



OFFICIAL REPORT  
AITHISG OIFIGEIL

DRAFT

# Delegated Powers and Law Reform Committee

Tuesday 7 September 2021

Session 6



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Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**

**3<sup>rd</sup> Meeting 2021, Session 6**

**CONVENER**

\*Stuart McMillan (Greenock and Inverclyde) (SNP)

**DEPUTY CONVENER**

\*Bill Kidd (Glasgow Anniesland) (SNP)

**COMMITTEE MEMBERS**

\*Craig Hoy (South Scotland) (Con)

\*Graham Simpson (Central Scotland) (Con)

\*Paul Sweeney (Glasgow) (Lab)

\*attended

**CLERK TO THE COMMITTEE**

Andrew Proudfoot

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Delegated Powers and Law Reform Committee

*Tuesday 7 September 2021*

*[The Convener opened the meeting at 10:00]*

### Decision on Taking Business in Private

**The Convener (Stuart McMillan):** Good morning, and welcome to the third meeting of the Delegated Powers and Law Reform Committee in session 6. Before we move to the first item on the agenda, I remind everyone to switch their mobile phones to silent.

The first item of business is to decide whether to take items 6 and 7 in private. Do members agree to take those items in private?

**Members indicated agreement.**

### Instrument subject to Made Affirmative Procedure

**Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 16) Regulations 2021 (SSI 2021/290)**

10:01

**The Convener:** The next item of business is consideration of a Scottish statutory instrument subject to the made affirmative procedure. No points have been raised on the instrument. Is the committee content with it?

**Members indicated agreement.**

### Instruments subject to Affirmative Procedure

10:01

**The Convener:** Under the next agenda item, we are considering instruments subject to the affirmative procedure. No points have been raised on the following draft instruments.

**Na h-Eileanan an Iar (Electoral Arrangements) Regulations 2021 [Draft]**

**Orkney Islands (Electoral Arrangements) Regulations 2021 [Draft]**

**Shetland Islands (Electoral Arrangements) Regulations 2021 [Draft]**

**Argyll and Bute (Electoral Arrangements) Regulations 2021 [Draft]**

**Highland (Electoral Arrangements) Regulations 2021 [Draft]**

**North Ayrshire (Electoral Arrangements) Regulations 2021 [Draft]**

**Children's Legal Assistance (Miscellaneous Amendments and Consequential Provisions) (Scotland) Regulations 2021 [Draft]**

**Social Security (Advocacy Service Standards) (Scotland) Amendment Regulations 2021 [Draft]**

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

**Members indicated agreement.**

## Instruments subject to Negative Procedure

10:02

**The Convener:** Under the next agenda item, we are considering instruments subject to negative procedure. No points have been raised on the following instruments.

**Coronavirus (Extension and Expiry) (Scotland) Act 2021 (Evidence) (Saving Provision) Regulations 2021 (SSI 2021/280)**

**Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Amendment (No 2) Regulations 2021 (SSI 2021/282)**

**Meat Preparations (Import Conditions) (Scotland) Amendment (No 2) Regulations 2021 (SSI 2021/288)**

**Prisons and Young Offenders Institutions (Coronavirus) (Scotland) Amendment (No 2) Rules 2021 (SSI 2021/289)**

**Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2021 (SSI 2021/292)**

**Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Amendment Order 2021 (SSI 2021/293)**

**The Convener:** Mr Simpson wishes to comment.

**Graham Simpson (Central Scotland) (Con):** I want to query an aspect of the Town and Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2021 (SSI 2021/292). As you will be aware, under coronavirus legislation, the requirement to hold public consultation events on potential building developments was suspended; in other words, such events did not need to be held. The regulations continue that suspension until 31 March next year. Given that we are now allowed to attend all sorts of events, such as concerts, football matches and weddings, I query why anyone should not be allowed to hold a public consultation event.

We have not had an explanation for that, so the committee should write to the Government asking for one. We could also write to the lead committee, which I think in this case would be the Local

Government, Housing and Planning Committee. There is a related regulation that we will consider later—SSI 2021/291—so we could perhaps include that in the letter.

**Paul Sweeney (Glasgow) (Lab):** I have an additional point, convener. My experience of dealing with planning applications locally is that online consultations have become more of a feature. In many cases, the online facility has increased participation in planning consultations, just because the physical logistics of attending are much more straightforward. This might be an opportunity to ask whether a study has been done of the effectiveness of that procedure. It might be good to consider having online facilities as well as physical facilities. We could ask the Government whether it has reviewed the effectiveness of the way in which consultations have been undertaken.

**The Convener:** On Mr Simpson's point about SSI 2021/292 and subsequently SSI 2021/291, it is worth while for us to write to the relevant committee. Mr Sweeney's point about the effectiveness of what has been happening is also worth while. It is worth while to write to the Scottish Government to ask for further clarification and for an explanation of those points.

Notwithstanding that, is the committee content with the instruments?

**Members indicated agreement.**

**The Convener:** The committee may nevertheless wish to highlight that no policy note was included with SSI 2021/280. It is accepted practice that, in order to assist the Parliament's consideration of SSIs, a policy note should normally be prepared for every SSI.

Also, on SSI 2021/293, the committee may wish to highlight that the Scottish Government has rectified four minor formatting and typographical points that were raised by the session 5 committee when it considered the principal order—the Town and Country Planning (Cairnryan Border Control Posts) (EU Exit) (Scotland) Special Development Order 2021 (SSI 2021/98)—in March of this year.

Is the committee content to highlight those points in its report on today's instruments?

**Members indicated agreement.**

## Instruments not subject to Parliamentary Procedure

10:06

**The Convener:** Under agenda item 5, we are considering instruments not subject to parliamentary procedure. No points have been raised on the following instruments.

### Planning (Scotland) Act 2019 (Commencement No 6 and Transitional Provision) Amendment Regulations 2021 (SSI 2021/291 (C16))

### Act of Sederunt (Simple Procedure Amendment) (Civil Online) 2021 (SSI 2021/295)

**The Convener:** Notwithstanding the points about SSI 2021/291 that we have just discussed, is the committee content with the instruments?

**Members indicated agreement.**

**The Convener:** With that, I will move the meeting into private—

**Graham Simpson:** Convener—

**The Convener:** Oh, sorry. Go ahead, Mr Simpson.

**Graham Simpson:** We are not quite in private yet. I apologise, but I want to raise an issue.

We know that we are to have a debate in the Parliament on vaccine passports. I do not actually know what we will debate yet, because we have not seen any details. Frankly, all that I have to go on is what the First Minister announced last week and what I have read in the press. We will have a debate and vote and I imagine that, for such a significant measure, regulations will be laid at some point.

There is a process issue. A lot of the coronavirus legislation has gone through under the made affirmative procedure, under which the law comes into force and then the Parliament has a look at it. A lot of planning has clearly gone into vaccine passports. The First Minister said last week that, if MSPs approve the proposals, she would like them to come in at the end of this month. Therefore, there is time to do what I would describe as proper scrutiny. I argue that the regulations should be laid before they come into force and that we should use a process other than the made affirmative procedure.

Given the lack of clarity, the committee could write to the Government to ask what its plans are. We do not want to know about the detail of the plans—that is for a policy committee to

scrutinise—but we want to know how the Government plans to proceed and what process it plans to use. We could also flag that up to the COVID-19 Recovery Committee, which I think will be the main policy committee.

**The Convener:** We would all agree that we live in different times compared to the normal political times that we had pre Covid. In the debate on Thursday, policy matters will certainly be highlighted. Your suggestion that we write to the Government to ask about the process is worth while. With the committee's approval, I am content for that to happen and for us to get that explanation. Mr Simpson's point about writing to the relevant committee is also worth while. Do members agree to those suggestions?

**Members indicated agreement.**

**The Convener:** If there are no other points, I now move the meeting into private.

10:10

*Meeting continued in private until 10:32.*





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