



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 15 December 2020**

**Session 5**



The Scottish Parliament  
Pàrlamaid na h-Alba



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**Tuesday 15 December 2020**

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## **DELEGATED POWERS AND LAW REFORM COMMITTEE**

### **39<sup>th</sup> Meeting 2020, Session 5**

#### **CONVENER**

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

#### **DEPUTY CONVENER**

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

#### **COMMITTEE MEMBERS**

\*Michelle Ballantyne (South Scotland) (Ind)

\*Mary Fee (West Scotland) (Lab)

\*Gil Paterson (Clydebank and Milngavie) (SNP)

\*attended

#### **CLERK TO THE COMMITTEE**

Andrew Proudfoot

#### **LOCATION**

The Adam Smith Room (CR5)

## Scottish Parliament

### Delegated Powers and Law Reform Committee

*Tuesday 15 December 2020*

*[The Convener opened the meeting at 11:53]*

### Decision on Taking Business in Private

**The Convener (Bill Bowman):** Good morning. I welcome everyone to the 39th meeting in 2020 of the Delegated Powers and Law Reform Committee.

Under agenda item 1, it is proposed that the committee takes items 7 and 8 in private. Does the committee agree to do so?

**Members** *indicated agreement.*

## European Union (Withdrawal) Act 2018: Instrument Procedure and Category

### Social Security Co-ordination (EU Exit) (Scotland) (Amendments etc) Regulations 2020 (SSI 2020/399)

11:53

**The Convener:** Agenda item 2 is consideration of an instrument that has been laid under the European Union (Withdrawal) Act 2018. The committee is considering whether the Scottish Government has applied the appropriate scrutiny procedure and the appropriate category to SSI 2020/399.

The instrument repeals the European Union regulations on social security co-ordination in so far as they relate to devolved social security matters, with effect from the end of the transition period. It also amends three Scottish statutory instruments by removing references to EU legislation that will no longer have effect in the United Kingdom, and makes provision to ensure continued access to the relevant benefits for persons who are protected under the withdrawal agreements.

The instrument has been laid under the negative procedure and has been categorised by the Scottish Government 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 that the instrument has been properly categorised as being of low significance?

**Members** *indicated agreement.*

## Instruments subject to Made Affirmative Procedure

11:54

**The Convener:** Agenda item 3 is consideration of three instruments that are subject to the made affirmative procedure, on which no points have been raised.

**Health Protection (Coronavirus)  
(Restrictions and Requirements) (Local  
Levels) (Scotland) Amendment (No 6)  
Regulations 2020 (SSI 2020/415)**

**Health Protection (Coronavirus)  
(Protection from Eviction) (Scotland)  
Regulations 2020 (SSI 2020/425)**

**Health Protection (Coronavirus)  
(Restrictions and Requirements) (Local  
Levels) (Scotland) Amendment (No 7)  
Regulations 2020 (SSI 2020/427)**

**The Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

## Instruments subject to Affirmative Procedure

11:55

**The Convener:** Agenda item 4 is consideration of three draft affirmative instruments, on which no points have been raised.

**Victims and Witnesses (Scotland) Act 2014  
(Supplementary Provisions) Order 2021  
[Draft]**

**Restitution Fund (Scotland) Order 2021  
[Draft]**

**Provision of Early Learning and Childcare  
(Specified Children) (Scotland)  
Amendment Order 2020 [Draft]**

**The Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

## Instruments subject to Negative Procedure

11:55

**The Convener:** Agenda item 5 is consideration of eight affirmative instruments, on the first two of which drafting errors have been identified.

### Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/398)

**The Convener:** The issues that have been identified on SSI 2020/398 are highlighted on the defective drafting ground and the general reporting ground.

Three articles in three separate EU regulations have been specified in error in new schedule 6 of the Official Feed and Food (Controls) (Scotland) Regulations 2009 (SSI 2009/446). They do not contain obligations that give rise to criminal offences. In addition, the definition of directive 2004/41 has been omitted from the 2009 SSI, but the directive is still referred to in the fifth and 10th definitions in new schedule 1 to the 2009 SSI. EU regulation 2015/1375 is also referred to in error in the 10th definition in new schedule 1 to the 2009 SSI.

Full details of those errors can be read in the correspondence between the committee and the Scottish Government, which is included in our published papers for the meeting. The Scottish Government has confirmed that it will correct those matters before the instrument comes into force.

While noting that the Scottish Government will remedy the errors before the instrument comes into force, does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (i) in respect of the first of the errors, and the general reporting ground in respect of the other two?

**Members indicated agreement.**

**The Convener:** The Scottish Government has also confirmed that regulation 4(8) amends regulation 32(2) of SSI 2009/446 in fulfilment of a previous commitment to the committee.

Does the committee wish to welcome the Scottish Government's fulfilment of that commitment?

**Members indicated agreement.**

### Social Security Co-ordination (EU Exit) (Scotland) (Amendments etc) Regulations 2020 (SSI 2020/399)

**The Convener:** The second instrument with a drafting error is SSI 2020/399. Issues have been raised on two separate reporting grounds.

First, on reporting ground (j), the instrument has breached the 28-day rule, albeit by only one day. The Scottish Government has written to the Presiding Officer to explain why the 28-day rule has not been complied with.

Secondly, on the general reporting ground, the Scottish Government has acknowledged that provision ought to have been made in the instrument to omit regulation 9(4) of the Funeral Expense Assistance (Scotland) Regulations 2019 (SSI 2019/292), as a consequence of other amendments that are made in the instrument. The Scottish Government has undertaken to introduce amending regulations to omit that provision at the earliest opportunity.

While noting that the Scottish Government has undertaken to introduce amending regulations at the earliest opportunity, does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground?

**Members indicated agreement.**

**The Convener:** Does the committee agree to draw the instrument to the attention of the Parliament on reporting ground (j), while noting that it is satisfied with the explanation that has been given for the failure to comply with the 28-day rule?

**Members indicated agreement.**

**The Convener:** No points have been raised on the following six negative instruments.

### Enforcement of Fines (Relevant Penalty) (Scotland) Order 2020 (SSI 2020/406)

### Public Health etc (Scotland) Act 2008 (Notifiable Organisms) Amendment Regulations 2020 (SSI 2020/408)

### Financial Assistance for Environmental Purposes (Scotland) Order 2020 (SSI 2020/409)

### Council Tax Reduction (Scotland) Amendment (No 4) Regulations 2020 (SSI 2020/413)

**Civil Partnership (Scotland) Act 2020  
(Commencement No 1 and Interim  
Recognition of Different Sex  
Relationships) Regulations 2020  
(SSI 2020/414 (C 38))**

**Conservation of Salmon (Scotland)  
Amendment Regulations 2020  
(SSI 2020/416)**

**The Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

**Instruments not subject to  
Parliamentary Procedure**

11:59

**The Convener:** Agenda item 6 is consideration of five instruments that are not subject to any parliamentary procedure, on which no points have been raised.

**Victims and Witnesses (Scotland) Act 2014  
(Commencement No 7 and Transitional  
Provisions) Order 2020  
(SSI 2020/405 (C 34))**

**Serious Crime Act 2015 (Commencement  
No 3) (Scotland) Regulations 2020  
(SSI 2020/407 (C 35))**

**Offensive Weapons Act 2019  
(Commencement No 1) (Scotland)  
Regulations 2020 (SSI 2020/410 (C 36))**

**Children (Scotland) Act 2020  
(Commencement No 1 and Saving  
Provisions) Regulations 2020  
(SSI 2020/412 (C 37))**

**Spring Traps Approval (Scotland)  
Amendment Order 2020 (SSI 2020/417)**

**The Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

11:59

*Meeting continued in private until 12:20.*



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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