



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 27 October 2020

Session 5



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE
32nd Meeting 2020, Session 5

CONVENER

Bill Bowman (North East Scotland) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

*Michelle Ballantyne (South Scotland) (Con)

*Mary Fee (West Scotland) (Lab)

*Gil Paterson (Clydebank and Milngavie) (SNP)

*attended

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament
Delegated Powers and Law Reform Committee

Tuesday 27 October 2020

[The Deputy Convener opened the meeting at 12:05]

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

Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (SSI 2020/310)

The Deputy Convener (Stuart McMillan): I welcome everyone to the 32nd meeting in 2020 of the Delegated Powers and Law Reform Committee. We have received apologies from the convener, Bill Bowman.

Agenda item 1 is consideration of SSI 2020/310, which has been laid under the European Union (Withdrawal) Act 2018. The committee is considering the instrument under the Scottish statutory instrument protocol, so we are considering the scrutiny procedure under which it has been laid and the categorisation that the Scottish Government has applied to it.

The purpose of the instrument is to update references to “exit day” in two sets of regulations that were laid last year. It has been laid under the negative procedure and has been categorised by the Scottish Government as being of low significance.

Our advisers indicate that the use of the negative procedure appears to be appropriate and that the instrument may be considered to be of low significance because the amendments that are made are technical in nature and are consequential on changes that were made by the European Union (Withdrawal Agreement) Act 2020.

Is the committee content that the appropriate scrutiny procedure has been applied to the instrument?

Members indicated agreement.

The Deputy Convener: Does the committee wish to recommend that the instrument should be categorised as being of low significance?

Members indicated agreement.

Instruments subject to Made Affirmative Procedure

Health Protection (Coronavirus) (Restrictions and Requirements) (Additional Temporary Measures) (Scotland) Regulations 2020 (SSI 2020/318)

12:07

The Deputy Convener: The first instrument for consideration under agenda item 2 is SSI 2020/318, on which a point has been raised. Regulation 18 sets out the requirement to collect and share information when people visit “relevant hospitality premises”, which include restaurants, cafes, bars and public houses, and hotels in which food and drink is sold for consumption on the premises.

The committee’s legal advisers asked the Scottish Government whether regulation 18 made it clear enough that visitor information did not need to be collected if food or drink was being purchased for consumption off the premises. Our legal advisers noted that the associated guidance that has been produced by the Scottish Government makes it clear that takeaway activities are excluded from the requirement.

In its response, the Scottish Government said that the use of the term “visitor” rather than “customer” excludes those people who are on the premises for the purpose of purchasing or collecting food for consumption off the premises, but it agreed that

“the intention of the provision could be clarified further”

and thanked the Parliament for bringing the matter to its attention. The Scottish Government said that it will legislate at the next opportunity to provide clarity on the point.

The committee may wish to draw the instrument to the attention of the Parliament under reporting ground (h), as the form or meaning of the provision in question could be clearer. It may also wish to note that the Scottish Government has undertaken to clarify the provision at the next opportunity that it has to do so.

Does the committee wish to draw the instrument to the attention of the Parliament under reporting ground (h)?

Members indicated agreement.

The Deputy Convener: No points have been raised on the following five instruments, which are also subject to the made affirmative procedure.

**Health Protection (Coronavirus)
(International Travel) (Scotland)
Amendment (No 17) Regulations 2020
(SSI 2020/307)**

**Health Protection (Coronavirus)
(Restrictions and Requirements)
(Additional Temporary Measures)
(Scotland) Amendment Regulations 2020
(SSI 2020/325)**

**Health Protection (Coronavirus)
(International Travel) (Scotland)
Amendment (No 18) Regulations 2020
(SSI 2020/326)**

**Health Protection (Coronavirus, Public
Health Information for Passengers
Travelling to Scotland) Amendment
Regulations 2020 (SSI 2020/328)**

**Health Protection (Coronavirus)
(Restrictions and Requirements)
(Additional Temporary Measures)
(Scotland) Amendment (No 2) Regulations
2020 (SSI 2020/329)**

The Deputy Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments subject to Affirmative Procedure

12:09

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

**Mandatory Use of Closed Circuit
Television in Slaughterhouses (Scotland)
Regulations 2020 [Draft]**

**International Organisations (Immunities
and Privileges) (Scotland) Revocation
Order 2021 [Draft]**

**Valuation (Postponement of Revaluation)
(Coronavirus) (Scotland) Order 2020
[Draft]**

**UEFA European Championship (Trading
and Advertising) (Scotland) Regulations
2020 [Draft]**

The Deputy Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments subject to Negative Procedure

12:10

The Deputy Convener: Agenda item 4 is consideration of six negative instruments, on which no points have been raised.

Glasgow School of Art Order of Council 2020 (SSI 2020/303)

Age of Criminal Responsibility (Scotland) Act 2019 (Independent Review of Disclosure of Information) Regulations 2020 (SSI 2020/305)

Electronic Monitoring (Approved Devices) (Scotland) Regulations 2020 (SSI 2020/308)

Electronic Monitoring (Relevant Disposals) (Modification) (Scotland) Regulations 2020 (SSI 2020/309)

Town and Country Planning, Management of Extractive Waste and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2020 (SSI 2020/310)

Waste (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/314)

The Deputy Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments not subject to Parliamentary Procedure

12:10

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

Agriculture (Retained EU Law and Data) (Scotland) Act 2020 (Commencement No 1) Regulations 2020 (SSI 2020/315 (C 27))

Non-Domestic Rates (Scotland) Act 2020 (Commencement No 2, Transitional and Saving Provisions) Regulations 2020 (SSI 2020/327 (C 28))

The Deputy Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Meeting closed at 12:10.

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.

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