



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

Tuesday 19 April 2022

Session 6



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Pàrlamaid na h-Alba

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**Tuesday 19 April 2022**

**CONTENTS**

	<b>Col.</b>
<b>EUROPEAN UNION (WITHDRAWAL) ACT 2018: INSTRUMENT PROCEDURE AND CATEGORY</b> .....	1
Official Controls (Transitional Staging Period) (Miscellaneous Amendments) (Scotland) Regulations 2022 (SSI 2022/90) .....	1
<b>INSTRUMENT SUBJECT TO MADE AFFIRMATIVE PROCEDURE</b> .....	2
Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No 6) Regulations 2022 (SSSI 2022/123) .....	2
<b>INSTRUMENTS SUBJECT TO NEGATIVE PROCEDURE</b> .....	3
Official Controls (Transitional Staging Period) (Miscellaneous Amendments) (Scotland) Regulations 2022 (SSI 2022/90) .....	3
Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2022 (SSI 2022/124) .....	4
Council Tax Reduction and Council Tax (Discounts) (Miscellaneous Amendment) (Scotland) Regulations 2022 (SSI 2022/125) .....	4
Scottish Fire and Rescue Service (Framework) Order 2022 (SSI 2022/119) .....	5
<b>INSTRUMENT NOT SUBJECT TO PARLIAMENTARY PROCEDURE</b> .....	6
Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Electronic Monitoring) 2022 (SSSI 2022/120) .....	6

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**

**12<sup>th</sup> Meeting 2022, 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:**

Jenni Minto (Argyll and Bute) (SNP) (Committee Substitute)

**CLERK TO THE COMMITTEE**

Andrew Proudfoot

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Delegated Powers and Law Reform Committee

Tuesday 19 April 2022

[The Deputy Convener opened the meeting at 10:00]

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

**The Deputy Convener (Bill Kidd):** Welcome to the Delegated Powers and Law Reform Committee's 12th meeting in 2022. Stuart McMillan has sent his apologies, and I welcome Jenni Minto, who is substituting for Stuart—thank you, Jenni.

Before we move to the first item on the agenda, I remind everyone present to switch mobile phones to silent.

The first item of business is consideration of whether the appropriate scrutiny procedure and categorisation have been applied to the following instrument, which is laid under the European Union (Withdrawal) Act 2018.

#### Official Controls (Transitional Staging Period) (Miscellaneous Amendments) (Scotland) Regulations 2022 (SSI 2022/90)

**The Deputy Convener:** The instrument makes exemptions from some official controls for certain animal and plant products being imported into Scotland from Northern Ireland and the Republic of Ireland. The instrument has been laid under the negative procedure and is considered by the Scottish Government to be of low significance.

In correspondence with the Scottish Government, the committee asked whether the Government agreed that a choice of procedure was available and if so, for further explanation as to its choice of the negative procedure. The Scottish Government confirmed that there was a choice of procedure and that the negative procedure was considered appropriate, due to the limited impact of the amendments made by the instrument, which will apply for a limited time.

Is the committee content that the appropriate scrutiny procedure and categorisation have been applied to the instrument?

**Members indicated agreement.**

### Instrument subject to Made Affirmative Procedure

10:02

**The Deputy Convener:** Under agenda item 2, we are considering one instrument, on which no points have been raised.

#### Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No 6) Regulations 2022 (SSI 2022/123)

**The Deputy Convener:** Is the committee content with the instrument?

**Members indicated agreement.**

## Instruments subject to Negative Procedure

10:02

**The Deputy Convener:** Under agenda item 3, we are considering four instruments. Issues have been raised on the following instrument.

### **Official Controls (Transitional Staging Period) (Miscellaneous Amendments) (Scotland) Regulations 2022 (SSI 2022/90)**

**The Deputy Convener:** As noted under item 1, the regulations make exemptions from some official controls for certain animal and plant products being imported into Scotland from Northern Ireland and the Republic of Ireland. The intended effect of regulation 2 is to exempt imports of certain animal-origin goods that are produced in Northern Ireland and the Republic of Ireland from a pre-notification requirement to the border control authority.

In correspondence with the Scottish Government, the committee asked whether the absence of a reference in regulation 2 to the Republic of Ireland was intentional, given that related provisions refer to both Northern Ireland and the Republic of Ireland. The Scottish Government confirmed that that is a drafting error and that reference to the Republic of Ireland should have been included. The Scottish Government has committed to rectifying the error by making a further amendment in a Scottish statutory instrument that will be laid in the Scottish Parliament at the next available opportunity.

Does the committee wish to draw the instrument to the Parliament's attention on reporting ground (i), as its drafting appears to be defective due to the error in regulation 2?

**Members indicated agreement.**

**The Deputy Convener:** At the same time, does the committee wish to note the Scottish Government's commitment to rectify the error by making a further amendment in an SSI that will be laid in the Scottish Parliament at the next available opportunity?

**Members indicated agreement.**

**The Deputy Convener:** Issues have also been raised on the following two instruments, which are made under the Local Government Finance Act 1992.

## **Council Tax (Exempt Dwellings) (Scotland) Amendment Order 2022 (SSI 2022/124)**

### **Council Tax Reduction and Council Tax (Discounts) (Miscellaneous Amendment) (Scotland) Regulations 2022 (SSI 2022/125)**

**The Deputy Convener:** There has been a failure to lay the instruments in accordance with the requirements of section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. The 2010 act requires that instruments subject to the negative procedure be laid at least 28 days before they come into force, not counting recess periods of more than four days.

SSI 2022/124 amends the Council Tax (Exempt Dwellings) (Scotland) Order 1997 (SI 1997/728) so that council tax is not charged on dwellings that are exclusively used as the sole or main residence of those who have left Ukraine in connection with the Russian invasion and who have leave to remain or enter the United Kingdom or a right to abode in the UK.

SSI 2022/125 amends specified council tax regulations to provide that entitlement to the single person discount from council tax liability and the council tax reduction scheme is not affected by offering accommodation to certain persons coming to the UK from Ukraine in connection with the Russian invasion.

In correspondence with the Presiding Officer in relation to the two instruments, the Scottish Government explained that the nature of the homes for Ukraine scheme, which the UK Government launched on 14 March 2022, is such that it has the potential to increase the level of council tax liability of those who accommodate Ukrainian refugees and that that was not able to be fully assessed until the scheme was launched.

The Scottish Government also stated that, given the urgent nature of the need to change the law on this occasion and the short timeframe between the launching of the homes for Ukraine scheme and the beginning of the 2022-23 council tax year, it was not possible to meet the 28-day requirement.

Does the committee wish to draw SSI 2022/124 and SSI 2022/125 to the attention of the Parliament on reporting ground (j), for failure to comply with laying requirements?

**Members indicated agreement.**

**The Deputy Convener:** At the same time, is the committee content with the explanation that the Scottish Government has provided for the breaches of the laying requirements?

**Members indicated agreement.**

**The Deputy Convener:** Also under this agenda item, no points have been raised on the following instrument.

**Scottish Fire and Rescue Service  
(Framework) Order 2022 (SSI 2022/119)**

**The Deputy Convener:** Is the committee content with the instrument?

**Members** *indicated agreement.*

**Instrument not subject to  
Parliamentary Procedure**

10:07

**The Deputy Convener:** Under agenda item 4, we are considering one instrument, on which no points have been raised.

**Act of Adjournal (Criminal Procedure  
Rules 1996 Amendment) (Electronic  
Monitoring) 2022 (SSI 2022/120)**

**The Deputy Convener:** Is the committee content with the instrument?

**Members** *indicated agreement.*

**The Deputy Convener:** The committee's next meeting will take place on Tuesday 26 April.

*Meeting closed at 10:08.*





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