



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 6 December 2022**

**Session 6**



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Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**  
**32<sup>nd</sup> Meeting 2022, Session 6**

**CONVENER**

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

**DEPUTY CONVENER**

\*Bill Kidd (Glasgow Anniesland) (SNP)

**COMMITTEE MEMBERS**

\*Jeremy Balfour (Lothian) (Con)

\*Oliver Mundell (Dumfriesshire) (Con)

\*Paul Sweeney (Glasgow) (Lab)

\*attended

**CLERK TO THE COMMITTEE**

Lucy Scharbert

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Delegated Powers and Law Reform Committee

*Tuesday 6 December 2022*

*[The Convener opened the meeting at 10:08]*

### Decision on Taking Business in Private

**The Convener (Stuart McMillan):** Welcome to the 32nd meeting in 2022 of the Delegated Powers and Law Reform Committee. 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 to decide whether to take item 6 in private. Is the committee content to do so?

**Members** *indicated agreement.*

### Instrument subject to Made Affirmative Procedure

10:08

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

### Common Organisation of the Markets in Agricultural Products (Poultrymeat) (Miscellaneous Temporary Amendments) (Scotland) Regulations 2022 (SSI 2022/352)

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

**Members** *indicated agreement.*

## Instrument subject to Affirmative Procedure

10:08

**The Convener:** Under agenda item 3, we are considering one instrument, on which no points have been raised.

### **Bankruptcy and Debt Arrangement Scheme (Miscellaneous Amendment) (Scotland) Regulations 2023 [Draft]**

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

**Members** *indicated agreement.*

## Instruments subject to Negative Procedure

10:09

**The Convener:** Under agenda item 4, we are considering three instruments. Issues have been raised on two of the instruments.

### **Building (Scotland) Amendment (Amendment) (No 2) Regulations 2022 (SSI 2022/340)**

**The Convener:** The instrument amends the Building (Scotland) Amendment Regulations 2022 (SSI 2022/136) by amending the date on which new mandatory energy and environmental standards for buildings and building work are introduced, from 1 December 2022 to 1 February 2023.

Under section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, instruments subject to the negative procedure must be laid at least 28 days before they come into force, not counting recess periods of more than four days. The instrument breaches that requirement, as it was laid on 17 November 2022 and came into force on 30 November 2022.

In a letter to the Presiding Officer, the Scottish Government explained that the instrument breached the laying requirements because the development and approval of commercial products that are produced by third parties to support developers to undertake and complete assessment of new buildings against the new standards had taken longer than planned. That affected the ability of those undertaking new development to submit full proposals for building warrant approval to their local authority.

In correspondence with the Scottish Government, the committee asked for a further explanation for the breach, given that the laying requirements were complied with when the deadline was postponed previously. In its response, the Scottish Government acknowledged that the last round of engagement with providers was on 14 October. It noted that, although some responses were immediate, it took longer than expected to determine the full picture and that it was aware of further disruptions to the development process being made over the period by the contractor that is managing the software approval process on its behalf.

Does the committee wish to draw the instrument to the Parliament's attention on reporting ground (j), for failure to comply with laying requirements?

**Members** *indicated agreement.*

**The Convener:** Does the committee wish to draw to the attention of the relevant lead committee the reasons that have been given for the breach of the 28-day rule in this instance?

**Members** *indicated agreement.*

**Official Controls (Import of High Risk Food and Feed of Non-Animal Origin) Amendment (Scotland) Regulations 2022 (SSI 2022/341)**

**The Convener:** The instrument amends Commission Implementing Regulation (EU) 2019/1793. In correspondence with the Scottish Government, the committee highlighted the omission of reference to a consultation provision, article 144(7) of Regulation (EU) 2017/625, from both the preamble of the instrument and accompanying documents.

The Scottish Government explained that, although the instrument does not cite article 144(7) in the preamble, there has been satisfaction of the precondition of consultation in that provision and fulfilment of the wider corresponding consultation in article 9 of Regulation (EC) 178/2002. Further, the consultation was sent directly to interested parties that are likely to be affected, which in the Scottish Government's view meets the precondition requirements of article 9 and article 144(7).

Does the committee wish to note that, in line with normal drafting practice, the instrument should have cited all statutory preconditions?

**Members** *indicated agreement.*

**The Convener:** Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground, for a failure to follow proper drafting practice?

**Members** *indicated agreement.*

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

**Building (Scotland) Amendment (No 2) Regulations 2022 (SSI 2022/349)**

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

**Members** *indicated agreement.*

**Instrument not subject to Parliamentary Procedure**

10:13

**The Convener:** Under agenda item 5, we are considering one instrument, on which no points have been raised.

**Act of Sederunt (Messengers-at-Arms and Sheriff Officers Rules) (Amendment) 2022 (SSI 2022/355)**

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

**Members** *indicated agreement.*

10:13

*Meeting continued in private until 11:50.*





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