

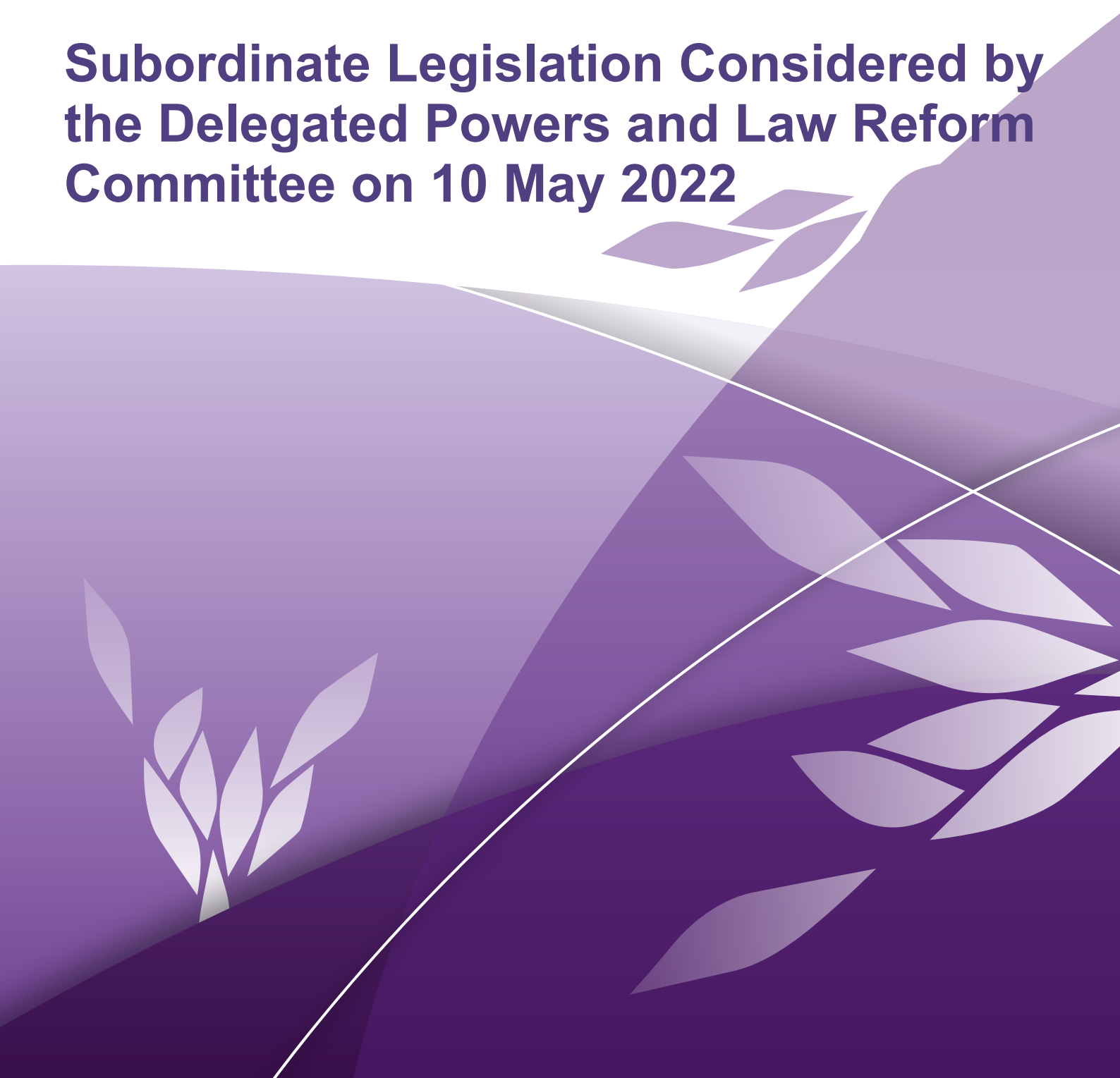


The Scottish Parliament
Pàrlamaid na h-Alba

Published 10 May 2022
SP Paper 171
28th Report, 2022 (Session 6)

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 10 May 2022



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:
<http://www.parliament.scot/abouttheparliament/91279.aspx>

For information on the Scottish Parliament contact Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
Instruments considered under the European Union (Withdrawal) Act 2018	2
Scrutiny of instruments under the Committee’s technical remit: instruments drawn to the attention of the lead committee	3
No technical points raised	4
Annex	5

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.



dplr.committee@parliament.scot



0131 348 5212

Committee Membership



Stuart McMillan
Scottish National Party



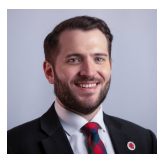
Bill Kidd
Scottish National Party



Convener
Graham Simpson
Scottish Conservative
and Unionist Party



Craig Hoy
Scottish Conservative
and Unionist Party



Paul Sweeney
Scottish Labour

Introduction

1. At its meeting on 10 May, the Committee considered the following instrument under the SSI Protocol agreed between the Scottish Government and the Scottish Parliament in respect of SSIs made using the powers under the European Union (Withdrawal) Act 2018:
 - Environment and Trade in Animals and Related Products (EU Exit) (Scotland) (Miscellaneous Amendment) Regulations 2022 (SSI 2022/138).
2. The Committee's recommendations in relation to this instrument, under the SSI Protocol, are set out in the next section of the report.
3. The Committee also considered the following instrument under its technical remit and agreed to draw it to the attention of the relevant lead committee:
 - Genetically Modified Food and Feed (Authorisations) (Scotland) Regulations 2022 (SSI 2022/137).
4. The Committee's recommendations in relation to this instrument are set out later in the report.
5. The Committee also determined that in terms of its technical remit, it did not need to draw the Parliament's attention to the instruments at the end of the report. Some broader points highlighted by the Committee are noted below the relevant instruments.

Instruments considered under the European Union (Withdrawal) Act 2018

Committee consideration of the scrutiny procedure under which an instrument has been laid and the categorisation applied by the Scottish Government

Environment and Trade in Animals and Related Products (EU Exit) (Scotland) (Miscellaneous Amendment) Regulations 2022 (SSI 2022/138)

6. The instrument makes amendments to various pieces of primary and secondary legislation to ensure that environmental protection legislation continues to operate effectively following the UK's withdrawal from the European Union.
7. Additionally, the instrument corrects a drafting error the committee identified in SSI 2022/90 where there was an absent reference to the Republic of Ireland in order to exempt imports of certain animal-origin goods produced in Northern Ireland and the Republic of Ireland from the requirement to pre-notify them to the border controls authority in Scotland.
8. The instrument is made under the negative procedure and is considered by the Scottish Government to be of low significance.
9. **The Committee is content that the appropriate scrutiny procedure and categorisation have been applied to the instrument.**

Scrutiny of instruments under the Committee's technical remit: instruments drawn to the attention of the lead committee

Genetically Modified Food and Feed (Authorisations) (Scotland) Regulations 2022 (SSI 2022/137)

10. The instrument authorises five new types of genetically modified maize and soybean products for use in food and animal feed sold in Scotland. It also renews authorisation for continuing use of four genetically modified maize products. The Committee identified a document referencing error in schedules 3, 4 and 7 of the instrument.
11. In response to correspondence from the Committee, the Scottish Government acknowledged that there is a referencing error in the instrument but does not propose to correct this.
12. A copy of the correspondence can be found in the **Annex**.
13. **The Committee draws this instrument to the attention of the Parliament under the general reporting ground in respect of an error in paragraphs 4(2) of schedules 3, 4 and 7. The document reference number is incorrectly stated to be EURL-VL-0417VP rather than EURL-VL-03/12VP.**
14. **The Committee calls upon the Scottish Government to amend the instrument to correct the error in these schedules at the next legislative opportunity.**

No technical points raised

The Parliament

Private Landlord Registration (Modification) (Scotland) Order 2022 (SSI 2022/Draft)

The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Homes for Ukraine Sponsorship Scheme) (Scotland) Amendment Order 2022 (SSI 2022/Draft)

- Both these Orders seek to ensure that the appropriate level of disclosure checks can be undertaken on all individuals who are being assessed as suitable to provide accommodation under the Homes for Ukraine Sponsorship scheme to help provide safer housing options for those fleeing the war in Ukraine.
- The instruments were both laid on Friday 6 May and the Scottish Government is seeking to have these come into force on Thursday 12 May 2022.
- Given the subject matter, the Committee acknowledged the immediacy of the instruments and was content with the Orders. It nevertheless reserved the right for the Committee to look again at the instruments at a subsequent meeting should any issues be found. These would then be highlighted to the Scottish Government.

Criminal Justice Committee

Offensive Weapons Act 2019 (Prescribed Documents) (Scotland) Order 2022 (SSI 2022/148)

Offensive Weapons Act 2019 (Commencement No. 2) (Scotland) Regulations 2022 (SSI 2022/150 (C.9))

Local Government, Housing and Planning Committee

Non-Domestic Rates (Valuation Notices) (Scotland) Regulations 2022 (SSI 2022/Draft)

Net Zero, Energy and Transport Committee

Companies Act 2006 (Scottish public sector companies to be audited by the Auditor General for Scotland) Order 2022 (SSI 2022/Draft)

Environment and Trade in Animals and Related Products (EU Exit) (Scotland) (Miscellaneous Amendment) Regulations 2022 (SSI 2022/138)

- The Committee welcomed that this instrument corrects a drafting error in SSI 2022/90, insofar as it amends the Trade in Animals and Related Products (Scotland) Regulations 2012, previously identified by the Committee at its meeting on 19 April

Social Justice and Social Security Committee

Social Security Administration and Tribunal Membership (Scotland) Act 2020 (Commencement No. 6) Regulations 2022 (SSI 2022/146 (C.8))

Annex

Genetically Modified Food and Feed (Authorisations) (Scotland) Regulations 2022 (SSI 2022/137)

On 28 April 2022, the Committee asked the Scottish Government:

The instrument implements a decision to authorise five, and to renew authorisation for four, products containing genetically modified organisms to be placed on the market in Scotland. Regulation 3 gives effect to schedules 1 – 9 of the instrument which set out the scope, extent and requirements of authorisation for the use of specified genetically modified organisms including the methods to be used to detect the genetically modified substance in food and food ingredients, feed and other products.

Paragraphs 4(2) of schedules 3 and 7 relate to authorisations involving GM maize MON 87427 and specify the method to be used in detecting this substance in products. Both paragraphs refer to the following document entitled “Event-specific Method for the Quantification of Maize MON 87427 Using Real-time PCR”, reference “EURL-VL-0417VP” as the one in which the relevant method is described. However, that reference number relates to the document also specified in para 4(2) of schedule 2 which prescribes the method for detection of GM maize MZIR098.

1. Please confirm whether the document references for “Event-specific Method for the Quantification of Maize MON 87427 Using Real-time PCR” in paragraphs 4(2) of schedules 3 and 7 should be to EURL-VL-03/12VP rather than EURL-VL-0417VP.
1. Please confirm whether any corrective action is proposed, and if so, what action and when.

On 2 May 2022, the Scottish Government responded:

1. Thank you for bringing this to our attention. It is correct that the document references for “Event-specific Method for the Quantification of Maize MON 87427 Using Real-time PCR” in paragraphs 4(2) of schedules 3 and 7 should be to EURL-VL-03/12VP rather than EURL-VL-0417VP.

2. We have considered whether there should be any corrective action.

When the whole title of the document, as it appears in the instrument, “*Event-specific Method for the Quantification of Maize MON 87427 Using Real-time PCR*”, reference “*EURL-VL-04/17VP*”, is searched, the correct reference document for GM Maize 87427 is reached, that being the document with reference number EURL-VL-03/12VP.

When the reference number “*EURL-VL-04/17VP*” alone is searched this leads to the document for GM Maize MZIR098. The title of the document, “*Event-specific Method for the Quantification of maize MZIR098 by Real-time PCR*” we consider, makes it immediately obvious for someone searching for the detection method for MON 87427 that this is incorrect.

Whilst paragraph 4(2) of schedules 3 and 7 cite the incorrect document reference number, the fact that the correct document title is listed in full and appears when a search is carried out (even with the incorrect reference number), we think, still allows the reader to find the

correct reference document easily. Therefore, we are not proposing any corrective action.

