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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 3 March 2020



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Contents

Introduction	1
Instruments drawn to the attention of the lead committee	2
No points raised	3
Annex	5

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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Introduction

1. At its meeting on 3 March 2020, the Delegated Powers and Law Reform Committee considered the following instrument subject to the negative procedure and agreed to draw it to the attention of the lead committee:
 - Public Health etc. (Scotland) Act 2008 (Notifiable Diseases and Notifiable Organisms) Amendment Regulations 2020 (SSI 2020/51)
2. The Committee's conclusions in relation to this instrument are set out later in the report.

Other instruments considered

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 drawn to the attention of the lead committee

Public Health etc. (Scotland) Act 2008 (Notifiable Diseases and Notifiable Organisms) Amendment Regulations 2020 (SSI 2020/51)

Purpose

4. This instrument relates to the infectious disease Coronavirus which is an international public health concern at present. The instrument adds COVID-19, a strain of Coronavirus, to the list of notifiable diseases and notifiable organisms in schedule 1 of the Public Health etc. (Scotland) Act 2008.
5. The effect is that a registered medical practitioner in Scotland who suspects that a patient may have this strain of Coronavirus is now under a legal duty to notify their Health Board. The Health Board is then under a duty to notify the NHS Common Services Agency ("CSA"). Similarly, if a diagnostic laboratory in Scotland identifies the Coronavirus 2019 organism, it is now under a legal duty to report this to the Health Board and to the CSA.

Committee Consideration

6. This instrument was laid before the Parliament on 21 February 2020. It came into force the next day. This does not comply with the requirement that at least 28 days should elapse between the laying of an instrument which is subject to the negative procedure and the coming into force of that instrument.
7. The Committee is therefore required under standing orders to draw the instrument to the attention of the Parliament under reporting ground (j) for failure to comply with the requirements of section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.

8. The Committee therefore reports this instrument to the lead committee, the Health and Sport Committee, under reporting ground (j).

9. The reasons for the breach of the 28 day rule are set out in a letter to the Presiding Officer dated 21 February (see Annex). The Scottish Government state that this is to allow the health service in Scotland to respond quickly if the new strain of Coronavirus is confirmed as being in the UK.

10. In these circumstances, the Committee is content with the reasons for the failure to comply with section 28(2).

No points raised

Culture, Tourism, Europe and External Affairs Committee

UEFA European Championship (Trading and Advertising) (Scotland) Regulations 2020 (SSI 2020/draft)

UEFA European Championship (Scotland) Act 2020 (Commencement No. 1) Regulations 2020 2020/49 (C.3)

Local Government and Communities Committee

Local Governance (Scotland) Act 2004 (Remuneration) Amendment Regulations 2020 (SSI 2020/26)

Non-Domestic Rates (Reverse Vending Machine Relief) (Scotland) Regulations 2020 (SSI 2020/36)

Non-Domestic Rate (Scotland) Order 2020 (SSI 2020/37)

Non-Domestic Rates (Enterprise Areas) (Scotland) Amendment Regulations 2020 (SSI 2020/38)

Non-Domestic Rates (Levying) (Scotland) Regulations 2020 (SSI 2020/39)

Non-Domestic Rates (Relief for New and Improved Properties) (Scotland) Amendment Regulations 2020 (SSI 2020/40)

Non-Domestic Rates (Telecommunication Installations) (Scotland) Amendment Regulations 2020 (SSI 2020/41)

Non-Domestic Rates (Transitional Relief) (Scotland) Amendment Regulations 2020 SSI 2020/42

Non-Domestic Rating (Unoccupied Property) (Scotland) Amendment Regulations 2020 (SSI 2020/43)

Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2020 (SSI 2020/44)

Health and Sport Committee

National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/30)

- The Committee notes that this rectifies an error that the Committee previously reported in regulation 1(2) of the National Health Service Superannuation Scheme (Miscellaneous Amendments) (Scotland) Regulations 2017.

National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2020 (SSI 2020/54)

National Assistance (Assessment of Resources) Amendment (Scotland) (No. 2)
Regulations 2020 (SSI 2020/55)

National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2020 (SSI
2020/56)

Justice Committee

Police Pensions (Amendment) (Scotland) Regulations 2020 (SSI 2020/33)

Rural Economy and Connectivity Committee

Marketing of Fruit Plant and Propagating Material (Scotland) Amendment Regulations
2020 (SSI 2020/34)

Scottish Road Works Register (Prescribed Fees) Regulations 2020 (SSI 2020/35)

Annex

Letter to the Presiding Officer dated 21 February 2020

Dear Presiding Officer

The Public Health etc. (Scotland) Act 2008 (Notifiable Diseases and Notifiable Organisms) Amendment Regulations 2020

The Public Health etc. (Scotland) Act 2008 (Notifiable Diseases and Notifiable Organisms) Amendment Regulations 2020, SSI 2020/51 was made by the Scottish Ministers under section 12(2) of the Public Health etc. (Scotland) Act 2008 on 20th February 2020. It is being laid before the Scottish Parliament today, 21st February 2020 and comes into force on 22nd February 2020.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.

The instrument comes into force the day after it is laid, in breach of the 28 day rule, in the interest of public health so that the health service in Scotland can quickly respond if the new strain of coronavirus disease 2019 (COVID-19) is confirmed as being in the UK.

The amending instrument amends Part 1 and 2 of schedule 1 of the Public Health etc. (Scotland) Act 2008 to add coronavirus disease 2019 (COVID-19) to the list of notifiable diseases and to add severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) to the list of notifiable organisms.

We are bringing these provisions forward now to ensure that health professionals and diagnostic laboratories have clarity in their duty to report incidences of the disease and/or organism.

The notification duties will mean that information is provided to a health board so that the health board can consider using their other powers under the 2008 Act such as applying for a short term detention order etc.

Yours sincerely,

Roderick S. Duncan

Policy Manager

