

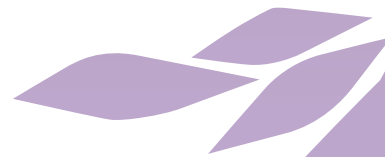


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Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh

Subordinate Legislation Considered by the Committee on 17 December 2019



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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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Stuart McMillan
Scottish National Party



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Scottish Conservative
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Mary Fee
Scottish Labour

Introduction

Instruments considered under the European Union (Withdrawal) Act 2018.

1. At its meeting on 17 December 2019, the Committee considered the following instruments under the protocol agreed between the Scottish Government and the Scottish Parliament in respect of SSIs made using powers under the European Union (Withdrawal) Act 2018:
 - The Public Procurement etc. (Scotland) (Amendment) (EU Exit) Amendment (No. 2) Regulations 2019 (SSI 2019/414)
 - The Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/415)
2. The Committee's recommendations and conclusions in relation to this instrument are set out later in the report.

Technical Scrutiny of Instruments

3. The Committee determined that it did not need to draw the Parliament's attention to the instruments set out by the relevant lead Committee below.

Instruments Considered Under the European Union (Withdrawal) Act 2018

Public Procurement etc. (Scotland) (Amendment) (EU Exit) Amendment (No. 2) Regulations 2019 (SSI 2019/414)

Purpose

4. This instrument amends the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Regulations 2019 before it comes into force. That instrument amended various instruments which constitute retained EU law. It replaced the thresholds set by the EU Commission, in Euros, regarding the application of public procurement legislation to public contracts with the values in sterling according to the conversion rates given by the European Commission for the two year period to 31st December 2019.
5. The EU Commission reviews and updates the thresholds and sterling equivalent values every two years. This instrument is therefore required to replace the values in the Public Procurement etc. (Scotland) (Amendment) (EU Exit) Regulations 2019 with the new values in sterling which apply for the two year period from 1 January 2020.

Committee Consideration

6. The Scottish Ministers have laid the instrument under the negative procedure. The Committee is content with this procedure as the instrument makes only minor and technical amendments.
7. The Scottish Ministers have suggested the instrument should be categorised as of low significance. The Committee is content with this categorisation as the amendments the instrument makes are technical and do not amount to a policy change.

8. The Committee therefore recommends to the Economy, Energy and Fair Work Committee that the procedure and categorisation applied to this instrument are appropriate.

Environmental Impact Assessment (Transport) (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/415)

Purpose

9. This instrument amends provisions that will, on exit day, become retained EU law on Environmental Impact Assessments (“EIAs”) in relation to the construction of new roads, and other road and transport works. The instrument comes into force on exit day. The legislation being amended is:

- The Roads (Scotland) Act 1984, parts III and IV and Schedules 1 and 1A (amending provisions about EIAs for new roads, improvements and maintenance)
 - The Transport and Works (Scotland) Act 2007 (amending provisions relating to EIAs on the procedure for making orders authorising works on transport systems and inland waterways, and about monitoring measures)
 - The Transport and Works (Scotland) Act 2007 (Applications and Objections Procedure) Rules 2007
10. The regulations would ensure that the current requirements for an Environmental Impact Assessment to be carried out for larger transport infrastructure projects continue to apply after the UK leaves the European Union. There are no policy or practical implications for Transport Scotland, local roads authorities, other transport project promoters or transport stakeholders from the proposals in this SSI.

Committee Consideration

11. This instrument has been laid under the negative procedure and has been categorised as of low significance.
12. The amendments are minor and technical, for example they replace references to “another Member State” with “a Member State”; remove references to “Union legislation”; and replace references to “a Member State” with “Scotland” or “Scottish Ministers, as appropriate to the context.
13. The Committee is content with the Minister’s explanation that instrument does no more than appropriate, that there are good reasons for it, and that it is a reasonable course of action.
14. The Committee therefore recommends to the Rural Economy and Connectivity Committee that the procedure and categorisation applied to this instrument are appropriate.

No Points Raised

Local Government and Communities Committee

Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020 (SSI 2019/draft)

Economy, Energy and Fair Work Committee

Public Procurement etc. (Scotland) (Amendment) (EU Exit) Amendment (No. 2) Regulations 2019 (SSI 2019/414)

Social Security Committee

Social Security (Scotland) Act 2018 (Commencement No. 2, Transitory and Saving Provision and Commencement No. 4 and Saving Provision) Amendment Regulations 2019 (SSI 2019/406)

Justice Committee

Management of Offenders (Scotland) Act 2019 (Commencement No. 2) Regulations 2019 (SSI 2019/413)

Management of Offenders (Scotland) Act 2019 (Commencement No. 3 and Transitory Provision) Regulations 2019 (SSI 2019/417)

