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Pàrlamaid na h-Alba

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Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh

Subordinate Legislation considered on 21 March 2017



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Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- (a) any—
 - (i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;
 - (ii) [deleted]
 - (iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;
- (b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;
- (c) general questions relating to powers to make subordinate legislation;
- (d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;
- (e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;
- (f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;
- (g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and
- (h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.
- (i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/delegated-powers-committee.aspx>



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Committee Membership



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Scottish Conservative
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David Torrance
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Introduction

1. At its meeting on 21 March 2017, the Committee considered the following affirmative instrument:

[Bankruptcy and Protected Trust Deeds \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \[draft\]](#)
2. The Committee considered this instrument in its capacity as lead committee, considering the policy merits of the instrument.
3. The Committee also undertook consideration of instruments from its traditional technical perspective. The Committee determined that it did not need to draw the Parliament's attention to the instruments that are set out at the end of this report under any of the reporting grounds within its remit.

Bankruptcy (Scotland) Act 2016: Secondary legislation

Background to the Regulations

4. The Bankruptcy (Scotland) Regulations 2016 and the Protected Trust Deed (Forms) (Scotland) Regulations 2016 were made in connection with the commencement of the Bankruptcy (Scotland) Act 2016 (“the 2016 Act”).
5. The 2016 Act consolidated the legislation relating to bankruptcy law in Scotland by bringing together enactments on bankruptcy into one statute. Specifically, the 2016 Act consolidated the Bankruptcy (Scotland) Act 1985 and subsequent amending legislation, and also the substantive provisions of the Protected Trust Deeds (Scotland) Regulations 2013.
6. This instrument amends certain drafting errors in the Bankruptcy (Scotland) Regulations 2016 and the Protected Trust Deed (Forms) (Scotland) Regulations 2016 which were highlighted by the Committee on 1 November 2016 in its [9th Report of 2016](#). It also amends errors identified by stakeholders. This instrument fulfils the Scottish Government's undertaking in respect of these amendments, which was given at the Committee meeting on the same day.

Scrutiny of the Instrument

7. It is within the remit of the Delegated Powers and Law Reform Committee to consider consolidation bills as a lead committee. The Bill for the Bankruptcy (Scotland) Act 2016 was a consolidation bill considered in Session 4 by the Committee. The instrument derives from that bill as part of the consolidation of bankruptcy legislation and accordingly falls within the remit of the Committee.
8. Therefore, as lead committee, the Delegated Powers and Law Reform Committee is responsible for considering both the technical and policy merits of the Regulations.
9. On 28 February 2017, the Committee considered the technical merits of the Regulations and determined that it did not need to draw the Parliament's attention to the instrument in its [11th Report of 2017](#).
10. At its meeting on 21 March 2017, the Committee considered the policy merits of the Regulations. The Committee did not raise any concerns about the policy merits of the instrument.

Motion

11. On 21 March 2017, the Minister for Business, Innovation and Energy moved the following motion in his name—

S5M-04390—That the Delegated Powers and Law Reform Committee recommends that the [Bankruptcy and Protected Trust Deeds \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \[draft\]](#) be approved.

The motion was agreed to.

No points raised

Environment, Climate Change and Land Reform

Protection of Seals (Designation of Haul-Out Sites) (Scotland) Amendment Order 2017 (SSI 2017/63)

Justice

First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2017 (SSI 2017/68)

First-tier Tribunal for Scotland Tax Chamber (Procedure) Regulations 2017 (SSI 2017/69)

Local Government and Communities

Non-Domestic Rates (District Heating Relief) (Scotland) Regulations 2017 (SSI 2017/61)

Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2017 (SSI 2017/64)

Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2017 (SSI 2017/66)

