



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 26 February 2019**

**Session 5**



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Pàrlamaid na h-Alba

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# **DELEGATED POWERS AND LAW REFORM COMMITTEE**

## **7<sup>th</sup> 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 26 February 2019

[The Convener opened the meeting at 10:02]

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

#### Services of Lawyers and Lawyer's Practice (EU Exit) (Scotland) (Amendment etc) Regulations 2019 [Draft]

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

The first item of business is consideration of Scottish statutory instruments that have been laid under the European Union (Withdrawal) Act 2018.

The Scottish Government has laid the draft Services of Lawyers and Lawyer's Practice (EU Exit) (Scotland) (Amendment etc) Regulations 2019 under the affirmative procedure and has categorised the instrument as being of medium significance. Our advisers indicate that the scrutiny procedure and categorisation could be appropriate.

Do members have any comments?

**Members:** No.

**The Convener:** Is the committee content that the appropriate scrutiny procedure has been applied to the instrument?

**Members indicated agreement.**

**The Convener:** Are members content that the instrument has been categorised as being of medium significance?

**Members indicated agreement.**

**The Convener:** The following five instruments have been laid under the negative procedure and have been categorised by the Scottish Government as being of low significance.

#### Food and Feed Safety and Hygiene (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/52)

#### Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/53)

#### Nutrition (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/54)

#### Marine Environment (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/55)

#### Genetically Modified Organisms (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/57)

**The Convener:** In each case, our advisers indicate that the scrutiny procedure and categorisation could be appropriate.

Are members happy—I meant to say “content”, of course; you might not all be happy—with all of that?

**Members indicated agreement.**

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

### Conservation (Natural Habitats, etc) (EU Exit) (Scotland) (Amendment) Regulations 2019 [Draft]

10:04

**The Convener:** Agenda item 2 is consideration of more instruments that have been laid under the European Union (Withdrawal) Act 2018.

The purpose of the draft Conservation (Natural Habitats, etc) (EU Exit) (Scotland) (Amendment) Regulations 2019 is primarily to correct deficiencies in the Conservation (Natural Habitats, etc) Regulations 1994 (SI 1994/2716) to ensure their operability after the United Kingdom's exit from the European Union.

The instrument has been categorised by the Scottish Government as being of low significance, but although it is predominantly concerned with technical detail, our advisers consider that there are significant implications that warrant subject committee scrutiny. Accordingly, the instrument could be categorised as being of medium significance.

Do members have any comments?

**Members:** No.

**The Convener:** Does the committee wish to recommend that the instrument be categorised as being of medium significance instead?

**Members** *indicated agreement.*

### Plant Health (EU Exit) (Scotland) (Amendment etc) Regulations 2019 [Draft]

**The Convener:** The instrument has been categorised by the Scottish Government as being of medium significance, and our advisers have raised no issues with that categorisation, given that the instrument creates new offences.

Is the committee content that the instrument has been appropriately categorised as being of medium significance?

**Members** *indicated agreement.*

## Instruments subject to Affirmative Procedure

10:05

**The Convener:** Under agenda item 3, we will consider the technical aspects of the instruments that we dealt with under item 2, on which no points have been raised by our legal advisers.

### Conservation (Natural Habitats, etc) (EU Exit) (Scotland) (Amendment) Regulations 2019 [Draft]

#### Plant Health (EU Exit) (Scotland) (Amendment etc) Regulations 2019 [Draft]

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

**Members** *indicated agreement.*

**The Convener:** No points have been raised by our legal advisers on the following four draft affirmative instruments, two of which concern forestry, while the others relate to the budget and to public procurement.

#### Budget (Scotland) Act 2018 Amendment Regulations 2019 [Draft]

#### Forestry (Exemptions) (Scotland) Regulations 2019 [Draft]

#### Forestry and Land Management (Scotland) Act 2018 (Consequential Amendments) Regulations 2019 [Draft]

#### Public Procurement etc (Scotland) (Amendment) (EU Exit) Amendment Regulations 2019 [Draft]

**The Convener:** The committee might wish to note that the budget regulations were withdrawn and relaid following questions that our legal advisers raised in advance of our consideration.

Is the committee content with the instruments?

**Members** *indicated agreement.*

## Instrument subject to Approval

### Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2019 (SSI 2019/58)

10:07

**The Convener:** Agenda item 4 is consideration of an instrument that is subject to the provisional affirmative procedure, on which no points have been raised by our legal advisers.

Is the committee content with the instrument?

**Members** *indicated agreement.*

## Instruments subject to Negative Procedure

### Environment (EU Exit) (Scotland) (Amendment etc) Regulations 2019 (SSI 2019/26)

10:07

**The Convener:** The first instrument for consideration under agenda item 5 is SSI 2019/26. As the committee will be aware, the instrument contains some drafting errors; they are outlined in members' papers, so I do not intend to read them all out.

Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground, as it contains some drafting errors?

**Members** *indicated agreement.*

**The Convener:** Does the committee wish to recommend that the first error, which is repeated, be corrected by an amending instrument rather than by correction slip?

**Members** *indicated agreement.*

**The Convener:** Does the committee wish to welcome the Scottish Government's commitment to correct the second error by correction slip?

**Members** *indicated agreement.*

### Equine Animal (Identification) (Scotland) Regulations 2019 (SSI 2019/30)

**The Convener:** The regulations make provision for the enforcement of the EU horse passport regulation, which seeks to enhance controls on the supply, use and quality of horse passports in response to issues that were identified after the 2013 horse meat scandal. The regulations contain provisions that impose legal duties, the breach of which constitutes an offence. However, it could be clearer on whom the duty falls.

Does the committee wish to draw the regulations to the attention of the Parliament under reporting ground (h), in respect of the instance in which the form of regulation 11(4) could be clearer?

**Members** *indicated agreement.*

**The Convener:** Given that the matter concerns an offence provision, does the committee wish to recommend that the Scottish Government brings forward an amendment at the earliest opportunity?

**Members** *indicated agreement.*

**Materials and Articles in Contact with Food (Scotland) Amendment Regulations 2019 (SSI 2019/32)**

**The Convener:** SSI 2019/32 amends the Materials and Articles in Contact with Food (Scotland) Regulations 2012 (SSI 2012/318) in order to provide for the execution and enforcement of certain European Commission regulations regarding food contact materials.

An error has been identified in regulation 4, which is outlined in members' papers. Does the committee wish to report the instrument to the Parliament on the general reporting ground, in respect of the error in regulation 4?

**Members** *indicated agreement.*

**The Convener:** Does the committee wish to call on the Scottish Government to correct the error at the next legislative opportunity?

**Members** *indicated agreement.*

**The Convener:** No points have been raised on the following 13 negative instruments.

**Wildlife and Countryside Act 1981 (Keeping and Release and Notification Requirements) (Scotland) Amendment Order 2019 (SSI 2019/37)**

**Wildlife and Countryside Act 1981 (Prohibition on Sale etc of Invasive Animal and Plant Species) (Scotland) Order 2019 (SSI 2019/38)**

**Non-Domestic Rates (Levying) (Scotland) Regulations 2019 (SSI 2019/39)**

**Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Regulations 2019 (SSI 2019/40)**

**Non-Domestic Rates (Telecommunication Installations) (Scotland) Amendment Regulations 2019 (SSI 2019/41)**

**Non-Domestic Rating (Telecommunications New Fibre Infrastructure) (Scotland) Order 2019 (SSI 2019/42)**

**Non-Domestic Rates (Telecommunications New Fibre Infrastructure Relief) (Scotland) Regulations 2019 (SSI 2019/43)**

**Non-Domestic Rates (Transitional Relief) (Scotland) Amendment Regulations 2019 (SSI 2019/44)**

**Teachers' Superannuation and Pension Scheme (Scotland) (Miscellaneous Amendments) Regulations 2019 (SSI 2019/48)**

**National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2019 (SSI 2019/50)**

**Food Composition, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/53)**

**Marine Environment (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/55)**

**Genetically Modified Organisms (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/57)**

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

**Members** *indicated agreement.*

**Fuel Poverty (Target, Definition  
and Strategy) (Scotland) Bill:  
After Stage 1**

*Meeting closed at 10:11.*

10:10

**The Convener:** Agenda item 6 is consideration of the Scottish Government's response to our stage 1 report on the Fuel Poverty (Target, Definition and Strategy) (Scotland) Bill.

Does the committee wish to note the Government's response?

**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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