



The Scottish Parliament
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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 30 April 2024



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For information on the Scottish Parliament contact Public Information on:
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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.



dplr.committee@parliament.scot



0131 348 5212

Committee Membership



Stuart McMillan
Scottish National Party



Bill Kidd
Scottish National Party



Foyso Choudhury
Scottish Labour



Tim Eagle
Scottish Conservative
and Unionist Party



Oliver Mundell
Scottish Conservative
and Unionist Party

Introduction

1. At its meeting on 30 April, the Committee considered the following instrument under its remit and agreed to draw it to the attention of the Parliament:
 - International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2024 (SSI 2024/Draft)
2. The Committee's recommendations in relation to this instrument are set out in the next section of this report.
3. The Committee also determined that, in terms of its remit, it did not need to draw the Parliament's attention to the instruments at the end of the report.

Scrutiny of instruments under the Committee's remit: instruments drawn to the attention of the Parliament

International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2024 (SSI 2024/Draft)

4. This draft instrument is made under the powers in section 1 of the International Organisations Act 1968, which enables His Majesty to make Orders in Council to confer privileges and immunities on certain international organisations, its representatives and members of staff.
5. This Order amends the International Organisations (Immunities and Privileges) (Scotland) Order 2009 (“the 2009 Order”) by:
 - adding a new schedule 1B to give effect to the obligations relating to immunities and privileges in the Agreement between the United Kingdom and the European Space Agency concerning the European Space Agency’s Sites and Facilities in the United Kingdom; and
 - amending schedule 15 to reflect the provisions contained within the Protocol on the privileges and immunities of the European Organisation for Astronomical Research in the Southern Hemisphere.
6. In [correspondence with the Scottish Government](#), the Committee queried discrepancies between the instrument and the Explanatory Note in respect of:
 1. the Director General’s, or the person appointed to act instead of the Director General's, entitlement to benefit from exemptions relating to social security; and
 2. the immunities and benefits afforded to other officers, and not just to officers with a form of British nationality.
7. In its [response](#), the Scottish Government explains that the draft instrument has omitted to provide for the Director General’s, or the person appointed to act instead of the Director General’s, entitlement to benefit from exemptions relating to social security; and that they intend to rectify this at the earliest opportunity.
8. **The Committee draws the instrument to the attention of the Parliament on reporting ground (i) – defective drafting – on the basis that new paragraph 7 of schedule 15 of the International Organisations (Immunities and Privileges) (Scotland) Order 2009 (substituted by article 2(5) of the instrument) does not operate as the policy intended in that a Director General, or a person acting in their place, who has a form of British nationality, does not benefit from exemptions relating to social security as is intended.**

9. **The Committee welcomed that the Scottish Government intends to rectify the error at the earliest opportunity, which is anticipated to be in the autumn of this year.**

10. The Scottish Government acknowledged that the Explanatory Note is incorrect in suggesting that the instrument affords immunities and benefits only to officers who have British nationality. It advised that it intends to correct the text of the Explanatory Note.

11. **The Committee draws the instrument to the attention of the Parliament on the general reporting ground, in respect of an error contained in the Explanatory Note.**

12. **The Committee is content with the Scottish Government's proposal to correct the text of the Explanatory Note.**

13. The lead committee for this instrument is the Criminal Justice Committee.

No points raised

Economy and Fair Work Committee

Tied Pubs (Scotland) Act 2021 (Commencement No. 1) Regulations 2024 (SSI 2024/113 (C.10))

Education, Children and Young People Committee

Scottish Public Services Ombudsman: Child-friendly Complaint Handling Statement of Principles (SPSO/2024/01)

- Section 16A(7) of the enabling Act, the Scottish Public Services Ombudsman Act 2002, requires the Ombudsman to consult the Scottish Ministers before laying revised principles. The Ombudsman confirmed she consulted the Scottish Ministers and therefore that the statutory requirement has been fulfilled.

Equalities, Human Rights and Civil Justice Committee

Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2024 (SSI 2024/Draft)

Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2024 (SSI 2024/Draft)

Health, Social Care and Sport Committee

Patient Safety Commissioner for Scotland Act 2023 (Commencement) Regulations 2024 (SSI 2024/110 (C.9))

Social Justice and Social Security Committee

Disability Assistance for Older People (Scotland) Regulations 2024 (SSI 2024/Draft)

Charities (References in Documents) (Miscellaneous Amendment) (Scotland) Regulations 2024 (SSI 2024/111)

Rural Affairs and Islands Committee

Sea Fisheries (Remote Electronic Monitoring and Regulation of Scallop Fishing) (Scotland) Regulations 2024

- The Committee noted that the original draft of this instrument was withdrawn and the current instrument re-laid on Wednesday 24th April 2024.

