



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 19 May 2020**

**Session 5**



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Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**

**17<sup>th</sup> 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:**

Brian Whittle (South Scotland) (Con) (Committee Substitute)

**CLERK TO THE COMMITTEE**

Andrew Proudfoot

**LOCATION**

The Robert Burns Room (CR1)



**Scottish Parliament**  
**Delegated Powers and Law Reform Committee**

*Tuesday 19 May 2020*

*[The Convener opened the meeting at 12:36]*

**Interests**

**The Convener (Bill Bowman):** Good afternoon. I welcome everyone to the 17th meeting in 2020 of the Delegated Powers and Law Reform Committee. We have apologies from three of our members: Mary Fee, Gordon Lindhurst and Gil Paterson.

The first item on our agenda is a declaration of interests by Brian Whittle, who has joined us for today's meeting. In accordance with section 3 of the "Code of Conduct for Members of the Scottish Parliament", I invite him to declare any interests that are relevant to the committee's remit.

**Brian Whittle (South Scotland) (Con):** I have nothing to declare, convener.

**The Convener:** Thank you.

**Decision on Taking Business in Private**

12:36

**The Convener:** Under agenda item 2, it is proposed that the committee takes item 5 in private, as it involves consideration of a report that will be published when it has been agreed.

Does the committee agree to take that item in private?

**Members indicated agreement.**

## Instrument subject to Affirmative Procedure

### Release of Prisoners (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/138)

12:37

**The Convener:** Agenda item 3 is consideration of an instrument that is subject to the made affirmative procedure. No points have been raised on SSI 2020/138. Is the committee content with the instrument?

**Members** *indicated agreement.*

## Instruments subject to Negative Procedure

### Criminal Justice (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/137)

**The Convener:** The first instrument for consideration under agenda item 4 is SSI 2020/137, which makes modifications to several acts to make provision for victims to be notified in the event of an offender's early release from prison when they have been released under the Coronavirus (Scotland) Act 2020.

The instrument was laid before the Parliament on 4 May and came into force immediately. As 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 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 attention of the Parliament on reporting ground (j)?

**Members** *indicated agreement.*

**The Convener:** The committee also considers the reasons for breaches of the 28-day rule, which in this case are set out in a letter to the Presiding Officer that is dated 4 May 2020. The letter explains that the Scottish Government breached the 28-day rule in order to bring the instrument into force on the same day as the Release of Prisoners (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/138). If that had not been done, there would have been a period of time when prisoners could have been released but the Scottish ministers would have been unable to provide information to victims about their release.

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.*

### Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 (SSI 2020/139)

**The Convener:** SSI 2020/139 amends the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 (SSI 2014/243) to extend its application to all homeless people rather than only pregnant women and families with children. It

also makes other changes to the circumstances in which accommodation will be unsuitable.

In addition, in response to the coronavirus pandemic, the instrument temporarily modifies the 2014 order until 30 September 2020 to allow for temporary accommodation to be provided in hotels and bed and breakfasts. That applies where homeless persons need to self-isolate or otherwise comply with physical distancing guidelines.

The instrument was laid before the Parliament on 5 May and came into force the following day. 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. As with the previous instrument, the committee is therefore required to draw the instrument to the attention of the Parliament for breaching the 28-day rule.

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

**Members indicated agreement.**

**The Convener:** The reasons for the breach of the 28-day rule are set out in a letter to the Presiding Officer that is dated 5 May 2020, in which the Scottish Government explains that it considers the breach necessary to put in place the correct structure to aid the recovery from coronavirus and provide local authorities with clarity on how they should plan their exit strategies and support a restructuring of how we deal with homelessness to ensure that all homeless households can be provided with high-quality temporary accommodation prior to moving to a permanent settled home.

The instrument contains permanent changes to the 2014 order and temporary modifications to those changes in response to coronavirus. Does the committee wish to invite the lead committee to consider whether the breach of the 28-day rule is justified in policy terms, particularly in relation to the permanent changes?

**Members indicated agreement.**

**The Convener:** The instrument refers to the “Homeless Persons (Unsuitable Accommodation) Order (Scotland) 2014” when it should refer to the “Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014”. In addition, article 3(1) incorrectly refers to

“the modifications in this paragraph”

instead of the modifications that are contained in paragraphs (2) and (3) of article 3.

Does the committee wish to draw those errors to the attention of the lead committee on the general reporting ground?

**Members indicated agreement.**

**The Convener:** The instrument includes the terms “short period of time”, “congregate”, “large scale”, “small scale” and “good standard”.

Does the committee wish to write to the lead committee to invite it to consider the Scottish Government’s response in relation to questions on the meaning of those terms and whether it is content, as a matter of policy, to leave the interpretation of those terms to the judgment of the local authority, which should have regard to any guidance issued by ministers, rather than provide a more specific definition in the order?

**Members indicated agreement.**

12:42

*Meeting continued in private until 12:54.*





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