



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 14 September 2021

Session 6



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DELEGATED POWERS AND LAW REFORM COMMITTEE
4th Meeting 2021, Session 6

CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

DEPUTY CONVENER

*Bill Kidd (Glasgow Anniesland) (SNP)

COMMITTEE MEMBERS

*Craig Hoy (South Scotland) (Con)

*Graham Simpson (Central Scotland) (Con)

*Paul Sweeney (Glasgow) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

George Adam (Minister for Parliamentary Business)

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 14 September 2021

[The Convener opened the meeting at 09:36]

Decision on Taking Business in Private

The Convener (Stuart McMillan): Welcome to the fourth meeting of the Delegated Powers and Law Reform Committee in session 6. I remind everyone present to switch their mobile phones to silent mode.

The first item of business is to decide whether to take items 8 and 9 in private. Is the committee content to take those items in private?

Members *indicated agreement.*

Minister for Parliamentary Business

09:36

The Convener: For agenda item 2, we have before us the Minister for Parliamentary Business, George Adam MSP, to give evidence on the work of the Scottish Government as it relates to the committee. Mr Adam is accompanied by two Scottish Government officials, who are appearing remotely. Steven Macgregor is head of the Parliament and legislation unit, and Susan Herbert is head of the subordinate legislation team in the Parliament and legislation unit. We hope also to be joined by Rachel Rayner, who is deputy legislation co-ordinator in the Scottish Government's legal directorate. I welcome you all to the meeting and the minister to his new role.

The minister will be aware that the committee in the previous session had an excellent working relationship with the previous minister. We are certainly keen to ensure that that continues in this parliamentary session.

Do you wish to make any opening remarks, minister?

The Minister for Parliamentary Business (George Adam): I do, convener.

Thank you very much for asking me to come to the meeting. I, too, hope that we will have a good working relationship, because it is important that I, as the Minister for Parliamentary Business, have a good relationship with this committee, in particular. I am aware of the work that you do, as I used to be a member of the committee, and I know how important it is to make the cogs of this place work.

I congratulate you on being chosen as convener of the committee. Although we support rival teams in Renfrewshire—we can leave that argument for another day—we have known each other and have been friends for a very long time, so it is good to see you as the convener.

I welcome everyone who is new to the committee and those who are continuing past roles.

The committee has an important role in scrutinising all the secondary legislation that goes through Parliament. That has been particularly challenging for the committee in the past year, which has been a difficult year because of all the legislation that has gone through. There has been a full legislative programme and we are still addressing many of the challenges from Covid.

From the feedback from the committee, I recognise that the Government has improved its processes. Policy notes are more accessible now,

and outstanding commitments have been met. There has been huge improvement, which will continue. There has been improvement in management of volumes of Scottish statutory instruments and improvement in the number of SSIs that are reported. That number was 13 per cent of the 396 SSIs that were laid in 2020-21—the majority were in the last quarter. I am not complacent; obviously, we want to see further improvement on that, as we continue.

I provide the clerks with forward looks of the SSIs that are to be laid in the following two weeks. That has been on-going.

There is a need to avoid breaches of the 28-day laying period, where possible. I know that such breaches vex the committee particularly. Unfortunately and regrettably, recent breaches have been unavoidable. However, I am aware of the issue, and I want to try to make things better. What has happened recently has not been systemic. Of the 143 negative SSIs that were laid in the past year, 25—or 17 per cent—were unavoidable breaches. That is not good enough, so we will try to do better.

I would like to ensure that the committee regularly receives information on the volumes of legislation that come to Parliament and that it can expect to receive from the Government.

I welcome the views that the predecessor committee expressed in its legacy report in relation to consideration of Scottish Law Commission bills. I am pleased to note that, as was announced in the programme for government, we will introduce a moveable transactions bill, which will be a Scottish Law Commission bill. We committed in the programme to introducing other Scottish Law Commission bills. I know that that is another major issue for the committee.

I look forward to hearing the committee's views and to working with you. I hope to have a relationship with you that is similar to the one that you had with my predecessor. Having known Mr Dey for years, I find it difficult to believe that people find him charming, but you obviously all had a good working relationship with him. I am quite happy to try to keep that going. If you did not have such a relationship, I am quite happy to make it better. Back to you, convener.

The Convener: Thank you very much for that, minister. I will start the questions by asking about the draft Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021, which came to the committee late last night. The instrument is on our agenda and we will discuss it later. Clearly, the situation in Afghanistan is urgent. As a committee, we are keen to understand whether you anticipate that

more instruments on Afghanistan will be coming in the weeks and months ahead.

George Adam: As you suggested, there is a difficult situation, and it is constantly moving. I do not like to submit last-minute SSIs to the committee unless doing so is completely necessary. I believe that in this case it is. Whenever possible, we will try to ensure that the committee is sighted on issues well in advance.

The Convener: Of all the Covid SSIs that were laid in the past 18 months, how many SSIs are still live, and how many have been superseded or are no longer used?

George Adam: I cannot give that information off the top of my head, but I can get back to the committee in writing. Obviously, I am performing without a net today—I have only a couple of officials with me. I will get that information to the committee as soon as possible.

The Convener: Thank you. The session 5 committee regularly highlighted to ministers the quality of drafting of secondary legislation and saw a general reduction in errors, which you touched on in your opening comments. The Government has clearly been under pressure to introduce legislation quickly in order to respond to the coronavirus pandemic. What are your plans to ensure that the quality of SSIs remains high?

George Adam: As you have already said, convener, it is important to have clarity in legislation. I know that there have, during the past year, been difficulties with definitions of various things. Sometimes, that is unavoidable, both in political debate and in the legal realms. At all times, we have tried to ensure that legislation is clear and understandable. It is extremely important that I do that on every occasion and that we try to introduce legislation that is as clear as possible.

As I mentioned, a couple of issues have arisen in relation to the definition of concepts, which has caused some confusion. I have no simple solution—there is no simple solution—to the problem, but as the responsible minister I will strive to make everything as clear as possible. The simpler we make everything, the easier we will all get on. I am a great believer in that point of view.

The Convener: Our predecessor committee welcomed the Scottish Government's work in meeting almost all its historical commitments by the end of the previous parliamentary session. Some of those commitments went back more than one session, as you will be very much aware. What is the Government doing to ensure that it meets its commitments swiftly in this session, and to ensure that that problem does not resurface?

George Adam: Are you talking about the 28-day issue?

The Convener: No. A number of instruments had technical issues.

George Adam: Do you mean the quality of the SSIs?

The Convener: Yes.

09:45

George Adam: I will do my utmost to make sure that you get the information. Because of the sheer volume of work that is done, it is inevitable that mistakes are made. People are human and things go wrong, but we will try to make sure that we have a process that means that the information that you get about SSIs is as accurate as possible.

Graham Simpson (Central Scotland) (Con): I welcome the minister's comments at the start of the meeting about the relationship that he wants with the committee. When I was the convener, I had a good relationship with Graeme Dey, you will be horrified to hear.

George Adam: I was his chief whip, so I know that working with him was not easy.

Graham Simpson: I found Graeme Dey and his predecessor, Joe FitzPatrick, to be very good to work with. When they appeared at the committee, we had a very cordial relationship and they knew the committee's requirements.

We had some correspondence with you last week about the vaccination passport debate and the proposal from the Scottish Government to introduce a requirement for vaccine certification at certain events. You will have seen our annual report from the previous parliamentary session in which we expressed some concern, shall we say, over the number of made affirmative regulations that were being approved. For anyone who is watching, I note that that is when the Government brings in a law without its having been scrutinised by the Parliament; the scrutiny comes later. Most parliamentarians accept that there has been a need to use that procedure during Covid, but there has been a large number of such instruments.

We wrote to you about the proposal for vaccine passports. That might not be the term that you use, but that is the term that I use. We know what we are talking about. You wrote back to us on 9 September—it was a quick turnaround—and in that letter you said that if there were to be regulations, which there would have to be if the proposal comes in, your view is that the made affirmative procedure should still be used despite there being weeks to prepare. Is that still your position?

George Adam: I do not have the same view of the made affirmative procedure as Graham Simpson. The procedure still offers a level of

scrutiny by this committee. As I keep saying, parliamentary scrutiny and accountability are extremely important, so I agree that wherever possible we should give the Parliament the chance to scrutinise regulations before they come into effect.

However, there needs to be a balance between parliamentary scrutiny and maximising ministers' ability to finalise decisions as near as possible to the relevant time in order to take account of the fact that the situation is changing rapidly. We live in unprecedented times; over the past 18 months there have been times when the Government has had to deal with things rapidly.

As well as all the emerging data that we receive, there are a number of moving parts in the decision-making process. A number of issues are being worked through in relation to the design and operation of the vaccination certification scheme, including how medical exemptions could be considered.

As I outlined in my letter to the committee, there is an urgent need for the measure to be implemented to provide an additional layer of protection in a limited set of higher-risk settings. I say in all honesty that I want to work with the committee on the issue, but in relation to Covid regulations I cannot, as has been the case over the past 18 months, guarantee that we will not use the made affirmative procedure. I said that to your colleague Alexander Stewart in answer to his question in the Parliament a couple of weeks ago.

Graham Simpson: It sounds as though there might be some movement and that you might not necessarily use the made affirmative procedure.

George Adam: I cannot guarantee what will happen one way or the other. There is a good chance that the procedure will be used for some regulations.

As I said, I will try where possible to work with the committee in a way that will be acceptable to members.

Last week, we had a debate and a vote in the Parliament about Covid vaccination certification, so the proposals have already had one level of scrutiny in Parliament.

Graham Simpson: We had a two-hour debate on something about which we knew precious little. We certainly did not know the detail, which is where scrutiny comes in. I know that you know that, but I do not think that that debate counts as scrutiny. The scrutiny will come when you actually tell the Parliament what the Government is proposing to do—if, indeed, you proceed with the proposal.

I will read out what you say in your letter. You say:

"I absolutely accept that the made affirmative procedure must only be used when the test for using it set out in Schedule 19 of the Coronavirus Act 2020 is met."

Paragraph 1(1) of the Coronavirus Act 2020 says:

"The Scottish Ministers may by regulations make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Scotland"

so that gives you the power to do all this stuff. However, there are also some checks on that power in the 2020 act. Paragraph 2(4)(a) of schedule 19 says:

"Regulations under paragraph 1(1) may not include provision enabling the imposition of a special restriction or requirement"

which could include vaccine passports

"unless—

(a) the regulations are made in response to a serious and imminent threat to public health, or

(b) imposition of the restriction or requirement is expressed to be contingent on there being such a threat at the time when it is imposed."

The threat therefore has to be both "serious and imminent".

The First Minister announced her intention to bring in vaccine passports a couple of weeks ago and said that they will not actually come in until the start of October, which does not meet those tests, in my view. When she announced her intention, the threat was not "serious and imminent" and, under the second point about the threat when the restriction is imposed, we cannot possibly know what the threat will be in a couple of weeks. That is why I argue that you should not be using the made affirmative procedure. You should be allowing prior scrutiny of whatever you propose, so that we get it right.

George Adam: Again, Mr Simpson, we are faced with differences in interpretation. We are trying to make sure that key groups are vaccinated and have certification. We are facing an important and serious health scare.

My interpretation of what is needed is the opposite of what Graham Simpson said, because key groups of people need to be vaccinated and the whole idea of Covid certification is to ensure that those key groups are vaccinated and safe.

Graham Simpson: We will have to strongly disagree with each other on that. My interpretation is that you have not met the tests of the 2020 act, which gives ministers the powers to do such things. We are clearly not going to agree on that.

George Adam: That is a good start for us both.

Graham Simpson: I am sure that we can improve as we go along. Others might want to come in at this point, convener.

Craig Hoy (South Scotland) (Con): If you take the route that appears likely, minister, this might be our final opportunity to question the Government in detail on the application and operation of the scheme. Could you say, for the public who might be watching, what specific data an individual will have to disclose to apply for a Covid passport?

George Adam: The data will be that which is already on NHS Scotland about their double vaccination. That is it. It is a QR code and no data will go back and forth. It is the equivalent of a green tick to show that the person has been double vaccinated.

Craig Hoy: Will that include a photograph?

George Adam: I will need to get back to you on that. I do not think so, but I would need to double check.

Craig Hoy: It is my understanding that the QR code, and the data, will be read by a third-party device held by the bouncer or the person on the door. Am I correct?

George Adam: The best way to explain it is that it will be very similar to what happens at modern football matches. That is my interpretation. There is effectively a barcode or QR code with your ticket, and you put it through the turnstile to get access and go through. There are hand-held devices that are available to do that.

That technology is already used regularly to do that with information. When that happens at a football game, nobody's data is transferred over, other than what is held, if it is a season ticket, by the club itself.

Craig Hoy: That is about gaining entry to a match, where there is obviously a requirement to buy a ticket. In the circumstances that we are discussing, however, if I am the bouncer and you seek to come into my nightclub, how can I confirm that you are who you say you are, and that you are the person who has had the double vaccine? What appears on my screen to give me that assurance?

George Adam: It will be your QR code, which will be secure in as much as you will be the one who will be there. I know that Mr Simpson said that he had managed to gerrymander a QR code last week, but I do not believe that that would be the case. You would have your own code.

We have all been using QR codes to a certain degree to check into hospitality venues, and it will be very similar to that. The detail that goes over is

the fact that George Adam has appeared at this pub or this restaurant at this time, and that is it.

Craig Hoy: If you appear in the pub, you are simply recording the fact that you have been there. What I want to know is, how does the bouncer know that you are who you say you are, and that you have the double vaccine? What, specifically, appears on his screen? It could not be a green tick, because if it was, I could take your phone and go in. What, specifically, appears on the bouncer's screen to give him or her an assurance that you are who you say you are, and that you have been double vaccinated?

George Adam: I will take away the detail of your question, and get you a more detailed answer so that I can put your mind at rest in that regard. I will bring that back to the committee, if that is okay.

Craig Hoy: Okay. By this stage, ministers should probably be aware of how the system functions, but we will leave it there.

On the back of that question, have you, in any way, assessed whether the system that you are about to introduce is compliant with the general data protection regulation?

George Adam: I would assume that it would comply with the GDPR.

Craig Hoy: We probably need more than an assumption at this stage.

George Adam: You are just being a bit of a rascal there, Mr Hoy. The Government would not do anything illegal.

Craig Hoy: Okay.

Graham Simpson: I want to follow up on that. Like the minister, I am a football fan. If I go to a football match, I show somebody at the gate my QR code, and he or she scans it into their personal mobile phone. That is what it will be—that is what the Government said last week. My concern is that my name, address and date of birth could show up on that person's mobile phone. That, to me, is a breach of my data.

George Adam: Again, as I said to Mr Hoy, the Government will not do anything that would breach any law or the GDPR.

Graham Simpson: Would you accept that what I describe would be a breach of my data?

George Adam: With the greatest respect, Mr Simpson, it is a nonsense question. I do not believe that you are going to end up in such a situation. I could walk out in the street and get knocked down by a bus, but then again I might not—I might cross the road safely. You are speculating a wee bit too much there.

Graham Simpson: I am speculating because we do not actually know. However, you said that you will write to us with the details.

I move on to another item. You mentioned earlier the need for clarity when you lay instruments. At committee recently, we had an interesting discussion about what constitutes dancing. You will recall that, if you are dancing in a nightclub, you do not have to wear a mask. Of course, we do not yet have a proper definition of a nightclub, let alone dancing. The Government came back to us and said that dancing is a form of exercise, so it will fall into that category. As Craig Hoy then pointed out, somebody could be dancing in a supermarket aisle and could take their mask off. That is why there is a need for clarity. Have you defined what is meant by dancing?

10:00

George Adam: At the end of the day, I think that we all know what dancing is and what going to a nightclub is. I know that you and Mr Kidd had a discussion about what constitutes dancing. Right enough, I have seen Mr Kidd dancing, and that is perhaps something that defies definition.

At the end of the day, when people go to a nightclub and go on to the dance floor and start doing whatever they do—for men of our age, it is known as dad dancing—that constitutes dancing, and they can take their masks off.

I think that we are dancing on the head of a pin with regards to this. I agree that we need to be clear at all times but, at the same time, we have to use a bit of common sense when we are talking about the issue. I think that most of the young people who will go to the dancing—to use a very Weegie term—will understand what constitutes dancing. I do not think that you could do it in a shop. You could not just take off your mask and start dancing in the middle of the store.

Graham Simpson: That was the problem with the way that the law was framed, which was why we raised the issue. We are joking about it, but it is a serious matter that, when we write law, it needs to make sense and be understood, and there should not be loopholes.

George Adam: I understand the need for clarity but, as I said, there is common sense as well. Someone taking their mask off in the middle of Tesco and having a wee dance is not the same as dancing in a nightclub.

Graham Simpson: Right—okay. I will move on to my final question for now, although I have more questions later.

As you mentioned, we have highlighted that we are not persuaded by some of the reasoning that the Scottish Government has provided for

breaching the 28-day rule for negative instruments. Will you expand on what work you are doing to ensure that such breaches occur only when absolutely necessary?

George Adam: I spend most of my life reminding my colleagues of various regulations such as the 28-day period. I tell them that the rule is serious and that they should avoid breaching it at all costs. To be honest, I do not want to come to the committee for something that, in effect, should just be natural for us to do within the timelines. I find breaches irritating, although there have been times when they have been unavoidable. We will probably have to agree to differ on whether those cases were unavoidable. However, I agree that we need to continue to get better in our approach to the 28-day period. For me, it is a process, and we should just do the process.

Bill Kidd (Glasgow Anniesland) (SNP): I have a couple of questions about the secondary legislation stemming from the United Kingdom's withdrawal from the European Union. As has been mentioned, prior to the UK leaving the EU, the previous minister regularly updated the committee. On a number of occasions, he talked about the volume of secondary legislation required to fix any legislative deficiencies that stem from the withdrawal from the EU. Can you provide an estimate of the number of SSIs that require to be laid under the European Union (Withdrawal) Act 2018 to deal with the consequences of the withdrawal?

George Adam: In general terms, I expect the number of EU exit related SSIs to remain relatively low, compared to the number at the peak. As Mr Simpson and the convener will be aware, there was a period when that was literally all that the committee was dealing with.

I expect about 18 EU exit related SSIs up until the end of December, but that could be subject to change. Since 2019, we have lodged 74 EU exit related SSIs and I expect to see more of those during 2022, but there will not be anywhere near the number that we have had in the past.

Bill Kidd: There should be a slowing down.

George Adam: There should be a reduction in the number.

Bill Kidd: Notifications for UK statutory instruments are considered only by subject committees. How many notifications do you estimate will be sent to the Parliament under "Protocol 2 on scrutiny by the Scottish Parliament of consent by Scottish Ministers to UK secondary legislation in devolved areas arising from EU Exit" between now and the end of this year?

George Adam: There will probably be 22 further UK SI notifications before the end of this year.

Bill Kidd: Okay. Is that also a slow-down?

George Adam: Yes, in general, compared to what the session 5 committee received. The two members here who were also members of the previous committee will know the volume of SIs related to the EU that that committee received.

Bill Kidd: Okay. Thank you for that.

Paul Sweeney (Glasgow) (Lab): Nice to see you, minister. We are trying to get a feel for what our workload will be so that we can anticipate as best as we can the number of future SSIs in relation to non-Covid aspects of legislation. How will the Scottish Government prioritise non-Covid SSIs to ensure that the necessary SSIs are lodged and scrutinised by the Parliament in a timely manner?

George Adam: We aim continually to analyse and prioritise the legislative programme, taking into account the Scottish Government's legal and policy capacity and the Parliament's scrutiny capacity. That has helped us to avoid having to continuously stop and restart the legislative programme and avoid peaks and troughs. As you will be aware, we tend generally not to put too many SSIs through the system at the one time, to ensure that it balances out over the period. This committee would be extremely busy if we just did them all at the one time.

Paul Sweeney: Okay. Another aspect of the dynamic that we consider is packages and groupings of SSIs in relation to bills that have been passed. Significant legislation has been passed in recent years, such as the Social Security (Scotland) Act 2018 and the Transport (Scotland) Act 2019, which have a significant number of delegated powers because they are complex acts. In order for this committee and the relevant subject committees to plan workload, it would be useful to be given advance notice of SSIs. Do you know whether there are any sets of SSIs in the pipeline for landmark pieces of legislation such as those two acts? Can you keep us updated on progress on them?

George Adam: I know about this issue, because the committee brought it up with my officials at its recent business planning session. I am happy to give an undertaking that, as part of our profile for future legislation, we will seek to identify significant packages of SSIs for implementation on particular legislation. I can also provide some information today. A package of seven SSIs to implement the Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 will be lodged between September and November. In addition, the

implementation of the Civil Partnership (Scotland) Act 2020 will see three SSIs in October and three in November; the implementation of the Disclosure (Scotland) Act 2020 will see two SSIs in November, with more to follow; and the implementation of the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 will begin in January 2022.

As I said, I was aware that the committee had an issue in that regard, but my officials were able to come to me and give me that detail so that I could bring the information to the committee. That goes back to what I said earlier, in that the more that we can have an open and frank discussion, the more that there will be matters that I can deal with in order to give the committee the information that it needs.

Paul Sweeney: Okay. Thank you. Just on that, I mentioned two acts and you mentioned others for which delegated powers have now been drawn down, but the Social Security (Scotland) Act 2018 and the Transport (Scotland) Act 2019 are particularly significant acts. Can you give a commitment that you will go back to your civil servants and ask them to consider when the SSIs for those acts might be introduced and write to the committee to indicate when that is likely to happen?

George Adam: I am quite happy to do that and to try to give you the detail.

Paul Sweeney: That would be appreciated. Your predecessor tended to write to the subject committees at regular intervals to highlight the volume of SSIs that could be anticipated to fall within a six to 12-month period. Do you intend to continue that practice?

George Adam: Yes, I do, because I do not want to see Graeme Dey ever getting the better of me.

Graham Simpson: When we had a private meeting with your officials, we asked about the area of questioning that Mr Sweeney has just covered. We specifically asked whether the Government could provide us with a list of outstanding regulations that flow from acts that have been passed and I am not sure that we have seen that. Mr Sweeney mentioned the Transport (Scotland) Act 2019, but there will be a number of others. I think that there is still some stuff outstanding from the Planning (Scotland) Act 2019. It would be useful to have that list, if we could.

George Adam: I will get my officials to make a trawl of what is coming up and what is available, and I will share with the committee what I can at this stage. I will make sure that I have all the details correct and that there is nothing that can be taken the wrong way.

Graham Simpson: That would be useful.

The Convener: Minister, your predecessors came to the committee twice a year. It might be useful to write to the committee in the intervening period—on a quarterly basis, say—to keep us updated on what is coming down the line over that next quarter. Would that be possible?

George Adam: I will look into that and see what we can do.

The Convener: Okay, thank you.

Graham Simpson: I will move on to discuss the Scottish Law Commission. As you know, the committee works closely with the SLC, as do you, and there has been long-standing frustration from the SLC—and from us, but particularly from the SLC—about the amount of work that it has done and the number of reports that it has produced that have just stacked up and not resulted in legislation.

The SLC has provided us with a list of about 18 of its reports dating back as far as 2006 that have not ended up as legislation, covering things from electoral law to level crossings. All kinds of serious work has gone on and the SLC and the committee are very frustrated. In the previous parliamentary session, the committee worked with the Parliament on a set of protocols that would allow the committee to take on more bills, if they were presented. That would help the Parliament to get stuff through.

The programme for government said that the Government wants to do something on moveable transactions. When do you see that legislation being introduced and would it be a bill that meets the criteria for it to be considered by this committee?

George Adam: All the points on the Scottish Law Commission that the previous committee made in its legacy paper have been listened to and taken on board by the Government. I know that the issue has been an open sore for the committee and the Scottish Law Commission for a wee while. The bill on moveable transactions will probably come to this committee, when we take it forward.

This year's programme for government announced quite a few SLC bills that will be going through. I use that as an example of the Government listening. It is a good news story; we have listened to what the committee said and implemented it through the programme for government. I probably have the dates for the moveable transactions legislation here somewhere but, to make sure that I give them to you accurately, I will get that information to the committee at a later date.

Graham Simpson: I think that trust law was the other one.

George Adam: It is trust law, title conditions, contract law and judicial factors.

Graham Simpson: Do you anticipate all of those coming in this calendar year or within the next 12 months?

George Adam: It will be within the current parliamentary session. I do not know the dates.

10:15

Graham Simpson: It would be useful for the committee to have something from you about which SLC reports you anticipate implementing and which you do not. Then we will know what we are working with.

George Adam: That would be fine. I can give the committee the list of what we are doing, and we can take it from there.

The Convener: Thank you. For anyone who is watching who might be interested, the letter that was referred to was published on the committee web page this morning. That letter was extremely useful, as was the discussion that we had prior to the committee returning after the recess.

A particular element of the work of the SLC that it might be useful for people to understand is that, from 1965 to December 2020, of 190 reports published by the SLC, 158—that is 83 per cent—have been implemented either in whole or in part. Five reports—that is 3 per cent—have been superseded. Mr Simpson raised the point that 27 reports—14 per cent—have not been implemented. It is important that people are aware of that for the sake of wider clarity on the role and work of the SLC.

I have a question regarding the Prescription (Scotland) Act 2018, which is yet to be commenced. Last year, the Scottish Government consulted on the draft commencement regulations for the act. When does the Scottish Government intend to lay the regulations?

George Adam: I do not have that level of detail with me today. I would be happy to talk to officials and get back to you on that.

Craig Hoy: I have two brief questions for the minister. Do you anticipate that any of the bills highlighted in the programme for government will have significant delegated powers? It would be useful if you could highlight those for the committee.

George Adam: All the bills that we announced in the programme for government will be interesting in their own ways. At the moment, none of the bills is in the category of what is sometimes

called a framework bill. I am happy to keep that under review and come back to the committee should the position change. I want to ensure that we have open dialogue and, basically, that there are no surprises. It is too early to discuss specific powers under individual bills, but I will keep that under review and get back to the committee on it.

Craig Hoy: Several previous Covid-related bills were considered in a very short timeframe, which is understandable, but will the committee have sufficient time to scrutinise any delegated powers under the coronavirus bill on compensation for self-isolation?

George Adam: It is inevitable that, in any legislation connected to Covid, there will be a need to progress things quickly. However, I do not expect the bill on compensation for self-isolation to require an emergency timetable. I expect the committee to have sufficient time to scrutinise any delegated powers in the bill.

The Convener: Do members have any further questions for the minister?

Paul Sweeney: Minister, I am keen to bring you back to the correspondence from Charles Garland from the Scottish Law Commission. We had an interesting meeting with the gentleman, particularly in relation to the 27 pieces of draft legislation that are shovel-ready, as it were. Would it be possible for you to commission a review of those 27 items and assess whether there are opportunities for the Government to introduce some of them in a timely manner?

The committee mentioned that those pieces of legislation could be sponsored by members through the non-Government bills unit, as members' bills. That could be an alternative route.

There is a national interest in having that body of work carried forward as quickly as possible. It might be useful to carry out an assessment of the archive of material to see what opportunities there are. It would be useful if that could be set out in writing to the committee so that we could see the Government's view on those 27 items.

George Adam: We could probably come back to you with the detail of the position.

To take an example, in its letter, the SLC mentioned trust law. I understand that the Minister for Community Safety will shortly write to Lady Paton about a bill on that, so we will be able to take that forward. I think that it is reasonable for the committee to infer a reference to the SLC's trust law report in the programme for government.

I am going round in circles here but, all in all, I am trying to say that I am taking seriously the need to find a way forward. As Minister for Parliamentary Business, I am not too keen on there being too many members' bills kicking about,

because I am trying to manage the five-year programme. If we can find a way to manage the SLC commitments that we have made and look at some of the other stuff, we will do what we can.

As the convener said, the numbers are not as bad over the period, although some reports are always left.

The Convener: Colleagues have no further questions. I should say for the public record that Lady Paton from the SLC will be appearing before the committee in two weeks' time.

Minister, I thank you and your officials for the evidence that you have provided. I know that you have one or two action points. The committee might want to write to you with other questions after we have our discussion.

George Adam: As I said, I am happy to have an open dialogue. A lot of the work that we will do together is stuff on which we should be able to get the process right and just do it.

The Convener: Thank you. We all look forward to working with you and your officials in the session ahead.

George Adam: I do not know about my officials, because they have not been here today.

The Convener: They are somewhere virtually.

With that, I suspend the meeting; we will reconvene in a few moments.

10:22

Meeting suspended.

10:23

On resuming—

Instruments subject to Made Affirmative Procedure

The Convener: We come to agenda item 3.

Health Protection (Coronavirus) (International Travel) (Scotland) Amendment (No 17) Regulations 2021 (SSI 2021/301)

The Convener: An issue has been raised on SSI 2021/301. Regulation 4(b) inserts a new paragraph 9 into regulation 5F of the Health Protection (Coronavirus) (International Travel) (Scotland) Regulations 2020. New paragraph 9 provides for the definition of “private provider” in respect of Covid-19 day 2 and day 8 test providers. As currently drafted, new paragraph 9(b) refers to

“private day 2 and day 2 test providers”,

which should be “private day 2 and day 8 test providers”.

The Scottish Government advised that that would be rectified in a forthcoming amending instrument. SSI 2021/307 was laid before the Parliament on Friday 10 September and includes provision rectifying the error. That instrument will be considered by the committee in due course.

Are members content to report SSI 2021/301 under the general reporting ground due to a typographical error in regulation 4(b), while also noting that the Scottish Government has rectified the error?

Members indicated agreement.

Health Protection (Coronavirus) (Requirements) (Scotland) Amendment Regulations 2021 (SSI 2021/299)

The Convener: No points have been raised on the instrument. Is the committee content with it?

Members indicated agreement.

Instruments subject to Affirmative Procedure

10:24

The Convener: We come to agenda item 4. No points have been raised on the following draft instruments.

Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Amendment Regulations 2021 [Draft]

Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021 (Form and Content of Waiver etc) Regulations 2021 [Draft]

Forestry (Exemptions) (Scotland) Amendment Regulations 2021 [Draft]

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Social Security (Residence Requirements) (Afghanistan) (Scotland) Regulations 2021 [Draft]

The Convener: The draft regulations were laid by the Scottish Government very late in the day yesterday. The Department for Work and Pensions is introducing regulations to allow those evacuated from Afghanistan to have immediate access to social security assistance where they enter the United Kingdom. The SSI has been laid to ensure parity of access to benefits for which the Scottish ministers have responsibility. The Scottish Government is seeking to have the changes come into force tomorrow.

Although, in the very limited time available, no points have been raised on the instrument, I reserve the right for the committee to look at it again next week should any issues subsequently be found. We could then write to the Scottish Government to highlight them.

Taking all that into account, is the committee content with the instrument?

Members *indicated agreement.*

Instrument subject to Negative Procedure

10:26

The Convener: We come to agenda item 5.

National Health Service (General Medical Services and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2021 (SSI 2021/302)

The Convener: No points have been raised on the instrument. Is the committee content with it?

Members *indicated agreement.*

10:26

Meeting continued in private until 10:43.

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