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Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh

Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 4 June 2024



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No points raised	1
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Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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No points raised

1. At its meeting on 4 June, the Committee considered the following instrument under its remit and agreed not to draw it to the attention of the Parliament.

Criminal Justice Committee

Early Release of Prisoners and Prescribed Victim Supporters (Scotland) Regulations 2024 (SSI 2024/Draft)

The purpose of these regulations is to: -

- (i) make provision for the early release of certain prisoners in response to an emergency situation across the Scottish prison estate; and
- (ii) prescribe certain victim support organisations so that they may be nominated by a victim of crime to receive information concerning the person who committed an offence against the victim (including the date of their release from prison).

It has been agreed that the above draft instrument, which is subject to the affirmative procedure, will be considered under an expedited timetable. It was laid on Wednesday 29 May, and it is expected to be considered by the Scottish Parliament on Wednesday 12 June.

The Committee agreed to draw to the attention of the Criminal Justice Committee that the draft instrument would have the following effects.

- The Explanatory Note and Policy Note state that the first group of prisoners will be released between 26 and 27 June, but the draft instrument does not provide that 26 June is the earliest permitted release date. Therefore, under regulation 3(2) the first group of prisoners could, in theory, be released at any point from 13 June to 27 June;
- The draft instrument has the effect that a prisoner who is sentenced on a date between 13 June and 16 July could, in certain circumstances, be released the next day, and the Scottish Government has indicated that this is in line with the policy intention. (See the [Committee's correspondence with the Scottish Government](#) in this regard); and
- The ability for a victim to nominate a supporter (in section 16ZA of the Criminal Justice (Scotland) Act 2003 and 27B of the Victims and Witnesses (Scotland) Act 2014, as inserted by the Bail and Release from Custody (Scotland) Act 2023) only came into force on 26 May; and regulation 4, which prescribes the victim support organisations which are to be able to receive information concerning the person who committed an offence against the victim, will only commence on 13 June. This does not allow much time for the necessary administrative processes to be put in place before individuals begin to be released early.

