



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 22 June 2021

Session 6



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE

1st Meeting 2021, Session 6

CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

DEPUTY CONVENER

*Bill Kidd (Glasgow Anniesland) (SNP)

COMMITTEE MEMBERS

*Craig Hoy (South Scotland) (Con)

*Graham Simpson (Central Scotland) (Con)

*Paul Sweeney (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Stephen Wright (Scottish Parliament)

CLERK TO THE COMMITTEE

Andy Proudfoot

LOCATION

Virtual Meeting

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 22 June 2021

[Bill Kidd opened the meeting at 09:45]

Interests

Bill Kidd (Glasgow Anniesland) (SNP):

Welcome to the first meeting of the Delegated Powers and Law Reform Committee in session 6. As the oldest member of the committee, I have the pleasure of convening the meeting for the first two items of business. I take this opportunity to welcome all members. I look forward to working with you on the committee.

As we are meeting online, I appreciate that it will be more challenging for members to indicate agreement to the items being discussed. I ask you to raise your hand if you are not content with any of the questions being put or if you wish to speak. Before we move on to the first item on the agenda, I remind everyone to switch their mobile phones to silent.

The first item of business is declarations of interests. In accordance with section 3 of the "Code of Conduct for Members of the Scottish Parliament", I invite members to declare any interests relevant to the remit of the committee. I will begin by stating that I have no relevant interests to declare. I invite other members to declare any relevant interests.

Craig Hoy (South Scotland) (Con): I am a member of East Lothian Council.

Stuart McMillan (Greenock and Inverclyde) (SNP): I have no relevant interests to declare.

Graham Simpson (Central Scotland) (Con): I have no relevant interests to declare.

Paul Sweeney (Glasgow) (Lab): I have no relevant interests to declare.

Convener

09:48

Bill Kidd: The second item on our agenda is the choice of committee convener. The Parliament has agreed that only members of the Scottish National Party are eligible for nomination as convener of the committee. I ask for a nomination for the role.

Graham Simpson: I nominate Stuart McMillan to be convener.

Bill Kidd: As no member of the committee has indicated that they are not content to appoint Stuart McMillan as committee convener, we are agreed.

Stuart McMillan was chosen as convener.

Bill Kidd: I congratulate Stuart McMillan on his appointment.

The Convener (Stuart McMillan): I thank members for their support.

Before we move on to item 3, I want to congratulate and thank the members of the committee in session 5 for the outstanding work that they did. In particular, I thank Bill Bowman, the most recent convener of the committee, for his excellent stewardship. Prior to Bill, Graham Simpson was the committee convener, and I thank him, too.

Deputy Convener

09:50

The Convener: The next item of business is to choose a deputy convener. The Parliament has agreed that only members of the SNP are eligible for nomination as deputy convener of the committee. That being the case, I nominate Bill Kidd as deputy convener. Does the committee agree to his taking that role?

No member has indicated that they do not agree, so we are agreed.

Bill Kidd was chosen as deputy convener.

The Convener: Congratulations on your appointment, Bill.

Bill Kidd: Thank you, colleagues.

Decision on Taking Business in Private

09:50

The Convener: The next item of business is to decide whether to take item 9 in private. Is the committee content to take item 9 in private?

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

Instruments subject to Made Affirmative Procedure

09:51

The Convener: The next item of business is consideration of six Scottish statutory instruments subject to the made affirmative procedure.

Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 25) Regulations 2021 (SSI 2021/224)

Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 26) Regulations 2021 (SSI 2021/227)

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 12) Regulations 2021 (SSI 2021/230)

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 13) Regulations 2021 (SSI 2021/237)

Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 27) Regulations 2021 (SSI 2021/238)

Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No 28) Regulations 2021 (SSI 2021/242)

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

Graham Simpson: I am content, within the remit of this committee. However, one of the instruments, SSI 2021/242, relates to the travel restrictions from Scotland to Manchester. It is important that people realise that, under the remit of this committee, there are no grounds on which the committee can challenge the regulations.

I have reservations about that particular instrument on a technical level, and I think that it will be difficult, if not impossible, to enforce. However, I will have the opportunity to raise questions about that later. I am merely pointing out, for the benefit of people watching this who might be wondering why on earth we are not saying anything about the instrument, that that is

because, under the terms of this committee, the grounds on which we can push back on certain regulations are restricted. However, the Parliament will have a chance to question ministers later this afternoon.

The Convener: Thank you for that, Mr Simpson. I note that you are down to ask a question on that issue at topical question time this afternoon.

Mr Simpson's point notwithstanding, no member has indicated that they are not content. We agree that we are content with the instruments.

Instruments subject to Negative Procedure

09:53

The Convener: Agenda item 6 is consideration of seven instruments subject to negative procedure.

Education (Scotland) Act 1980 (Modification) Regulations 2021 (SSI 2021/210)

Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) Regulations 2021 (SSI 2021/214)

Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Amendment Regulations 2021 (SSI 2021/220)

Welfare Foods (Best Start Foods) (Scotland) Amendment Regulations 2021 (SSI 2021/221)

Homeless Persons (Unsuitable Accommodation) (Scotland) (Modification and Revocation) (Coronavirus) Amendment Order (SSI 2021/222)

Act of Sederunt (Fees of Messengers-at- Arms and Sheriff Officers) (Amendment) 2021 (SSI 2021/225)

Coronavirus (Scotland) Act 2020 (Early Expiry of Provisions) (No 2) Regulations 2021 (SSI 2021/236)

The Convener: An issue has been raised on SSI 2021/236. The instrument brings forward the expiry date of three provisions in the Coronavirus (Scotland) Act 2020 that affect the work of the Parole Board for Scotland. It was laid on 10 June 2021 and came into force on 14 June 2021. As it was laid less than 28 days before it came into force, it is in breach of section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, which requires that negative instruments are laid at least 28 days before they come into force, not counting recess periods of more than four days.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j) as it has been laid less than 28 days before coming into force and, therefore, has breached the laying requirements under the 2010 act?

Does the committee also wish to note that it is satisfied with the explanation provided for failure to comply with the laying requirements?

As no member has indicated that they are not content or that they wish to speak, we are agreed.

Graham Simpson: I am sorry to be awkward, but I see from the chat box that Mr Sweeney had indicated that he wanted to speak on a previous instrument. He may be struggling with the platform, which is understandable.

The Convener: Thank you, Mr Simpson. I see that point now; it relates to agenda item 5.

Paul Sweeney: I am sorry for the confusion. I have a concern about the potential deficiency of SSI 2021/242 in respect of consumer rights. The Trainline has said that the Government has to advise the rail industry that only passengers travelling for essential purposes can travel and that those travelling for non-essential reasons should be refunded. The lack of provision in the SSI could potentially cause significant financial detriment. Should we raise that concern with the Government?

The Convener: That is not a technical matter for the committee, but perhaps the legal team can provide advice on that point.

Stephen Wright (Scottish Parliament): That is correct. No reporting grounds are engaged under the committee's technical remit. Andy Proudfoot might have a view on how the committee might wish to handle the raising of Mr Sweeney's concern.

The Convener: Are you content with that explanation, Mr Sweeney?

Paul Sweeney: That is helpful, convener.

Andy Proudfoot (Clerk): We could note in our report that the lead committee might want to pick that up in its consideration.

The Convener: I would be happy for us to do that.

Paul Sweeney: That would be a helpful way for us to raise that concern.

The Convener: Let us go back to agenda item 6 and instruments subject to the negative procedure.

No points have been raised on SSI 2021/210, SSI 2021/214, SSI 2021/220, SSI 2021/221, SSI 2021/222 and SSI 2021/225.

No member has indicated that they are not content, so the committee is agreed.

Instruments not subject to Parliamentary Procedure

09:58

The Convener: Agenda item 7 is consideration of five instruments that are not subject to parliamentary procedure and on which no points have been raised.

Act of Sederunt (Rules of the Court of Session 1994, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Qualified One-Way Costs Shifting) 2021 (SSI 2021/226)

Valuation Timetable (Coronavirus) (Scotland) Amendment Order 2021 (SSI 2021/231)

Social Security Administration and Tribunal Membership (Scotland) Act 2020 (Commencement No 2) Regulations 2021 (SSI 2021/232 (C12))

Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act (Commencement No 1) Regulations 2021 (SSI 2021/234 (C13))

Domestic Abuse Act 2021 (Commencement) (Scotland) Regulations 2021 (SSI 2021/239 (C14))

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.

Legacy Paper

09:59

The Convener: Agenda item 8 is consideration of the Delegated Powers and Law Reform Committee's session 5 legacy paper. Given that the committee will look at the legacy paper in more detail as part of its planning work in the coming months, at this point does the committee agree simply to note the paper and to thank members of the session 5 Delegated Powers and Law Reform Committee? Does the committee also agree to consider the report as part of our work programme discussions at a future meeting?

Graham Simpson: I am content with that approach. We will get a chance to speak about the paper later. I have only just thought of this, but it might be nice for the committee to write to the previous convener, Bill Bowman, to thank him for his work.

The Convener: That would be a nice gesture. Bill Bowman was an excellent convener of the Delegated Powers and Law Reform Committee.

As no member has indicated that they are not content with that approach, we are agreed.

10:00

Meeting continued in private until 10:27.

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