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Local Government and Communities Committee Comataidh Riaghaltas Ionadail is Coimhearsnachdan

Report on Subordinate Legislation considered by the Local Government and Communities Committee on 30 January 2019



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Local Government and Communities Committee

To consider and report on communities, housing, local government, measures against poverty, planning and regeneration matters falling within the responsibility of the Cabinet Secretary for Communities and Local Government.



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Consideration of Affirmative Instruments

1. The Committee reports to the Parliament as follows—
2. [The Housing \(Scotland\) Act 2006 \(Supplemental Provision\) Order 2019 \[draft\]](#) and [the Housing \(Scotland\) Act 2006 \(Modification of the Repairing Standard\) Regulations 2019 \[draft\]](#) were laid before the Parliament on 12 December 2018 and referred to the Local Government and Communities Committee for consideration.
3. These instruments are subject to affirmative procedure (Rule 10.6) and it is for this Committee to recommend to the Parliament whether they should be approved.
4. At its meeting on 30 January 2019, the Local Government and Communities Committee took evidence on the instruments from:
 - Kevin Stewart, Minister for Local Government, Housing and Planning, and Kirsten Simonnet-Lefevre, Solicitor, Scottish Government.
5. During the evidence session with the Minister on the instruments, the following points were raised:
 - The length of time it will take to implement the legislation;
 - The progress the Scottish Government have made in relation to energy efficiency standards within the private sector;
 - Clarification on whether the additions being made to the repairing standard would be mandatory requirements;
 - The extent to which holiday lets are subject to the legislation; and
 - The rationale for inserting a new provision with regard to satisfactory provision for safely accessible food storage and food preparation.

Further information on these points and the discussion that took place can be found in the Official Report at the following link:

<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=11922&mode=pdf>

The Housing (Scotland) Act 2006 (Supplemental Provision) Order 2019 [draft]

6. The Order makes supplemental provision modifying the Housing (Scotland) Act 2006 (“the 2006 Act”). Section 16 of the 2006 Act sets out exceptions to the landlord’s duty to repair under section 14(1) of the 2006 Act. Article 2 modifies section 16 to clarify that, for the purposes of subsection (4) of that section, a landlord lacks the necessary rights to repair common parts pertaining to the house where there is no consent by a majority of the owners of those common parts.
7. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on 15 January 2019 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
8. Following the evidence session on the instrument, Kevin Stewart moved motion S5M-15439—

That the Local Government and Communities Committee recommends that the Housing (Scotland) Act 2006 (Supplemental Provision) Order 2019 [draft] be approved.

The motion was agreed to without division.

9. The Local Government and Communities Committee recommends that the Housing (Scotland) Act 2006 (Supplemental Provision) Order 2019 [draft] be approved.

The Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019

10. These Regulations modify tenancies to which the repairing standard duty applies which are set out in section 12 of the Housing (Scotland) Act 2006 (“the 2006 Act”) as well as the repairing standard which is set out in section 13 of the 2006 Act.
11. The Delegated Powers and Law Reform (DPLR) Committee considered a prior instrument at its meeting on 15 January 2019. This instrument contained a drafting defect and as a result the DPLR Committee subsequently recommendedⁱ that the Scottish Government withdraw and re-lay the draft instrument to correct this defect. The Scottish Government withdrew the draft instrument on 16 January 2019 and laid an amending draft instrument the same day in order for the Local Government and Communities Committee to consider the amended instrument on the same date as the original instrument was originally scheduled for consideration. The re-laid instrument has identical legislative intent to the prior instrument but makes the drafting change requested by the DPLR Committee.
12. The DPLR Committee considered the amending instrument at its meeting on 15 January 2019 and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.
13. Following the evidence session on the instrument, Kevin Stewart moved motion S5M-15441—

That the Local Government and Communities Committee recommends that the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 [draft] be approved.

The motion was agreed to without division.

14. The Local Government and Communities Committee recommends that the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 [draft] be approved.

ⁱ Delegated Powers and Law Reform Committee 4th Report 2019 (Session 5): Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 15 January 2019

