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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 16 June 2020



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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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Introduction

1. At its meeting on 16 June 2020, the Delegated Powers and Law Reform Committee considered the following instruments and agreed to draw them to the attention of the lead committee:
 - Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169)
 - Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 (SSI 2020/170)
2. The Committee's conclusions in relation to these instruments are set out later in the report.
3. The Committee also 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

Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020 (SSI 2020/169)

Purpose

4. This instrument requires those returning to Scotland from international travel to provide personal and travel information to the Secretary of State and to self-isolate at a specified address for 14 days upon their return.

Committee Consideration

5. There are three references to regulation 7(1) in this instrument. This is an error as there is no sub paragraph (1) in regulation 7.
6. There are also three references to paragraph 38 of schedule 2 in these regulations. This is also an error as there is no paragraph 38 of schedule 2 in these regulations. Such references should refer to paragraph 37 of schedule 2.
7. Regulation 6(6) makes reference to regulation 10(4) of the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020. This is an error as the reference to regulation 10(4) should be a reference to regulation 9(6) of these regulations.
8. Finally, regulation 12 of these regulations states that offences under 9(1) and 9(2) attract a fixed penalty notice of £480. This is an error as the policy intention is that offences under 9(1), (2), (3) and (4) all attract such a penalty notice.

9. The Committee reports this instrument to the lead committee, the Health and Sport Committee, under the general reporting ground in respect of these errors.

10. The Committee notes the Scottish Government's commitment to issue a correction slip in respect of the references to paragraph 38 of schedule 2 and the reference to regulation 10(4) in regulation 6(6).

11. The Committee also notes that the Scottish Government has laid an amending instrument in respect of the error in regulation 12.

Health Protection (Coronavirus, Public Health Information for Passengers Travelling to Scotland) Regulations 2020 (SSI 2020/170)

Purpose

12. The purpose of this instrument is to impose requirements on persons operating commercial services for international passengers travelling to Scotland by sea and air from outside the common travel area.
13. Operators are required to ensure that passengers who arrive in Scotland have been provided with certain public health information in relation to the Coronavirus. The instrument provides that it is an offence to breach its requirements.

Committee Consideration

14. The definition of “required information” in regulation 2 of this instrument has been duplicated erroneously.
15. There is also a cross referencing error in regulation 6(5). The description of a reasonable excuse in regulation 6(5) should contain a reference to paragraph (4) rather than paragraph (5).
16. There is a further error in paragraph 3(d) of the schedule, where the word “certain” has been included in error.

17. The Committee reports this instrument to the lead committee, the Health and Sport Committee, under the general reporting ground in respect of these errors.

18. The Committee notes the Scottish Government’s commitment to issue a correction slip in respect of the reference to paragraph (5) in regulation 6(5).

No points raised

Health and Sport Committee

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment Regulations 2020 (SSI 2020/171)

Justice Committee

Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 (SSI 2020/draft)

Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 Commencement No. 3) Regulations 2020 (SSI 2020/167 (C.16))

Rural Economy and Connectivity Committee

Marking of Creels (Scotland) Order 2020 (SSI 2020/168)

