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Pàrlamaid na h-Alba

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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 14 March 2023**



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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.



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# Committee Membership



**Stuart McMillan**  
Scottish National Party



**Bill Kidd**  
Scottish National Party



**Jeremy Balfour**  
Scottish Conservative  
and Unionist Party



**Carol Mochan**  
Scottish Labour



**Oliver Mundell**  
Scottish Conservative  
and Unionist Party

# No points raised

1. At its meeting on 14 March, the Committee considered the following instruments under its remit and agreed not to draw them to the attention of the relevant lead committee.

## Criminal Justice Committee

Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Sexual Harm Prevention Orders) 2023 (SSI 2023/61)

## Education, Children and Young People Committee

Children's Hearings (Scotland) Act 2011 (Safeguarders Panel) Amendment Regulations 2023 (SSI 2023/66)

## Equalities, Human Right and Civil Justice Committee

Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Amendment Regulations 2023 (SSI 2023/55)

- The Committee noted that the Scottish Government will correct an error in the Policy Note and that the corrected Policy Note will be published.

## Health, Social Care and Sport Committee

Genetically Modified Food and Feed (Authorisations and Modifications of Authorisations) (Scotland) Regulations 2023 (SSI 2023/59)

- The Committee welcomed that regulation 22 of SSI 2023/59 corrects an error identified by the Committee in SSI 2022/137, the Genetically Modified Food and Feed (Authorisations) (Scotland) Regulations 2022.

## Local Government, Housing and Planning Committee

Private Residential Tenancies and Assured Tenancies (Prescribed Notices and Forms) (Temporary Modifications) (Scotland) Regulations 2023 (SSI 2023/58)

Non-Domestic Rates (Transitional Relief) (Scotland) Amendment Regulations 2023 (SSI 2023/63)

Non-Domestic Rates (Scotland) Act 2020 (Transitional Provision) Regulations 2023 (SSI 2023/64)

Building (Scotland) Amendment (No. 2) Regulations 2022 (Amendment) Regulations 2023 (SSI 2023/65)

# Annex

## **Marriage Between Civil Partners (Procedure for Change and Fees) (Scotland) Amendment Regulations 2023 (SSI 2023/55)**

On 3 March 2023, the Committee asked the Scottish Government:

It is narrated in the preamble of the instrument that consultation has taken place in accordance with section 10(4) of the Marriage and Civil Partnership (Scotland) Act 2014. It is also noted in the second paragraph of the accompanying policy note that the Scottish Ministers consulted, as required, prior to making the instrument. Section 10(4) requires that before making regulations under section 10(1) the Scottish Ministers must consult the Registrar General of Births, Deaths and Marriages for Scotland.

Under the consultation heading in the accompanying policy note there is reference to the Registrar General making these regulations and the NRS consulting COSLA and AROS on the level of fees in advance of Registration Services (Fees, Etc) Regulations 2022 (SSI 2022/68). Further that no consultation has been carried out on the other changes.

For clarification, please confirm whether the consultation requirement set out in section 10(4) has been complied with in relation to this instrument? Please confirm whether any corrective action is proposed, and if so, what action and when.

On 7 March 2023, the Scottish Government responded:

We confirm that the consultation requirement set out in section 10(4) has been complied with in relation to this instrument. We thank the Committee's legal advisers for drawing the errors in the "Consultation" part of the Policy Note to our attention. That part should be replaced with:

"The Scottish Ministers have, as required by section 10(4) of the Marriage and Civil Partnership (Scotland) Act 2014, consulted the Registrar General for Scotland before making this instrument. In respect of the change to the form for changing a civil partnership to a marriage, the Scottish Ministers have also made these Regulations having considered feedback from individuals, while continuing to respect the outcomes of the consultation carried out at the time of the implementation of the 2014 Act. National Records of Scotland also consulted the Convention of Scottish Local Authorities (CoSLA) and the Association of Registrars of Scotland (AROS) on the level of fees in advance of the Registration Services (Fees, Etc) Regulations 2022 (SSI 2022/68)."

The Scottish Government intends to replace the Policy Note published on [www.legislation.gov.uk](http://www.legislation.gov.uk) with an amended version.

