



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Rural Affairs, Islands and Natural Environment Committee

Wednesday 15 December 2021

Session 6



The Scottish Parliament  
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.parliament.scot](http://www.parliament.scot) or by contacting Public Information on 0131 348 5000

---

**Wednesday 15 December 2021**

**CONTENTS**

	<b>Col.</b>
<b>UNITED KINGDOM SUBORDINATE LEGISLATION</b> .....	<b>1</b>
Official Controls (Extension of Transitional Periods) (Amendment) (No 2) Regulations 2021 .....	<b>1</b>
Approved Country Lists (Animals and Animal Products) (Amendment) (No 2) Regulations 2021 .....	<b>1</b>

---

**RURAL AFFAIRS, ISLANDS AND NATURAL ENVIRONMENT COMMITTEE**  
**15<sup>th</sup> Meeting 2021, Session 6**

**CONVENER**

\*Finlay Carson (Galloway and West Dumfries) (Con)

**DEPUTY CONVENER**

\*Beatrice Wishart (Shetland Islands) (LD)

**COMMITTEE MEMBERS**

\*Karen Adam (Banffshire and Buchan Coast) (SNP)

\*Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP)

\*Ariane Burgess (Highlands and Islands) (Green)

\*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

\*Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con)

\*Jenni Minto (Argyll and Bute) (SNP)

\*Mercedes Villalba (North East Scotland) (Lab)

\*attended

**CLERK TO THE COMMITTEE**

Emma Johnston (Clerk)

**LOCATION**

The Sir Alexander Fleming Room (CR3)



## Scottish Parliament

### Rural Affairs, Islands and Natural Environment Committee

*Wednesday 15 December 2021*

*[The Convener opened the meeting at 10:00]*

#### United Kingdom Subordinate Legislation

#### Official Controls (Extension of Transitional Periods) (Amendment) (No 2) Regulations 2021

#### Approved Country Lists (Animals and Animal Products) (Amendment) (No 2) Regulations 2021

**The Convener (Finlay Carson):** Good morning, and welcome to the 15th meeting in 2021 of the Rural Affairs, Islands and Natural Environment Committee. Before we begin, I remind committee members who are using electronic devices to switch them to silent.

Our first item of business was to have been consideration of two notifications from Scottish ministers for consent to two United Kingdom statutory instruments. However, the cabinet secretary has written to the committee to confirm that the Scottish Government has withdrawn the notification for the Official Controls (Extension of Transitional Periods) (Amendment) (No 2) Regulations 2021, as it now intends to make provision via a Scottish statutory instrument. The clerks circulated the letter to members on its receipt. Members will note that the SSI will need to come into effect by 1 January.

As no member has any comments on the withdrawal of that statutory instrument, we have only one notification to consider today, which is for the Approved Country Lists (Animals and Animal Products) (Amendment) (No 2) Regulations 2021. I refer members to papers 1 and 2, which are on pages 3 to 14 of our papers pack.

Under the protocol between the Scottish Parliament and the Scottish Government, the consent notification has been categorised as type 1, meaning that the Scottish Parliament's agreement is sought before the Scottish Government gives consent to the UK Government's laying the instruments. Members will note that the clerks sought further information from officials in advance of today's meeting, and that information has been circulated to members.

In our response to the Scottish Government, I suggest that the committee should ask it to clarify whether the trade agreements with Ukraine and Australia specify a timeframe within which changes to import restrictions must be made, as is set out in paragraph 31 on page 12.

The Scottish Parliament has not been given the full 28-day scrutiny period in which to consider the notification. The Scottish Government claims that the SI must be made quickly in order not to impact on the UK's trade relations with Australia and the Ukraine. The notification does not, however, make clear how a delay of a few weeks to allow the appropriate parliamentary scrutiny of the regulations would negatively impact on trade relations. I would like to put on the record my strong concerns about the lack of time available for meaningful parliamentary scrutiny in relation to the instrument. On this occasion, the terms of the protocol have not been met.

Does any member have any comments on the consent notification for the SI?

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** I echo exactly what you have said. However, I missed the date that the regulations will come into effect. Was it also 1 January?

**The Convener:** I will ask Emma Johnston whether she has the date of when they come into force.

**Rachael Hamilton:** The reason is that, for the reasons that you have stated, the committee will not have the opportunity to scrutinise the impact that the regulations might have. I would like to get some clarity on that, if I may.

**The Convener:** We can check that out. The notification was sent to the Scottish Parliament on 7 December, with the intended laying date at Westminster of 16 December, which is tomorrow. The Scottish Parliament has therefore been given fewer than 28 days for scrutiny. We can clarify that for you, Rachael.

I will go to Alasdair Allan. Alasdair, are you with us?

**Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP):** Can you hear me?

**The Convener:** Yes. Go ahead.

**Dr Allan:** Apologies. For complicated reasons, I am in my car today. I did not quite catch everything that you said. Did you say that the SI will be laid only tomorrow in the UK Parliament? Has the UK Government offered an explanation for the timing of that?

**The Convener:** The notification was sent to the Scottish Parliament on 7 December, so we have been given less than the 28 days. Absolutely, we

have not had enough time, and we are not sure why there is such urgency. We are asking for clarification about why we cannot have an extension for a few days to allow us to have the full 28 days. We want to know what the impact of doing that would be.

**Dr Allan:** I suppose that my question is about the reason for the UK Government's timing, then.

**The Convener:** That is right. We want clarification as to why the delay will negatively impact on the trade relations. We need to have that clarified.

**Dr Allan:** Okay.

**The Convener:** Does any other member wish to comment? Karen Adam wants to come in.

**Jim Fairlie (Perthshire South and Kinross-shire) (SNP):** Jim Fairlie here. Can you hear me okay?

**The Convener:** Jim, could you put an R in the chat box to request to speak?

**Jim Fairlie:** Okay. My apologies. I see that Karen Adam has put an R in the chat box.

**Karen Adam (Banffshire and Buchan Coast) (SNP):** Thanks, convener. What version of the SI are we looking at, convener?

**The Convener:** If you look at page 7 of our papers, that gives you the details. It is the SI that has been laid—it is the final draft, if you like.

**Karen Adam:** It is the final draft.

**The Convener:** Yes. This agenda item is about approving the notification that is referred to in paper 2.

**Karen Adam:** Okay—thank you.

**Jim Fairlie:** Just to clarify, convener, you talked about asking the Scottish Government why we do not have enough time to scrutinise the SI, but it is, in fact, a UK Government issue, not a Scottish Government issue. Is that correct?

**The Convener:** That might be the case, but the Scottish Government has to ask the Scottish Parliament for approval. We will write to the Scottish Government to ask why there was the delay and why we were given less than 28 days.

**Jim Fairlie:** But have you not just told Alasdair Allan that it is the UK Government that has not given the full period in the first place?

**The Convener:** It is not the role of this committee to scrutinise the UK Government's position; it is for us to ask the Scottish Government why that is the case. The Scottish Government might say that it is because it did not get the instrument in time, and that is fine. Our role

is to approve the Scottish Government's giving of consent.

**Jim Fairlie:** Okay, so we are asking the Scottish Government to clarify that the UK Government did not have the SI in front of it in time.

**The Convener:** Yes.

**Jim Fairlie:** Okay—that is fine. Thank you.

**The Convener:** Are there any further comments?

**Dr Allan:** I want to pick up on what has been said. I understand the point that is being made about the process for an SI, but I disagree with the idea that it is not this committee's role to ask questions of the UK Government about timing. I do not want to leave the impression hanging there that the UK Government's role is irrelevant. If we are going to ask the Scottish Government a question about timing, given what has just been said, it is entirely relevant that we write to the UK Government and ask it the question.

**The Convener:** I will ask the clerk, Emma Johnston, to come in. My understanding is that we need to write to the Scottish Government to clarify the reason for the urgency, and it will be able to tell us, given that the notification was sent to the Scottish Parliament.

**Dr Allan:** There is no ban on the committee writing to the UK Government to ask questions.

**The Convener:** Absolutely not, but it was the Scottish Government that laid the tool in front of us to ask us whether we are content for it to give consent to the UK instrument. That is the point. We will write to the Scottish Government to ask why there is urgency, because the Scottish Government could not give consent.

**Dr Allan:** I am just proposing that we ask the question. I am not sure what the problem is with asking the question.

**The Convener:** We certainly can do that. If it would help, we can also write to the UK Government with the same question. Ultimately, however, the Scottish Government notified us for us to consent to it giving consent to the UK instrument. That is my understanding. However, we can certainly write to the UK Government if that would help.

**Jim Fairlie:** Just to be clear, the Scottish Government is asking the committee to agree to an SI that it has laid but which should have come from the UK Government, and the UK Government has not given us the appropriate period of time. The letter that we got from the clerks this morning says that the UK Government has suddenly changed importation rules without any consultation with the Scottish Government.

**The Convener:** You are talking about a different SI, Jim.

**Jim Fairlie:** Is that a different SI? Okay. Thank you very much for the clarity.

I echo Alasdair Allan's point. If the UK Government has not got the SI to us in time, how is that the responsibility of the Scottish Government?

**The Convener:** That is what we are seeking clarity on. The notification was sent to the Scottish Parliament on 7 December.

**Jim Fairlie:** Was that the final one?

**The Convener:** The SI in front of us was sent to the Scottish Parliament on 7 December with the intent of its being laid in Westminster on 16 December. We can write to the Scottish Government to ask why the Parliament was notified of it only on 7 December. When the Scottish Government got the SI from the UK Government is unclear to me at the moment. That is my understanding.

**Jim Fairlie:** Okay. I thought that you said that the Scottish Government did not get it in time for the 28 days. We clearly need clarity. I think that Alasdair Allan's point stands. We should write to the UK Government as well.

**The Convener:** I absolutely appreciate that. That is not a problem, but what is unclear at the moment is when the Scottish Government got the notification. The Scottish Parliament and the committee got the notification only on 7 December. We can ask for clarification on when the Scottish Government got the notification. Does that make things clearer?

**Jim Fairlie:** Yes, it does, but I still think that the UK Government has a responsibility and that we need to write to it as well.

**The Convener:** It is unclear whether the UK Government was late in sending the notification. I do not have that date.

**Rachael Hamilton:** This is proving why it is much better to have a physical meeting than a virtual meeting.

Paragraph 23 in paper 1 states:

"The UK and Scottish governments argue this instrument 'must come into force as soon as possible'".

If there are shared interests, there is a shared objective. There seems to be another reason for a delay.

**The Convener:** My understanding is that we do not know why the instrument is urgent. We have not been given the full 28 days, so I intend to write to the Scottish Government to ask why the SI is urgent and why an extra few days, which would

have allowed us to scrutinise it properly, have not been given. As I have said, it is unclear when the Scottish Government received the policy proposal in the instrument, and the Scottish Government notified the Scottish Parliament late. That is what we need to clarify. In the letter, I will ask why the SI is urgent and what impact on trade relations an extra few days would make.

10:15

**Dr Allan:** On the point that Rachael Hamilton made, I heartily agree that it would be better if we were meeting offline rather than online, with me sitting in my car. However, there are good reasons why there are certain constraints on us at the moment. We should not overlook that.

I think that what is proposed is a reasonable course of action, but we should be clear about what we are trying to find out. Presumably, we are trying to find out when the final version of the SI was made available to the Scottish Government, because we are not interested in when drafts were available.

**The Convener:** Absolutely. I am not aware of that and it does not really affect the committee. The point is that we have not been given 28 days, as is required by the SI protocol, to scrutinise this. The letter will ask why that is the case and when the Scottish Government was notified of the SI. It might come back to us and say, "We got it late from the UK Government," or there might be another reason why the Scottish Government did not lay it. I am not making a judgment, as I do not know the answer, but we will certainly ask why this situation has arisen. This is not the first time that it has happened, and we do not want it to become habit forming, if you like.

I ask Emma Johnston, our clerk, whether the questions that have been asked and my responses are in line with the papers. We do not know when the Scottish Government received the UK statutory instrument.

**Emma Johnston (Clerk):** My understanding is that the Scottish Government was contacted at short notice and the notification was drafted at short notice. Officials contacted the clerks informally to give us warning that the notification would be received. As the notification states, the UK Government and the Scottish Government were agreed that the short timescale was required in order not to negatively impact trade relations.

**The Convener:** I hope that that provides some clarity. As I said, one of the questions that we are going to ask is why this has happened. It is not clear whether the trade deals specify a timeframe, so we do not know what the pressure is to bring the SI in at such short notice.

As there are no further questions or comments, is the committee content for the provisions that are set out in the notification to be included in the proposed UK SI? If members are not satisfied, they should type the letter N in the chat function.

We are content.

Finally, is the committee content to delegate to me authority to sign off a letter to the Scottish Government, informing it of our decision today? I intend to set out in my letter strong concerns about the lack of available time for meaningful scrutiny and the breach of the protocol. I will copy the letter to the convener of the Constitution, Europe, External Affairs and Culture Committee for her information. I will also highlight the concerns relating to the withdrawn SI.

**Dr Allan:** Just so that you are speaking on behalf of all of us, will you summarise what your concerns are about the withdrawn SI and why you think they are concerns that the committee as a whole shares?

**The Convener:** There was concern about the instrument being withdrawn at a very late stage. We have had a letter outlining some of the reasons for the withdrawal, and the instrument will be laid before us, but again we are not going to get a chance to look at it, as it needs to come into force on 1 January.

**Dr Allan:** It is fair to draw attention to what is a less than ideal circumstance, but I point out that we have received a letter this morning from the Scottish Government that gives reasons for its view that a Scottish SI is necessary, given the changes that the UK Government has made to the UK SI at rapid pace over the past few days. I am looking for some assurance that the tone of the letter that is written will reflect that.

**The Convener:** The reason for the letter is, once again, to highlight the committee's concern that we will have no opportunity to look at the proposed SI before it is laid, on 1 January.

**Dr Allan:** That is fine. If that is the tone, I am happy with that. However, I have made the point that we should acknowledge that we have had correspondence, albeit just this morning, from the Scottish Government, setting out some of the reasons for the situation.

**The Convener:** I absolutely take that on board.

That concludes the public part of today's business.

10:21

*Meeting continued in private until 11:06.*



This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

---

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

---

All documents are available on  
the Scottish Parliament website at:

[www.parliament.scot](http://www.parliament.scot)

Information on non-endorsed print suppliers  
is available here:

[www.parliament.scot/documents](http://www.parliament.scot/documents)

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

---



The Scottish Parliament  
Pàrlamaid na h-Alba