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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 28 May 2019



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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.



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



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Tom Arthur
Scottish National Party



Alison Harris
Scottish Conservative
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Introduction

Instruments considered under the European Union (Withdrawal) Act 2018

1. At its meeting on 28 May 2019, the Committee considered the following instruments under the 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-

Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/169)

Environment (EU Exit) (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI 2019/175)

Environmental Assessment (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/178)

2. The Committee's recommendations and conclusions in relation to these instruments are set out in the following sections of this report.

Technical scrutiny of instruments

3. The Committee determined that it did not need to draw the Parliament's attention to the instruments set out by the relevant lead Committee at the end of this report.

Instruments considered under the SSI Protocol under the European Union (Withdrawal) Act 2018 (scrutiny procedure and categorisation)

Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/169) (Rural Economy and Connectivity)

4. The purpose of the instrument is to preserve the current Common Market Organisation rules on the marketing of horticultural produce (and bananas, which are separately regulated) on exit from the EU.
5. It does so by making technical corrections to the domestic regulations which set enforcement standards for the marketing of fresh fruit and vegetables in Scotland, to make the legislation function appropriately in the domestic as opposed to EU context.
6. The Scottish Government has chosen to lay this instrument under the negative procedure and has categorised it as Low in terms of significance under the SSI Protocol.

Recommendations

7. **The Committee recommends to the Rural Economy and Connectivity Committee that the negative procedure is the appropriate scrutiny procedure and that the instrument could appropriately be categorised as Low in terms of its significance under the SSI Protocol.**

Environment (EU Exit) (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI 2019/175) (Environment, Climate Change and Land Reform)

8. These Regulations make minor corrections to the Environment (EU Exit) (Scotland)(Amendment etc.) Regulations 2019. The Scottish Government has undertaken to the Parliament to make these corrections before the start of the summer recess.

9. The Scottish Government has chosen to lay this instrument under the negative procedure and has categorised it as Low in terms of significance under the SSI Protocol.

Recommendations

10. **The Committee recommends to the Environment, Climate Change and Land Reform Committee that the negative procedure is the appropriate scrutiny procedure and that the instrument could appropriately be categorised as Low in terms of its significance under the SSI Protocol.**

Environmental Assessment (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/178) (Environment, Climate Change and Land Reform)

11. These Regulations make minor and technical changes to the Environmental Assessment (Scotland) Act 2005 to update cross-references to other legislation and to fix deficiencies arising from the UK's exit from the EU.
12. The Scottish Government has chosen to lay this instrument under the negative procedure and has categorised it as Low in terms of significance under the SSI Protocol.

Recommendations

13. **The Committee recommends to the Environment, Climate Change and Land Reform Committee that the negative procedure is the appropriate scrutiny procedure and that the instrument could appropriately be categorised as Low in terms of its significance under the SSI Protocol.**

No points raised

Education and Skills

Abertay University (Scotland) Order of Council 2019 (SSI 2019/163)

Education (Scotland) Act 1980 (Modification) Regulations 2019 (SSI 2019/179)

Economy, Energy and Fair Work

Electricity (Applications for Consent and Variation of Consent) (Fees) (Scotland) Regulations 2019 (SSI 2019/176)

Public Procurement etc. (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI 2019/173)

Environment, Climate Change and Land Reform

Scottish Crown Estate Act 2019 (Commencement No. 1) Regulations 2019 (SSI 2019/170)

Environmental Assessment (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/178)

Justice

Presumption Against Short Periods of Imprisonment (Scotland) Order 2019 (SSI 2019/draft)

Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Amendment Order 2019 (SSI 2019/172)

Rural Economy and Connectivity

A90 Trunk Road (Aberdeen Western Peripheral Route) (Stonehaven to Blackdog) (Prohibitions and Restrictions) Regulations 2019 (SSI 2019/166)

A956 Trunk Road (Aberdeen western Peripheral Route) (Cleanhill to Charleston) (Prohibitions and Restrictions) Regulations 2019 (SSI 2019/167)

Motorways Traffic (Scotland) Amendment Regulations 2019 (SSI 2019/168)

Marketing of Horticultural Produce and Bananas (EU Exit) (Scotland) Amendment Regulations 2019 (SSI 2019/169)

