



The Scottish Parliament  
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 24 September 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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# Committee Membership



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**Tom Arthur**  
Scottish National Party



**Jeremy Balfour**  
Scottish Conservative  
and Unionist Party



**Mary Fee**  
Scottish Labour



**Convener**  
**Graham Simpson**  
Scottish Conservative  
and Unionist Party

# Introduction

## *Instruments considered under the European Union (Withdrawal) Act 2018*

1. At its meeting on 24 September 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 powers under the European Union (Withdrawal) Act 2018-
  - the Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/285)
  - the Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/289)
2. The Committee's recommendations and conclusions in relation to these instruments are set out in the following section of this report.

## *Other 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 Committees at the end of this report.

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

## The Food Information, Labelling and Standards (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/285)

### *Purpose*

4. This instrument ensures the operability of domestic food legislation following the UK's exit from the EU.
5. The instrument inserts transitional provisions into the Quick-frozen Foodstuffs Regulations 1990, the Food Hygiene (Scotland) Regulations 2006, the Food Additives, Flavouring, Enzymes and Extraction Solvents (Scotland) Regulations 2013, and the Caseins and Caseinates (Scotland) (No.2) Regulations 2016 to allow the food industry time to adjust to new labelling and information requirements for EU businesses and food products following the UK's exit from the EU. A transitional period of 21 months is being provided during which time if food information and labelling complied with the law immediately before exit day, no offence will have been committed by the food business operator.
6. The instrument also amends the Honey (Scotland) Regulations 2015 to make technical changes to the origin labelling information requirements for blended honey. The amendments are to EU focused terminology and provide various new options for providing information on the origin of blended honey.

### *Committee Consideration*

7. The Scottish Government has laid this instrument under the negative procedure and has categorised it as of low significance under the SSI Protocol.
8. The Committee is content with the Scottish Minister's statement that the instrument does no more than is appropriate. It makes minor, technical amendments which are designed to ensure continuity for business. No substantial policy change is made by the instrument.
9. The Committee agrees that the negative procedure is appropriate and that the instrument is properly categorised as low in accordance with the protocol.

### *Recommendation*

10. The Committee recommends to the Health and Sport Committee that the negative procedure is the appropriate scrutiny procedure for this SSI and that it is appropriately categorised as Low in terms of its significance under the SSI Protocol.

**The Seed, Propagating Material and Common Agricultural Policy (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/289)**

*Purpose*

11. Parts 3 and 4 of these Regulations are made under the European Union (Withdrawal) Act 2018. Part 3 of the Regulations corrects deficiencies and Part 4 revokes and re-introduces provision made in two previous EU Exit SSIs (SSIs 2019/190 and 209).
12. SSIs 2019/190 and 209 came into force before exit day but did not respect the requirement in paragraph 4(a) of schedule 2 of the 2018 Act. Paragraph 4(a) provides that no regulations may be made under Part 1 of schedule 2 of the 2018 Act so far as they are to come into force before exit day unless they are made after consulting with the Secretary of State. The Policy Note states that there was an oversight in relation to this consultation requirement and that the consultation requirement has been met in relation to this instrument.

*Committee Consideration*

13. The Scottish Government has laid this instrument under the negative procedure and has categorised it as of low significance under the SSI Protocol.
14. The Committee considers that this instrument makes changes that are minor and technical in nature to ensure legislative operability only and no policy change is being made.
15. The Committee therefore agrees that the negative procedure is appropriate and that the instrument is properly categorised as low in accordance with the protocol.

**Recommendation**

16. The Committee recommends to the Rural Economy and Connectivity Committee that the negative procedure is the appropriate scrutiny procedure for this instrument and that it is appropriately categorised as Low in terms of its significance under the SSI Protocol.



# No Points Raised

## Health and Sport Committee

Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2019 (2019/draft)

National Health Service (Serious Shortage Protocols) (Miscellaneous Amendments) (Scotland) Regulations 2019 (2019/284)

## Justice Committee

Act of Sederunt (Rules of the Court of Session 1994 Amendment) (Signature of Petitions and Answers) 2019 (2019/293)

Victims and Witnesses (Scotland) Act 2014 (Supplementary Provision) Order 2019 (2019/draft)

Victim Surcharge (Scotland) Regulations 2019 (2019/draft)

Victim Surcharge Fund (Prescribed Relatives) (Scotland) Regulations 2019 (2019/282)

Serious Crime Act 2015 (Commencement No. 2) (Scotland) Regulations 2019 (2019/281) (C.10)

Enforcement of Fines (Relevant Penalty) (Scotland) Order 2019 (2019/280)

## Rural Economy and Connectivity Committee

Plant Health (Scotland) Amendment Order 2019 (2019/290)

