



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

DELEGATED POWERS AND LAW REFORM COMMITTEE

Tuesday 11 November 2014

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DELEGATED POWERS AND LAW REFORM COMMITTEE
31st Meeting 2014, Session 4

CONVENER

*Nigel Don (Angus North and Mearns) (SNP)

DEPUTY CONVENER

*Stuart McMillan (West Scotland) (SNP)

COMMITTEE MEMBERS

- *Richard Baker (North East Scotland) (Lab)
- *Mike MacKenzie (Highlands and Islands) (SNP)
- *Margaret McCulloch (Central Scotland) (Lab)
- *John Scott (Ayr) (Con)
- *Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

CLERK TO THE COMMITTEE

Euan Donald

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament
Delegated Powers and Law Reform Committee

Tuesday 11 November 2014

[The Convener opened the meeting at 11:45]

Instruments subject to Affirmative Procedure

Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014 [Draft]

The Convener (Nigel Don): I welcome members to the 31st meeting in 2014 of the Delegated Powers and Law Reform Committee, and I ask that mobile phones be switched off.

The policy intention of the draft Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Regulations 2014 is that regulations 3 to 6 apply when the parties wish to change their civil partnership into a marriage and the civil partnership was registered in Scotland or it was registered outside the United Kingdom under an order in council made under chapter 1 of part 5 of the Civil Partnership Act 2004, the parties to the civil partnership elected Scotland as the relevant part of the UK, and details of the civil partnership were sent to the registrar general of births, deaths and marriages for Scotland.

The meaning of regulations 3(1) and 3(3), which refer to “qualifying civil partnership”, could be clearer in implementing that policy intention. The committee may consider that, in the absence of a suitable, express definition of “qualifying civil partnership” in the regulations, it is doubtful whether regulations 3 to 6 apply to those civil partnerships that were registered outside the UK. The definition of “qualifying civil partnership” that is provided for in section 10 of the Marriage and Civil Partnership (Scotland) Act 2014—the section under which the regulations are made—is that given by section 5(6) of the Marriage (Scotland) Act 1977. In terms, that definition is limited to a civil partnership that was registered in Scotland.

Although the committee may accept the Scottish Government’s view that the powers in the 2014 act enable regulations 3 to 6 to extend to those civil partnerships that were registered outside the UK, it may consider that the meaning of the provisions could be clearer if “qualifying civil partnership” was expressly defined in the regulations.

Does the committee therefore agree to draw the regulations to the attention of the Parliament on the reporting ground (h), as the meaning of regulations 3(1) and 3(3) could be clearer?

Members *indicated agreement.*

Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) (Scotland) Regulations 2014 [Draft]

Land Registration etc (Scotland) Act 2012 (Amendment and Transitional) Order 2014 [Draft]

Budget (Scotland) Act 2014 Amendment Order 2014 [Draft]

Criminal Legal Aid (Fixed Payments and Assistance by Way of Representation) (Scotland) (Miscellaneous Amendments) Regulations 2014 [Draft]

The Convener: No points have been raised by our legal advisers on the instruments. Is the committee content with them?

Members *indicated agreement.*

Instruments subject to Negative Procedure

Public Bodies (Joint Working) (Local Authority Officers) (Scotland) Regulations 2014 (SSI 2014/282)

Public Bodies (Joint Working) (Prescribed Consultees) (Scotland) Regulations 2014 (SSI 2014/283)

Public Bodies (Joint Working) (Prescribed Days) (Scotland) Regulations 2014 (SSI 2014/284)

Marriage and Civil Partnership (Scotland) Act 2014 (Commencement No 3, Saving, Transitional Provision and Revocation) Order 2014 (SSI 2014/287)

11:47

The Convener: No points have been raised by our legal advisers on the instruments. Is the committee content with them?

Members *indicated agreement.*

Instrument not subject to Parliamentary Procedure

Revenue Scotland and Tax Powers Act 2014 (Commencement No 1) Order 2014 (SSI 2014/278)

11:48

The Convener: No points have been raised by our legal advisers on the order, but the committee might note that, in it, the Scottish Government intended to commence paragraph 23 of schedule 2 to the Revenue Scotland and Tax Powers Act 2014. The order commences paragraph 22 of that schedule on 7 November 2014, for the purpose of making conduct rules for the members of the Scottish tax tribunals. The omitted paragraph 23 enables the rules to make different provision for different purposes and provides for the publication of the rules. The Scottish Government has confirmed that paragraph 23 will be commenced by a further order, prior to any rules under paragraph 22 being made.

Is the committee content with the order?

Members *indicated agreement.*

11:49

Meeting continued in private until 12:15.

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e-format first available
ISBN 978-1-78534-271-4

Revised e-format available
ISBN 978-1-78534-287-5