



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 22 January 2019

Session 5



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE

3rd Meeting 2019, Session 5

CONVENER

*Graham Simpson (Central Scotland) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

*Mary Fee (West Scotland) (Lab)

*Alison Harris (Central Scotland) (Con)

*attended

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 22 January 2019

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Graham Simpson): I welcome everyone to the third meeting in 2019 of the Delegated Powers and Law Reform Committee.

Under agenda item 1, it is proposed that the committee takes items 7 and 8—consideration of our draft report on the South of Scotland Enterprise Bill and of our quarterly report—in private. Does the committee agree to do so?

Members *indicated agreement.*

European Union (Withdrawal) Act 2018

Insolvency (EU Exit) (Scotland) (Amendment) Regulations 2019 [Draft]

10:00

The Convener: Agenda item 2 is consideration of a Scottish statutory instrument that has been laid under the European Union (Withdrawal) Act 2018. The draft Insolvency (EU Exit) (Scotland) (Amendment) Regulations 2019 is the first SSI to be laid under the 2018 act, and this extra step in its scrutiny is based on the protocol that was recently agreed by the Scottish Parliament and the Scottish Government.

The instrument has been laid under the affirmative procedure and has been categorised as being of low significance. Is the committee content that the appropriate scrutiny procedure has been applied to the instrument?

Members *indicated agreement.*

The Convener: Is the committee content with the category that has been assigned to the instrument?

Members *indicated agreement.*

Document subject to Approval

Scottish Social Security Charter [Draft]

10:01

The Convener: Under agenda item 3, no points have been raised on the draft Scottish social security charter. Is the committee content with the document?

Members *indicated agreement.*

Instruments subject to Affirmative Procedure

10:01

The Convener: Under agenda item 4, no points have been raised on the following four affirmative instruments.

Insolvency (EU Exit) (Scotland) (Amendment) Regulations 2019 [Draft]

Drug Driving (Specified Limits) (Scotland) Regulations 2019 [Draft]

Sheriff Court Simple Procedure (Limits on Award of Expenses) Amendment Order 2019 [Draft]

Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 [Draft]

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments subject to Negative Procedure

Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 (SSI 2018/391)

10:02

The Convener: SSI 2018/391 mainly updates references to a number of European Union instruments that are referred to in domestic legislation, and it makes consequential repeals and revocations of primary and secondary legislation.

In regulation 10(3), there is a reference to “schedule 4”, which appears to be a reference to schedule 4 of the Special Waste Regulations 1996. This should refer to schedule 4 of the Waste Management Licensing (Scotland) Regulations 2011 (SSI 2011/228). Also, certain provisions refer to certain EU legislation “as last amended by” subsequent EU legislation, but they reference EU legislation that is not, in fact, the last amending EU legislation.

Does the committee wish to draw the regulations to the attention of the Parliament on the general reporting ground, as they contain some drafting errors?

Members indicated agreement.

The Convener: Does the committee welcome the Scottish Government’s commitment to bring forward amending legislation to correct the error in regulation 10(3) at the earliest possible opportunity?

Members indicated agreement.

The Convener: Does the committee wish to recommend that the references to EU legislation as amended should also be corrected?

Members indicated agreement.

Foods for Specific Groups (Medical Foods) (Miscellaneous Amendments) (Scotland) Regulations 2018 (SSI 2018/392)

The Convener: The main purpose of the regulations is to make some technical provisions for enforcement powers, to underpin a Commission delegated regulation. That regulation lays down rules on the specific compositional and information requirements for food for special medical purposes.

The preamble to the regulations fails to follow proper drafting practice. The first paragraph should also have cited the powers in section 2(2)

and paragraph 1A of schedule 2 of the European Communities Act 1972. A paragraph explaining an ambulatory reference to the Commission delegated regulation has also been omitted.

Does the committee wish to draw the regulations to the attention of the Parliament on the general reporting ground, as the preamble fails to follow proper drafting practice in a couple of respects?

Members indicated agreement.

Age of Criminal Responsibility (Scotland) Bill: After Stage 1

10:05

Meeting continued in private until 10:09.

10:05

The Convener: Agenda item 6 is consideration of the response to our stage 1 report on the delegated powers provisions in the Age of Criminal Responsibility (Scotland) Bill.

Does the committee wish to note the response at this time and return to the bill after stage 2?

Members *indicated agreement.*

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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