



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 19 January 2021

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

Tuesday 19 January 2021

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DELEGATED POWERS AND LAW REFORM COMMITTEE
2nd Meeting 2021, Session 5

CONVENER

*Bill Bowman (North East Scotland) (Con)

CLERK TO THE COMMITTEE

Andrew Proudfoot

DEPUTY CONVENER

*Gil Paterson (Clydebank and Milngavie) (SNP)

COMMITTEE MEMBERS

*Michelle Ballantyne (South Scotland) (Reform)

*Mary Fee (West Scotland) (Lab)

*Joe FitzPatrick (Dundee City West) (SNP)

LOCATION

Virtual Meeting

*attended

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 19 January 2021

[The Convener opened the meeting at 11:50]

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

Animals, Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020 (SSI 2020/455)

The Convener (Bill Bowman): Good morning. I welcome everyone to the second meeting in 2021 of the Delegated Powers and Law Reform Committee.

As we are meeting online, I appreciate that it will be more challenging for members to indicate agreement to the items that are discussed. Therefore, I ask members to raise their hand if they are not content with the question that is being put or if they wish to speak about the instrument in question.

Agenda item 1 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 2020/455. 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 and that it has been properly categorised as being of low significance?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instruments subject to Made Affirmative Procedure

11:51

The Convener: Agenda item 2 is consideration of two instruments that are subject to the made affirmative procedure, on which no points have been raised.

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 2) Regulations 2021 (SSI 2021/6)

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 3) Regulations 2021 (SSI 2021/7)

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instruments subject to Affirmative Procedure

Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2021 [Draft]

11:51

The Convener: A drafting error has been identified in the first instrument for consideration under agenda item 3. There is a cross-referencing error in new rule 26(8) of the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 (SSI 2013/194), which the Scottish Government has undertaken to correct in due course.

Does the committee therefore wish to draw the instrument to the attention of the Parliament on the general reporting ground, on account of the cross-referencing error in relation to new rule 26(8) of the 2013 rules, and does it wish to welcome the Scottish Government's commitment to correcting that error by correction slip prior to the instrument being made?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

No points have been raised on the following three draft affirmative instruments.

Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Regulations 2021 [Draft]

Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 [Draft]

Single Use Carrier Bags Charge (Scotland) Amendment Regulations 2021 [Draft]

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Finally, members will be interested to know that the land reform regulations were withdrawn and relaid last week, following the raising of issues by the committee.

Instruments subject to Negative Procedure

Crofting Community Right to Buy (Procedure, Ballots and Forms) (Scotland) Regulations 2020 (SSI 2020/451)

11:53

The Convener: Errors have been identified in three of the instruments for consideration under agenda item 4, the first of which is SSI 2020/451. An error has been identified in the date that is referred to in the saving and transitional provisions in regulations 19 and 20 of the instrument. Those regulations should refer to 24 February 2021 rather than 1 December 2020, as is currently provided. The Scottish Government has undertaken to amend the instrument before it comes into force.

Does the committee therefore wish to draw the instrument to the attention of the Parliament on the general reporting ground, on the basis that there is an error in the date that is referred to in the saving and transitional provisions, and does the committee wish to welcome the Scottish Government's commitment to prepare an amending instrument to rectify the error?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Animals, Food and Feed (EU Exit) (Scotland) (Amendment) Regulations 2020 (SSI 2020/455)

The Convener: The second instrument on which errors have been raised is SSI 2020/455. First, there has been a failure to lay the instrument in accordance with section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, section 28(2) of which requires that negative instruments be laid at least 28 days before they come into force, not counting recess periods of more than four days. The instrument was laid on 21 December and came into force on 29 and 31 December.

Secondly, the words

"in the table in schedule 6 (specified import provisions) in column 2"

have been included in error in regulation 5(2)(c). The Scottish Government has undertaken to correct that error in an upcoming Scottish statutory instrument.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j), in respect of the failure to lay the

instrument in accordance with the laying requirements under the Interpretation and Legislative Reform (Scotland) Act 2010, while noting that it is satisfied with the explanation that has been given for the failure to comply with the 28-day rule; and on the general reporting ground, on the basis that the Scottish Government has confirmed that some text has been included in error in regulation 5(2)(c) of the instrument?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

While we are considering SSI 2020/455, does the committee wish to welcome the fact that regulation 4 amends the Official Feed and Food Controls (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/398), in fulfilment of a previous commitment to the committee?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Greenhouse Gas Emissions Trading Scheme (Amendment) Order 2020 (SI 2020/1557)

The Convener: The third instrument on which errors have been raised is SI 2020/1557. As with the previous instrument, there has been a failure to lay the instrument in accordance with section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. As the instrument was laid on 17 December and came into force on 31 December, it breached the 28-day rule.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j)? Furthermore, given that the letter to the Presiding Officer that explains the reason for the breach of the 28-day rule indicates that the United Kingdom Government's decision to proceed with the UK emissions trading scheme was not announced until 14 December 2020, does the committee wish to highlight to the lead committee that, because of that, SI 2020/1557, which forms part of that scheme, was laid without time for adequate scrutiny before it came into force on 31 December 2020?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

No points have been raised on the following three negative instruments.

Police Appeals Tribunals (Scotland) Amendment Rules 2020 (SSI 2020/454)

Parole Board (Scotland) Amendment Rules 2021 (SSI 2021/4)

Repayment of Student Loans (Scotland) Amendment Regulations 2021 (SSI 2021/8)

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

Instruments not subject to Parliamentary Procedure

Lands Tribunal for Scotland (Miscellaneous Amendments) Rules 2020 (SSI 2020/433)

11:58

The Convener: Agenda item 5 is consideration of instruments that are not subject to any parliamentary procedure, on the first of which, SSI 2020/433, a drafting error has been raised. The Scottish Government has confirmed that an error has been made in the numbering reference in the table in the schedule to the instrument. It has therefore committed to preparing an amending instrument before the instrument comes into force on 1 April 2022.

Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground, on the basis that the reference to item 41 in the schedule to the instrument, which is to be inserted into schedule 2 to the Lands Tribunal for Scotland Rules 1971 (SI 1971/218) by rule 2 of the instrument, is incorrect, as there is already an item 41 in schedule 2 to the 1971 rules? Does the committee also wish to welcome the Scottish Government's commitment to prepare an amending instrument to rectify that error and take account of any further numbering changes by the time the instrument comes into force on 1 April 2022?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

No points have been raised on the following four instruments.

Civil Partnership (Scotland) Act 2020 (Commencement No 2) Regulations 2020 (SSI 2020/457 (C 43))

Animal Health and Welfare (Scotland) Act 2006 (Commencement No 3 and Saving Provisions) Order 2020 (SSI 2020/464 (C 44))

Act of Adjournment (Challenges to Validity of EU Instruments (EU Exit)) (Amendment) 2020 (SSI 2020/470)

Act of Sederunt (Challenges to Validity of EU Instruments (EU Exit)) (Amendment) 2020 (SSI 2020/472)

The Convener: Is the committee content with the instruments?

No member has indicated that they are not content or that they wish to speak, so that is agreed.

The next meeting of the committee will take place on Tuesday 26 January, so I will see you then.

Meeting closed at 11:59.

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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