



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 23 June 2020**

**Session 5**



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Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**  
**22<sup>nd</sup> Meeting 2020, Session 5**

**CONVENER**

\*Bill Bowman (North East Scotland) (Con)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

Mary Fee (West Scotland) (Lab)  
Gordon Lindhurst (Lothian) (Con)  
Gil Paterson (Clydebank and Milngavie) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Tom Arthur (Renfrewshire South) (SNP) (Committee Substitute)

**CLERK TO THE COMMITTEE**

Andrew Proudfoot

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Delegated Powers and Law Reform Committee

Tuesday 23 June 2020

[The Convener opened the meeting at 12:35]

#### Decision on Taking Business in Private

**The Convener (Bill Bowman):** Good afternoon. I welcome everyone to the 22nd meeting in 2020 of the Delegated Powers and Law Reform Committee. We have apologies from three of our members—Gordon Lindhurst, Mary Fee and Gil Paterson. I welcome Tom Arthur to the committee as a substitute.

Under agenda item 1, it is proposed that the committee takes items 4, 5 and 6 in private, as they involve consideration of reports that will be published once they have been agreed. Does the committee agree to do that?

**Members indicated agreement.**

#### Instruments subject to Made Affirmative Procedure

12:35

**The Convener:** Agenda item 2 is consideration of two instruments that are subject to the made affirmative procedure.

##### Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No 4) Regulations 2020 (SSI 2020/182)

##### Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 2) Regulations 2020 (2020/184)

**The Convener:** No points have been raised on the instruments. Is the committee content with them?

**Members indicated agreement.**

## Instruments subject to Negative Procedure

### Prisons and Young Offenders Institutions (Coronavirus) (Scotland) Amendment Rules 2020 (SSI 2020/175)

12:36

**The Convener:** The first instrument for consideration under agenda item 3 is SSI 2020/175, which amends the Prisons and Young Offenders Institutions (Scotland) Rules 2011 (SSI 2011/331) to make provision for the possession and use of authorised personal communications devices and virtual visits in prisons.

The instrument was laid before the Parliament on 15 June and came into force on the same day. As that does not respect the requirement that at least 28 days should elapse between the laying of an instrument that is subject to the negative procedure and the coming into force of that instrument, the committee is required under standing orders to draw the instrument to the attention of the Parliament on reporting ground (j), for its failure to comply with the requirements of section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j)?

**Members indicated agreement.**

**The Convener:** The committee also considers the reasons for breaches of the 28-day rule, which in this case are set out in a letter to the Presiding Officer that is dated 15 June 2020. The letter explains that the changes that are made by the instrument had to be implemented quickly in order to properly equip prison governors with the means to provide the prisoners in their care with the ability to maintain contact with their family and friends during the coronavirus outbreak and beyond. It states that the outbreak has necessitated the imposition of a number of restrictions on the prison regime, including restrictions on visits, so the new forms of telecommunications are vital in order to safeguard the rights of prisoners and their families under the European convention on human rights during the Covid-19 outbreak.

Is the committee content with the reasons that have been given for the failure to comply with section 28(2) of the 2010 act?

**Members indicated agreement.**

**Plant Health (Official Controls and Miscellaneous Provisions) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/176)**

**The Convener:** SSI 2020/176 makes various changes to plant health regulations to strengthen plant health protection and implement required European Union measures, and it revokes the Plant Health (Official Controls and Miscellaneous Provisions) (Scotland) Amendment Regulations 2020 (SSI 2020/152).

The instrument was laid before the Parliament on 16 June. Parts of it come into force on 26 June, with the rest coming into force on 27 June. As with the previous instrument, the requirement that at least 28 days should elapse between the laying of an instrument that is subject to the negative procedure and the coming into force of that instrument has not been respected, so the committee is required to draw the instrument to the attention of the Parliament for breaching the 28-day rule.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j)?

**Members indicated agreement.**

**The Convener:** The reasons for the breach of the 28-day rule in this case are set out in a letter to the Presiding Officer that is dated 16 June 2020. The letter explains that the EU Commission reviewed United Kingdom measures that were due to come into force on 27 June and decided that they were not justified. In the light of that decision, SSI 2020/152 must be revoked before it comes into force. SSI 2020/176 does that and remakes the instrument without the problematic elements.

The revocation of SSI 2020/152 comes into force on 26 June to prevent that instrument from coming into force, which it would have done on 27 June. The remainder of SSI 2020/176 comes into force on 27 June, when SSI 2020/152 would have come into force, were it not for this instrument.

Is the committee content with the reasons that have been given for the failure to comply with section 28(2) of the 2010 act?

**Members indicated agreement.**

**Glasgow Caledonian University  
Amendment Order of Council 2020 (SSI  
2020/172)**

**The Convener:** No points have been raised on SSI 2020/172. Is the committee content with the instrument?

**Members indicated agreement.**

12:40

*Meeting continued in private until 13:02.*

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