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Justice Committee Comataidh a' Cheartais

The Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020



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Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.



<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/justice-committee.aspx>



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Introduction

1. At its meeting on 23 June 2020, the Justice Committee ("the Committee") considered the following draft Statutory instrument:
 - [the Legal Aid and Advice and Assistance \(Miscellaneous Amendments\) \(Coronavirus\) \(Scotland\) Regulations 2020 \[draft\]](#)
2. The instrument was laid before the Scottish Parliament on 5 June 2020 and referred to the Justice Committee. The instrument is subject to the affirmative procedure. The Committee is required to report to the Parliament on the instrument by 17 September 2020.
3. The instrument was made in exercise of the powers conferred by sections 9, 12(3), 33(2), (3) and (3A), and 36(1), (2)(a) and (g) of the Legal Aid (Scotland) Act 1986.
4. The purpose of the instrument is to make provision for temporary amendments to regulations during the emergency period that will: facilitate interim payments of legal aid fees, support adherence to travel restrictions and social distancing guidance, and support access to justice for appeals against special restrictions or requirements.

Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 16 June 2020 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

Justice Committee consideration

6. The Minister for Community Safety lodged motion S5M-21964 proposing that the Committee recommends approval of the instrument.
7. At its meeting on 23 June 2020, the Committee took evidence on the instrument from Ash Denham MSP, Minister for Community Safety ('the Minister'), Kieran Burke, Bill Team Lead, Access to Justice and Martin Brown, Solicitor, Scottish Government Legal Directorate. The Minister outlined the purpose of the instrument to the Committee, as set out previously.
8. During the evidence session, Members questioned why Section 6 is the only section in the instrument without a given expiry date.
9. In response, Martin Brown stated that it does not require one as the provisions it relates to are created by the Coronavirus Act 2020¹, and when that Act is no longer in effect (as it has a defined expiry) Section 6 will cease to have effect in line with it.
10. Following the evidence session, the Minister moved the motion in her name: S5M-21964—That the Justice Committee recommends that the Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 [draft] be approved.
11. The motion was agreed to without debate or division.

The Justice Committee recommends to the Parliament that it approve the Legal Aid and Advice and Assistance (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 [draft].

- 1 Coronavirus Act 2020 (UK Legislation): <http://www.legislation.gov.uk/ukpga/2020/7/contents>

