does the committee agree to note that concern in our report?

Members indicated agreement.

The Convener: Is the committee nevertheless content with SSI 2020/103 and SSI 2020/106?

Members indicated agreement.

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

Single Use Carrier Bags Charge (Scotland) Amendment Regulations 2020 [Draft]

Public Services Reform (Scotland) Act 2010 (Part 2 Further Extension) Order 2020 [Draft]

Children and Young People (Scotland) Act 2014 (Modification) (No 2) Revocation Order 2020 [Draft]

Scottish Landfill Tax (Standard Rate and Lower Rate) (No 2) Order 2020 (SSI 2020/105)

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instrument subject to Negative Procedure

Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2020 (SSI 2020/101)

13:27

The Convener: Agenda item 3 is consideration of a negative instrument, which provides for certain temporary non-domestic rates reliefs that are intended to counter the adverse economic impact of Covid-19 for the 2020-21 financial year.

The instrument was laid before the Parliament on 26 March 2020 and came into force on 31 March 2020. That does not respect 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 that instrument. The committee is therefore required under standing orders to draw the instrument to the attention of the Parliament on reporting ground (j), for its failure to comply with the requirements of section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

Does the committee wish to draw the instrument to the Parliament's attention on reporting ground (j)?

Members *indicated agreement.*

The Convener: The committee also looks at the Scottish Government's reasons for such breaches, which in this case are set out in a letter to the Presiding Officer that was received on 26 March 2020. The letter explains that the Scottish Government wishes the reliefs to come into force before the start of the 2020-21 financial year, to provide certainty for businesses on the rating position and to assist local authorities with billing arrangements.

Is the committee content with the reasons that have been given for the failure to comply with section 28(2) of the 2010 act?

Members *indicated agreement.*

Instruments not subject to Parliamentary Procedure

13:29

The Convener: Agenda item 4 is consideration of three instruments that are not subject to parliamentary procedure and on which no points have been raised.

South of Scotland Enterprise Act 2019 (Commencement and Transitional Provision) Amendment Regulations 2020 (SSI 2020/85 (C 10))

Bovine Viral Diarrhoea (Scotland) Amendment Order 2020 (SSI 2020/86)

Act of Adjournal (Criminal Procedure (Scotland) Act 1995 Amendment) (Miscellaneous) 2020 (SSI 2020/93)

The Convener: Is the committee content with the instruments?

Gordon Lindhurst: There is one point that I want to raise regarding SSI 2020/93. I understand why the instrument was brought in at short notice, why it has been acted upon and why no time limit is set for its operation. However, I think that it would be helpful to contact the Lord Justice General or his office to ask what the provisions are for the instrument being taken out of force once the current pandemic situation has passed, because that does not appear on the face of the act of adjournal, for understandable reasons.

The Convener: Is the committee content to defer consideration of SSI 2020/93 until its next meeting and, in the meantime, to write to the Lord President to request a response to Gordon Lindhurst's question?

Members indicated agreement.

The Convener: Is the committee content with SSI 2020/85 and SSI 2020/86?

Members indicated agreement.

Meeting closed at 13:31.

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