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

Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 4 February 2020



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Textphone: 0800 092 7100
Email: sp.info@parliament.scot

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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>



dplr.committee@parliament.scot



0131 348 5212

Committee Membership



Convener
Graham Simpson
Scottish Conservative
and Unionist Party



Deputy Convener
Stuart McMillan
Scottish National Party



Tom Arthur
Scottish National Party



Jeremy Balfour
Scottish Conservative
and Unionist Party



Mary Fee
Scottish Labour

Introduction

1. At its meeting on 4 February 2020, the Delegated Powers and Law Reform Committee considered the following instrument subject to the negative procedure and agreed to draw it to the attention of the lead committee (the Health and Sport Committee):
 - National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2020 (SSI 2020/17)
2. The Committee's conclusions in relation to this instrument are set out later in the report.

Other instruments considered

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 at the end of this Report

Instruments Drawn to the Attention of the Lead Committee

National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2020 (SSI 2020/17)

Purpose

4. This instrument amends schedule 1 of the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989. The effect is to provide that certain NHS services are provided in Scotland without charge for any overseas visitor who requires diagnosis or treatment for Wuhan novel coronavirus (2019-nCoV).

Committee Consideration

5. The instrument was laid before the Parliament on 29 January 2020. It came into force on 30 January 2020. This does not comply with the requirement in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 that at least 28 days should elapse between the laying of an instrument which is subject to the negative procedure and the coming into force of that instrument.
6. The Committee is required by Standing Orders to draw instruments which do not comply with the 28 day rule to the attention of the Parliament.
7. The reasons for not complying are set out in a letter from the Scottish Government to the Presiding Officer dated 29 January 2020 (see Annex).
8. The Committee is content with the reasons given by the Scottish Government for bringing the Regulations into force so quickly. However, as required by Standing Orders, the Committee draws this instrument to the attention of the lead committee, the Health and Sport Committee, under reporting ground (j) for the failure to lay the instrument in accordance with section 28(2) of the 2010 Act.

No Points Raised

Culture, Tourism, Europe and External Affairs Committee

Census (Scotland) Order 2020 (SSI 2020/draft)

Health and Sport Committee

Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2020 (SSI 2020/draft)

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Amendment of Specified Authorities) Order 2020 (SSI 2020/draft)

Alcohol (Minimum Price per Unit) (Scotland) Amendment Order 2020 (SSI 2020/draft)

Finance and Constitution Committee

Revenue Scotland and Tax Powers Act 2014 Amendment Regulations 2020 (SSI 2020/draft)

Economy, Energy and Fair Work Committee

Public Appointments and Public Bodies etc. (Scotland) Act 2003 (Treatment of Consumer Scotland as Specified Authority) Order 2020 (SSI 2020/draft)

Annex

Letter to the Presiding Officer Dated 29 January 2020

The National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2020, SSI 2020/17 was made by the Scottish Ministers under sections 98 and 105 of the National Health Service (Scotland) Act 1978 on 29 January 2020. It is being laid before the Scottish Parliament today, 29 January 2020 and comes into force on 30 January 2020.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.

The instrument comes into force the day after it is laid, in breach of the 28 day rule, in the interest of public health so that the health service in Scotland can quickly respond if the new strain of Wuhan novel coronavirus (2019-nCoV) is confirmed as being in the UK.

The amending instrument amends schedule 1 of the NHS (Charges to Overseas Visitors) (Scotland) Regulations 1989, in relation to Scotland, to add Wuhan novel coronavirus (2019-nCoV) to the list of diseases in respect of which no charge is to be made or recovered. This is to ensure that there is no financial barrier to overseas visitors in Scotland being given NHS hospital treatment for Wuhan novel coronavirus (2019-nCoV), thus ensuring that the risk to public health from symptomatic visitors is minimised.

We are bringing these provisions forward now, in advance of cases of the Wuhan novel coronavirus (2019-nCoV) being confirmed in the UK, so that the health service can take steps in preparation and in the knowledge that they are not breaking the law. The change will come into force around the same time as in England and the other Devolved Administrations.

