



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 16 February 2021

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 16 February 2021

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DELEGATED POWERS AND LAW REFORM COMMITTEE
6th Meeting 2021, Session 5

CONVENER

*Bill Bowman (North East Scotland) (Con)

DEPUTY CONVENER

*Gil Paterson (Clydebank and Milngavie) (SNP)

COMMITTEE MEMBERS

*Michelle Ballantyne (South Scotland) (Reform)

*Mary Fee (West Scotland) (Lab)

*Joe FitzPatrick (Dundee City West) (SNP)

*attended

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

Virtual Meeting

Scottish Parliament
Delegated Powers and Law
Reform Committee

Tuesday 16 February 2021

[The Convener opened the meeting at 11:50]

Decision on Taking Business in
Private

The Convener (Bill Bowman): Good morning. I welcome everyone to the sixth meeting in 2021 of the Delegated Powers and Law Reform Committee.

As we are meeting online, it will be more challenging for members to indicate agreement to the items that are discussed. Therefore, I ask members to raise their hand if they are not content with the question that is being put, or if they wish to speak about the instrument in question.

The first agenda item is a decision on whether to take items 6, 7 and 8 in private. Those items involve consideration of reports that will be published once they have been agreed. Is the committee content to take items 6 to 8 in private?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

European Union (Withdrawal) Act
2018: Instrument Category

Sea Fishing (EU Exit) (Scotland)
(Amendment) Regulations 2021 [Draft]

11:51

The Convener: Agenda item 2 is consideration of an instrument that has been laid under the European Union (Withdrawal) Act 2018. The committee is considering whether the Scottish Government has applied the appropriate category to the instrument.

Is the committee content that the instrument has been properly categorised as being of medium significance?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instrument subject to Made Affirmative Procedure

Personal Protective Equipment (Temporary Arrangements) (Coronavirus) (Scotland) Regulations 2021 (SSI 2021/50)

11:51

The Convener: Agenda item 3 is consideration of an instrument that is subject to the made affirmative procedure, on which no points have been raised. Is the committee content with the instrument?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instruments subject to Affirmative Procedure

Criminal Justice (Scotland) Act 2003 (Supplemental Provisions) Order 2021 [Draft]

11:52

The Convener: An issue has been raised on the first instrument for consideration under agenda item 4. Section 14 of the Criminal Justice (Scotland) Act 2003 makes provision for the Scottish ministers to use delegated powers to prescribe variously which courts can receive victim statements, which offences should require victim statements and the form and manner in which victim statements may be made. The draft Criminal Justice (Scotland) Act 2003 (Supplemental Provisions) Order 2021 would amend section 14 of the 2003 act to allow the Scottish ministers to combine exercise of those powers to make different provision for different purposes. The policy note that accompanies the instrument indicates that the intention is for the powers to be used more flexibly to allow victim statements to be made in relation to specific offences that are tried in a specific court in a prescribed manner. That would enable piloting of different models of victim statement scheme.

Although there is no suggestion that the instrument is outwith vires, it has been made by what appears to be an unusual or unexpected use of the power in section 84(1) of the 2003 act to make supplemental provision. The lead committee might wish to raise that approach with the relevant minister when it takes evidence on the instrument.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (g), as it has been made by what appears to be an unusual or unexpected use of the powers that are conferred by the parent statute?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Community Orders (Coronavirus) (Scotland) Regulations 2021 [Draft]

The Convener: In relation to the second instrument for consideration under agenda item 4, drafting errors have been identified in subparagraphs (b) and (c) of regulation 4(1). In both instances, the reference to

“relevant unpaid work or other requirement”

should be to

“relevant unpaid work or other activity requirement”,

as defined in regulation 1.

Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground, on the basis that there are drafting errors in regulation 4 of the instrument, and to note that the Scottish Government has undertaken to amend those errors by way of a correction slip?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

**Sea Fishing (EU Exit) (Scotland)
(Amendment) Regulations 2021 [Draft]**

The Convener: No points have been raised on the third instrument for consideration under agenda item 4. Is the committee content with the instrument?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

**Instruments subject to Negative
Procedure**

11:54

The Convener: Agenda item 5 is consideration of five negative instruments, on which no points have been raised.

**Non-Domestic Rating (Valuation of
Utilities) (Scotland) Amendment Order
2021 (SSI 2021/59)**

**Personal Injuries (NHS Charges)
(Amounts) (Scotland) Amendment
Regulations 2021 (SSI 2021/60)**

**Non-Domestic Rate (Scotland) Order 2021
(SSI 2021/63)**

**Non-Domestic Rates (District Heating
Relief and Renewable Energy Generation
Relief) (Scotland) Amendment Regulations
2021 (SSI 2021/64)**

**Non-Domestic Rates (Levying and
Miscellaneous Amendments) (Scotland)
Regulations 2021 (SSI 2021/65)**

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

11:55

Meeting continued in private until 12:11.

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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