

Criminal Justice Committee

**2nd Meeting, 2021 (Session 6), Wednesday,
1 September 2021**

Subordinate legislation

Note by the clerk

Purpose of the paper

1. This paper invites the Committee to consider the following negative instruments:
 - [The Sexual Offences Act 2003 \(Prescribed Police Stations\) \(Scotland\) Amendment Regulations 2021](#) [see page 3];
 - [Act of Sederunt \(Fees of Messengers-at-Arms and Sheriff Officers\) \(Amendment\) 2021](#) [see page 5].
2. **If the Committee agrees to report to the Parliament on the instruments, it is required to do so by 6 September 2021.**

Delegated Powers and Law Reform Committee Consideration

3. The Delegated Powers and Law Reform Committee considered both of the instruments at its meeting on 22 June 2021.
4. **The DPLR Committee agreed that it did not need to draw either of the instruments to the attention of the Parliament on any grounds within its remit.**

Procedure for negative instruments

5. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. The annulment process would require a motion to be agreed in the Chamber.

6. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
7. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
8. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
9. If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book.) Ministers are not prevented from making another instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.
10. Each negative instrument appears on the Criminal Justice Committee's agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not *always* possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
11. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

Guidance on subordinate legislation

12. Further guidance on subordinate legislation is available on the Delegated Powers and Law Reform Committee's web page at:

<https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-delegated-powers-and-law-reform-committee>

13. **The Committee is invited to consider the instruments.**

Clerks to the Committee
24 August 2021

**POLICY NOTE
THE SEXUAL OFFENCES ACT 2003 (PRESCRIBED POLICE STATIONS)
(SCOTLAND) AMENDMENT REGULATIONS 2021
SSI 2021/220**

The Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Amendment Regulations 2021 (“the Amendment Regulations”) are to be made in exercise of the powers conferred by section 87(1)(a) of the Sexual Offences Act 2003 (“the 2003 Act”). The Amendment Regulations are subject to negative procedure.

These Regulations amend the list of police stations prescribed in the Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2017 at which notification requirements imposed on sex offenders can be discharged.

Policy Objectives

1. In Scotland a sex offender becomes subject to the notification requirements of Part 2 of the 2003 Act if that person is convicted of an offence listed in Schedule 3 to the 2003 Act, or where another finding contained in section 80(1) of the 2003 Act is made against them, or if a sexual offences prevention order, as provided by sections 104 to 109 of the 2003 Act, has been made against that offender, which includes a requirement to comply with the notification requirements. Such offenders have to notify the police of their name, address, and certain other personal details within 3 days of their conviction, sentence, or the making of a sexual offences prevention order against them.

2. Section 87(1) of the 2003 Act provides that a sex offender gives notification under sections 83(1), 84(1), or 85(1) of the 2003 Act by attending any police station which is prescribed for this purpose by regulations. The Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2017 (“the 2017 Regulations”) prescribe a list of police stations in Scotland at which a sex offender can attend to notify the police of their details. The 2017 Regulations came into force on 9th October 2017.

3. Section 87 of the 2003 Act empowers the police to take photographs, fingerprints and samples to verify the offender’s identity upon notification. Notification should therefore take place at a station where the necessary facilities are available.

4. The Amendment Regulations will:

- **Amend the addresses for 2 prescribed police stations on the current list, namely Aberdeen Police Station and Peterhead Police Station.** The amendments required to these addresses are due to changes of address of those police stations within Peterhead and Aberdeen.
- **Remove 1 listed prescribed police station.** The station being removed is Saracen Police Station.

5. Police Scotland confirm that these addresses have been checked with the local

Division and with the Royal Mail website.

Consultation

6. The Police Service of Scotland (PSOS) was consulted on the 2017 Regulations and provided us with details of the present changes, enabling us to draft the Amendment Regulations. PSOS is clear that the revised list delivers the required geographical coverage across Scotland to allow those offenders who are subject to the notification requirements under the 2003 Act to comply with the said requirements.

Impact Assessments

7. The impact of the Amendment Regulations will be purely administrative for the PSOS and individuals subject to the notification requirements of the 2003 Act. There will be no impact on businesses, equalities or strategic environment, therefore no impact assessments have been carried out.

Financial Effects

8. The Cabinet Secretary for Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Directorate for Justice
May 2021

**Act of Sederunt (Fees of Messengers-at-Arms and Sheriff Officers)
(Amendment) 2021
Explanatory note**

This Act of Sederunt makes changes to the rules regulating the fees of Messengers-at-Arms and sheriff officers.

Paragraphs 2 and 3 substitute new Tables of Fees for Messengers-at-Arms and sheriff officers in Act of Sederunt (Fees of Messengers-at-Arms) (No. 2) 2002 and Act of Sederunt (Fees of Sheriff Officers) (No. 2) 2002.

The fee levels in the new Tables of Fees represent an increase of 6% on the existing fees. This increase takes effect from 30th June 2021.