

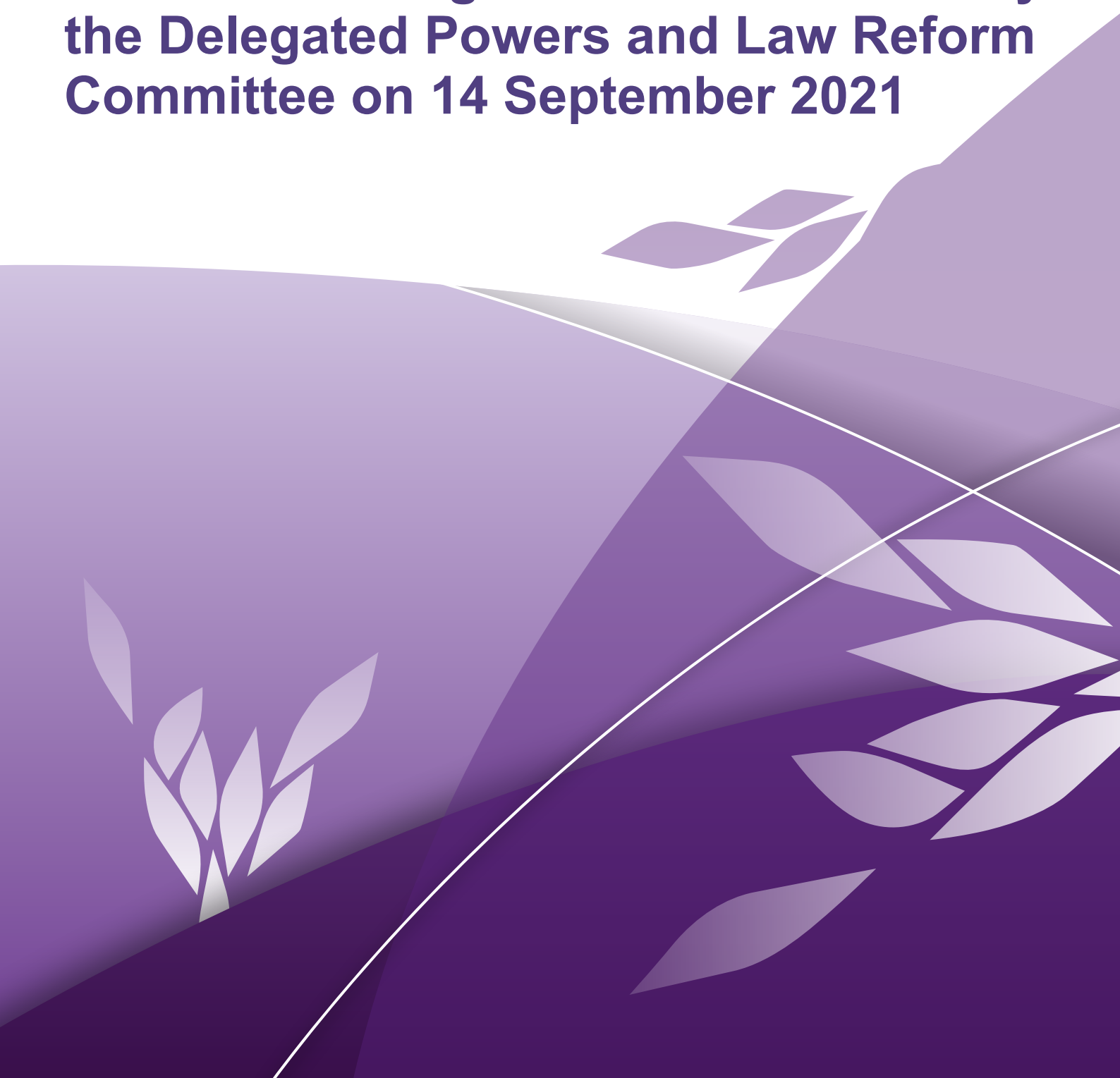


The Scottish Parliament
Pàrlamaid na h-Alba

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Delegated Powers and Law Reform Committee

Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 14 September 2021



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Delegated Powers and Law Reform Committee

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;

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule; and

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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Committee Membership



Convener
Stuart McMillan
Scottish National Party



Deputy Convener
Bill Kidd
Scottish National Party



Graham Simpson
Scottish Conservative
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Craig Hoy
Scottish Conservative
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Paul Sweeney
Scottish Labour

Introduction

1. At its meeting on 14 September 2021, the Committee considered the following made affirmative instrument under its remit and agreed to draw it to the attention of the relevant lead committee:
 - Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2021 (SSI 2021/301)
2. On the following draft affirmative instrument, while the Committee made no recommendations on the instrument it did agree to highlight its discussion on the Regulations in this report:
 - Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021 (SSI 2021/draft)
3. The Committee's recommendations and discussions in relation to these instruments are set out in the next section of this report.
4. The Committee also determined that it did not need to draw the Parliament's attention to the instruments set out at the end of this report.

Scrutiny of instruments

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 17) Regulations 2021 (SSI 2021/301)

5. The instrument amends the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020.
6. Regulation 4(b) inserts a new paragraph 9 into regulation 5F of the International Travel Regulations. Paragraph 9 provides for the definition of “private provider” in respect of Covid-19 day 2 and day 8 test providers. However, paragraph 9(b) refers to “private day 2 and day 2 test providers” when this should instead refer to “private day 2 and day 8 test providers”.
7. In correspondence with the Scottish Government (please see the Annex), it advised that this error would be rectified in a forthcoming amending instrument. The Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No. 18) Regulations 2021 (SSI 2021/307) was subsequently laid before the Parliament on Friday 10 September and includes provision rectifying the error. This instrument will be considered by the Committee in due course.

8. **The Committee draws the instrument to the attention of the Parliament under the general reporting ground due to the typographical error in regulation 4(b). The Committee also notes that the Scottish Government has since rectified the error.**

Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021 (SSI 2021/draft)

9. The Department for Work and Pensions is introducing regulations to allow those evacuated from Afghanistan to have immediate access to social security assistance where they enter the UK. This SSI was laid on Monday 13 September to ensure a parity of access to benefits for which Scottish Ministers have responsibility. The Scottish Government is seeking to have these changes come into force on Wednesday 15 September 2021.
10. While the Committee was content with this instrument, given the time available to scrutinise the Regulations it noted that it may look at the instrument again at a subsequent meeting should any issues be found. The Committee would then write to the Scottish Government to highlight any points.

No points raised

COVID-19 Recovery Committee

Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (SSI 2021/299)

Equalities, Human Rights and Civil Justice Committee

Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (Form and Content of Waiver etc.) Regulations 2021 (SSI 2021/draft)

Health, Social Care and Sport Committee

National Health Service (General Medical Services and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2021 (SSI 2021/302)

Rural Affairs, Islands and Natural Environment Committee

Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Amendment Regulations 2021 (SSI 2021/draft)

Forestry (Exemptions) (Scotland) Amendment Regulations 2021 (SSI 2021/draft)

Annex

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No.17) Regulations 2021 (SSI 2021/301)

The Scottish Government was asked:

Regulation 4(b) of the instrument inserts paragraph 9, which defines a “private provider”, into regulation 5F of the Health Protection (Coronavirus)(International Travel) (Scotland) Regulations 2020. Paragraph 9(b) states “is currently on the UK Government published list of private day 2 and day 2 test providers for persons arriving in England”. Should the second occurrence of “day 2” refer to “day 8”? Is any corrective action proposed and, if so, what action and when?

The Scottish Government responded:

The Scottish Government replies that it totally agrees that there is an error and day 2 should in the place mentioned read day 8 and that they accordingly intend to rectify the error by including the rectification in an amending instrument scheduled for making this month.

