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Delegated Powers and Law Reform Committee
Scottish Parliament
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17 August 2022

Dear Stuart,

Thank you for your letter of 1 July 2022, following my appearance before the Delegated and Law Reform Committee on 21 June 2022.

I would like to take this opportunity to reiterate my appreciation of the role that the committee fulfils in scrutinising new and existing delegated powers.

Strategic Review

As I indicated to the committee, work on the strategic review is in the early stages. My officials will be in touch with parliament officials shortly to discuss further.

Made affirmative Inquiry

Our formal response to the committee's report on its inquiry confirmed the government's position on each of the recommendations and, where relevant, explained the current activities and procedures undertaken by the government where legislation provides for Ministers to use the made affirmative procedure. The response also confirmed that the government was open to engage further with the committee on any further issues it wished to raise. As you highlight, our respective officials are continuing work to develop a protocol for expedited scrutiny of affirmative instruments which, if urgent, can be made using the made affirmative procedure. At time of writing that work is ongoing.

Lead committees for SSIs

My officials provide relevant committee clerks every Friday, excluding recess periods, with up to date information on SSIs expected to be laid in the following 2 weeks.

The table below provides details on the current anticipated SSI volumes, by types of procedure, likely to require consideration by each lead committee by the end of 2022. This is indicative only and is expected to change:

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

Committee	Affirmative	Negative	Laid no procedure	Total
COVID-19 Recovery	0	1	2	3
CEEAC	0	0	0	0
CJ	2	2	2	6
DPLRC	1	0	0	1
EFW	1	0	0	1
ECYP	2	3	1	6
EHRCJ	4	2	0	6
FPA	1	1	0	2
HSCS	0	2	0	2
LGHP	2	9	3	14
NZET	3	6	1	10
RAINE	0	7	0	7
SJSS	2	1	0	3

Historical commitments

My officials will meet the commitment in relation to The Education (Listed Bodies)(Scotland) Order 2018 (SSI 2018/7) before the end of year 2 of this Parliamentary session.

Scottish Law Commission Bills

As set out in the Programme for Government 2021-22, the government is giving consideration to a longer term programme of implementation of Scottish Law Commission Reports to be introduced during this Parliament. This programme may include reports relating to trusts, judicial factors, contract law, title conditions, cohabitation and damages for personal injury. As is normal practice, the government's future legislative priorities for the coming year will be set out in the annual Programme for Government.

The Sheriff Court Fees Amendment Order 2022 (SSI 2022/214)

This Order amended the Sheriff Court Fees Order 2022 (SSI 2022/181) which was considered by the committee on 14 June 2022. The latter was one of a package of 6 SSIs and was the only one in which errors were later identified. The errors related to the fees level for low level actions in the Sheriff Court and would have resulted in some court users paying more in court fees than they should. The Scottish Government regrets that these errors occurred. All SSIs go through a rigorous checking process by both policy and legal officials, and in this case by relevant stakeholders. It is regrettable that in this particular case the checking process did not highlight the errors contained within this Order. Once the errors were identified, the Scottish Government worked quickly to lay an amending order to correct the errors.

I hope that this response is helpful.

Kind regards

GEORGE ADAM

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