



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 26 May 2020

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 26 May 2020

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DELEGATED POWERS AND LAW REFORM COMMITTEE

18th 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 26 May 2020

[The Convener opened the meeting at 12:31]

Instrument subject to Affirmative Procedure

Registration of Independent Schools (Prescribed Person) (Coronavirus) (Scotland) Amendment Regulations 2020 [Draft]

The Convener (Bill Bowman): Good afternoon. I welcome everyone to the 18th meeting in 2020 of the Delegated Powers and Law Reform Committee. We have apologies from Gordon Lindhurst, Mary Fee and Gil Paterson, and I welcome Brian Whittle to the meeting.

Agenda item 1 is consideration of an instrument that is subject to the affirmative procedure, on which no points have been raised. Is the committee content with the instrument?

Members indicated agreement.

Instruments subject to Negative Procedure

Education (Deemed Decisions) (Coronavirus) (Scotland) Amendment Regulations 2020 (SSI 2020/149)

12:31

The Convener: The first instrument for consideration under agenda item 2 is SSI 2020/149, which amends regulation 5 of the Education (Placing in Schools Etc—Deemed Decisions) (Scotland) Regulations 1982 (SI 1982/1733). That regulation applies when an education authority has decided to exclude a pupil from school. An appeal against such a decision is heard by an education appeal committee. When the committee fails to hold a hearing within a set time, it is deemed to have confirmed the original decision to exclude the pupil. SSI 2020/149 increases that period of time from one month to four months.

The instrument was laid before the Parliament on 14 May and came into force on 15 May, which 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 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 14 May 2020. The letter explains that, as a result of the coronavirus outbreak, education authorities are reporting significant difficulties in providing the resources that are necessary to successfully carry out the exclusion appeal process. The Scottish Government considers that it is necessary to bring the modifications that are made by the instrument into force as early as possible to provide sufficient flexibility in timescales to successfully support the process for education authorities to convene appeal committees to hear such appeals.

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.*

Adults with Incapacity (Ethics Committee) (Scotland) (Coronavirus) Amendment Regulations 2020 (SSI 2020/151)

The Convener: SSI 2020/151 amends the Adults with Incapacity (Ethics Committee) (Scotland) Regulations 2002 (SSI 2002/190) as a consequence of Covid-19. It does so to improve the capacity of the ethics committee that considers research involving adults with incapacity in Scotland and to introduce some flexibilities into its working practices.

The instrument was laid before the Parliament on 15 May and came into force on 21 May, which 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 in this case are set out in a letter to the Presiding Officer that is dated 15 May 2020, which sets out that the Scottish Government considers that there is an urgent need to bring the instrument into force to address the significant increase in the ethics committee's workload as a result of the high volume of Covid-19 research that is being commissioned.

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.*

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

Census (Scotland) Regulations 2020 (SSI 2020/143)

Freedom of Information (Scotland) Act 2002 (Scottish Public Authorities) Amendment Order 2020 (SSI 2020/146)

Seed (Fees) (Scotland) Amendment Regulations 2020 (SSI 2020/148)

Education (Scotland) Act 1980 (Modification) Regulations 2020 (SSI 2020/150)

Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) (Amendment) Regulations 2020 (SSI 2020/152)

Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020 (SSI 2020/153)

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instrument not subject to Parliamentary Procedure

Meeting closed at 12:36.

South of Scotland Enterprise (Transfer of Property and Liabilities) (Scotland) Regulations 2020 (SSI 2020/147)

12:35

The Convener: Agenda item 3 is consideration of an instrument that is not subject to parliamentary procedure and on which no points have been raised. Is the committee content with the instrument?

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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