



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 23 March 2021

Session 5



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Pàrlamaid na h-Alba

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CONTENTS

| | Col. |
|--|-------------|
| DECISION ON TAKING BUSINESS IN PRIVATE | 1 |
| INSTRUMENT SUBJECT TO MADE AFFIRMATIVE PROCEDURE | 2 |
| Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 17) Regulations 2021 (SSI 2021/136) | 2 |
| INSTRUMENTS SUBJECT TO NEGATIVE PROCEDURE | 3 |
| National Assistance (Assessment of Resources and Sums for Personal Requirements) Amendment (Scotland) Regulations 2021 (SSI 2021/115) | 3 |
| Red Rocks and Longay Urgent Marine Conservation Order 2021 (SSI 2021/131) | 3 |
| Council Tax Reduction (Scotland) Amendment (No 3) (Coronavirus) Regulations 2021 (SSI 2021/137) | 4 |
| Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Amendment Regulations 2021 (SSI 2021/140) | 4 |
| Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Amendment Regulations 2021 (SSI 2021/142) | 5 |
| Non-Domestic Rates (Restriction of Relief) (Scotland) Regulations 2021 (SSI 2021/145) | 5 |
| Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2021 (SSI 2021/151) | 6 |
| INSTRUMENTS NOT SUBJECT TO PARLIAMENTARY PROCEDURE | 7 |
| Animal Health (Notification and Control Measures) (Miscellaneous Amendments) (Scotland) Order 2021 (SSI 2021/130) | 7 |
| Scottish Fire and Rescue Service (Appointment of Chief Inspector) Order 2021 (SSI 2021/132) | 7 |
| UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (Commencement No 1) Regulations 2021 (SSI 2021/141 (C 11)) | 7 |
| Act of Sederunt (Rules of the Court of Session 1994 Amendment) (Court Sitzings) 2021 (SSI 2021/153) | 7 |

DELEGATED POWERS AND LAW REFORM COMMITTEE

11th 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 23 March 2021

[The Convener opened the meeting at 11:46]

Decision on Taking Business in
Private

The Convener (Bill Bowman): Good morning. I welcome everyone to the 11th meeting in 2021, and the final scheduled meeting in session 5, of the Delegated Powers and Law Reform Committee.

Before we begin, I would like to take the opportunity to thank all committee members for their diligence and support, as well as all previous committee members who have contributed to the committee's work this session. I also thank the clerks and the facilities management and security staff, as well, of course, as the broadcasting staff, without whom it would not be possible for us to be having this meeting.

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 and 7 in private. Is the committee content to take those items in private?

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

Health Protection (Coronavirus)
(Restrictions and Requirements) (Local
Levels) (Scotland) Amendment (No 17)
Regulations 2021 (SSI 2021/136)

11:47

The Convener: Agenda item 2 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 Negative Procedure

National Assistance (Assessment of Resources and Sums for Personal Requirements) Amendment (Scotland) Regulations 2021 (SSI 2021/115)

11:48

The Convener: Under agenda item 3, issues have been raised on seven instruments that have breached the rule that requires instruments that are subject to the negative procedure to be laid at least 28 days before they come into force. The first such instrument, SSI 2021/115, amends the National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2021 (SSI 2021/76) and the National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2021 (SSI 2021/77), which relate to the assessment of a person's liability to pay for residential accommodation that is provided by a local authority. The amendments change the date of commencement of those instruments from 6 April 2021 to 12 April 2021.

The instrument's breach of the 28-day rule came about as a result of an oversight by the Scottish Government in not consulting the United Kingdom Government before making SSI 2021/76 and SSI 2021/77 to check what the commencement dates were for the annual uprating exercise that is carried out under section 150(10) of the Social Security Administration Act 1992.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j), in that it has been laid less than 28 days before coming into force and has therefore breached the laying requirements under section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010? At the same time, does the committee wish to welcome the fact that procedures have been put in place to ensure that relevant commencement dates are checked with the UK Government for the next financial year?

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

Red Rocks and Longay Urgent Marine Conservation Order 2021 (SSI 2021/131)

The Convener: An issue has also been raised on SSI 2021/131, which has been brought into force urgently to further the conservation objectives for the designated Red Rocks and

Longay marine protected area in order to protect flapper skate and their eggs.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j)? At the same time, does the committee wish to note that it is satisfied with the explanation that the Scottish Government has provided in the published correspondence for the failure to comply with the laying requirements? *[Interruption.]* I will continue.

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

Council Tax Reduction (Scotland) Amendment (No 3) (Coronavirus) Regulations 2021 (SSI 2021/137)

The Convener: The next instrument on which an issue has been raised is SSI 2021/137, which amends the Council Tax Reduction (Scotland) Regulations 2012 (SSI 2012/303) and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (SSI 2012/319). The instrument provides that a one-off £500 payment that is to be made to persons who are eligible for working tax credits is to be disregarded, for the purposes of council tax reduction, in calculating a person's capital. That follows an announcement by the UK Government on 3 March 2021.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j) but to note that it is satisfied with the explanation that the Scottish Government has provided in the published correspondence for the failure to comply with the laying requirements?

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

Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Amendment Regulations 2021 (SSI 2021/140)

The Convener: An issue has also been raised on SSI 2021/140. The Carer's Allowance (Coronavirus) (Breaks in Care) (Scotland) Regulations 2020 (SSI 2020/117) relaxed the eligibility criteria for carers allowance to take account of the effects of coronavirus. Regulation 2, which delivered the policy intention of the instrument, was originally due to expire in December 2020 but was extended to 12 May 2021 by SSI 2020/350. SSI 2021/140 further extends that period until 31 August 2021.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j)? At the same time, does the committee wish to note that it is satisfied with the explanation

that the Scottish Government has provided in the published correspondence for the failure to comply with the laying requirements?

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

Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Amendment Regulations 2021 (SSI 2021/142)

The Convener: The next instrument on which an issue has been raised is SSI 2021/142, the main purpose of which is to make provision to further extend the duration of planning permissions and consents granted during the coronavirus pandemic. The instrument also corrects drafting errors in the Town and Country Planning (Emergency Period and Extended Period) (Coronavirus) (Scotland) Regulations 2021 (SSI 2021/100) and applies the saving provision in those regulations to conservation area consents, as well as listed building consents.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j)? At the same time, does the committee wish to note that it is satisfied with the explanation that the Scottish Government has provided in the published correspondence for the failure to comply with the laying requirements? Does the committee also welcome the fact that the instrument fulfils the commitment that the Scottish Government made to the committee to correct drafting errors in SSI 2021/100, which the committee considered on 9 March 2021?

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

Non-Domestic Rates (Restriction of Relief) (Scotland) Regulations 2021 (SSI 2021/145)

The Convener: An issue has also been raised on SSI 2021/145, the purpose of which is to provide that specified relief in respect of non-domestic rates that would otherwise be granted will not be granted from 1 April 2021 if that relief, when added to any other prescribed relief, would exceed 325,000 special drawing rights. It was made after clarification was obtained following the recent UK Government budget.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j)? At the same time, does the committee wish to note that it is satisfied with the explanation that the Scottish Government has provided in the published correspondence for the failure to comply with the laying requirements? *[Interruption.]*

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

Non-Domestic Rates (Coronavirus Reliefs) (Scotland) Regulations 2021 (SSI 2021/151)

The Convener: The final instrument on which an issue has been raised is SSI 2021/151, which provides for 100 per cent non-domestic rates relief for properties with specified uses in the retail, hospitality and leisure sectors, as well as properties that are used for newspaper publishing. It also provides 100 per cent relief for airports and handling service providers, and for lands and heritages that are occupied by Loganair Ltd. It was contingent on the Scottish Government receiving the funding from the UK budget on 3 March.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j)? At the same time, does the committee wish to note that it is satisfied with the explanation that the Scottish Government has provided in the published correspondence for the failure to comply with the laying requirements?

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

Instruments not subject to Parliamentary Procedure

11:57

Meeting continued in private until 12:10.

11:57

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

Animal Health (Notification and Control Measures) (Miscellaneous Amendments) (Scotland) Order 2021 (SSI 2021/130)

Scottish Fire and Rescue Service (Appointment of Chief Inspector) Order 2021 (SSI 2021/132)

UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (Commencement No 1) Regulations 2021 (SSI 2021/141 (C 11))

Act of Sederunt (Rules of the Court of Session 1994 Amendment) (Court Sitzings) 2021 (SSI 2021/153)

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.

With that, I draw this session's meetings of the Delegated Powers and Law Reform Committee to a conclusion.

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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