



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 31 January 2023**

**Session 6**



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Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**

**4<sup>th</sup> Meeting 2023, Session 6**

**CONVENER**

Stuart McMillan (Greenock and Inverclyde) (SNP)

**DEPUTY CONVENER**

\*Bill Kidd (Glasgow Anniesland) (SNP)

**COMMITTEE MEMBERS**

\*Jeremy Balfour (Lothian) (Con)

\*Carol Mochan (South Scotland) (Lab)

\*Oliver Mundell (Dumfriesshire) (Con)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Jenni Minto (Argyll and Bute) (SNP) (Committee Substitute)

**CLERK TO THE COMMITTEE**

Lucy Scharbert

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Delegated Powers and Law Reform Committee

*Tuesday 31 January 2023*

*[The Deputy Convener opened the meeting at 10:06]*

### Decision on Taking Business in Private

**The Deputy Convener (Bill Kidd):** Welcome to the fourth meeting in 2023 of the Delegated Powers and Law Reform Committee. We have received apologies from our convener, Stuart McMillan MSP. In his place, I welcome Jenni Minto MSP. Before we move to the first item on the agenda, I remind everyone to switch mobile phones to silent.

The first item of business is a decision on whether to take items 5 and 6 in private. Is the committee content to take those items in private?

**Members** *indicated agreement.*

### Instruments subject to Affirmative Procedure

10:06

**The Deputy Convener:** Under agenda item 2, we are considering three instruments, on which no points have been raised.

#### **Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2023 [Draft]**

**Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) Amendment Regulations 2023 [Draft]**

#### **Provision of Early Learning and Childcare (Specified Children) (Scotland) Amendment Order 2023 [Draft]**

**The Deputy Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

## Instruments subject to Negative Procedure

10:07

**The Deputy Convener:** Under agenda item 3, we are considering three instruments. An issue has been raised on the following instrument.

### First-tier Tribunal for Scotland Housing and Property Chamber (Amendment) Regulations 2023 (SSI 2023/6)

**The Deputy Convener:** Carol Mochan has something to say.

**Carol Mochan (South Scotland) (Lab):** I just want to declare an interest, as a registered landlord with rented property.

**The Deputy Convener:** Thank you. That is now on the record.

The instrument is made under the Tribunals (Scotland) Act 2014 and the Cost of Living (Tenant Protection) (Scotland) Act 2022. The instrument amends the First-tier Tribunal's existing procedural rules to make provision for new rules to accommodate the new appeal mechanism that is created by the Cost of Living (Tenant Protection) (Scotland) Act 2022.

In line with standard drafting practice, the title of the instrument should read the "First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2023". The Scottish Government has apologised for this oversight but has said that it will not be taking any corrective action, as it is content that the title is not misleading and adequately highlights the purpose of the regulations.

The instrument also breaches section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010, whereby instruments that are subject to the negative procedure are required to be laid at least 28 days before they come into force, not counting recess periods of more than four days. The instrument was laid on 17 January 2023 and came into force on 24 January 2023. It therefore does not comply with the laying requirements under the 2010 act.

In correspondence with the Presiding Officer, the Scottish Government stated that the breach was necessary, as it is now possible for landlords to increase their rents in response to an increase in prescribed property costs, and the instrument requires to be brought into force urgently to create the necessary procedural rules should any appeal be brought against the decision of a rent officer.

Does the committee wish to draw the instrument to the Parliament's attention on the general

reporting ground, in that "(Procedure)" was omitted from the title of the instrument?

**Members indicated agreement.**

**The Deputy Convener:** Is the committee content to note the apology received from the Scottish Government for the oversight and that corrective action is not necessary in this instance?

**Members indicated agreement.**

**The Deputy Convener:** Does the committee also wish to draw the instrument to the Parliament's attention on reporting ground (j), in relation to the failure to lay the instrument in accordance with laying requirements under the 2010 act?

**Members indicated agreement.**

**The Deputy Convener:** At the same time, is the committee content with the explanation that the Scottish Government has provided for the breach of the laying requirements?

**Members indicated agreement.**

**The Deputy Convener:** Also under this agenda item, no points have been raised on the following instruments.

### Packaging Waste (Data Reporting) (Scotland) Regulations 2023 (SSI 2023/7)

### Cost of Living (Tenant Protection) (Scotland) Act 2022 (Early Expiry and Suspension of Provisions) Regulations 2023 (SSI 2023/8)

**The Deputy Convener:** Jeremy Balfour wants to make a statement.

**Jeremy Balfour (Lothian) (Con):** SSI 2023/8 is a consequence of rushed legislation going through the Parliament previously. Perhaps it is a lesson that we should not pass emergency legislation unless there is an emergency, and we should have more scrutiny of legislation when it is going through.

**The Deputy Convener:** You have made your point—thank you for that.

Is the committee content with the instruments?

**Members indicated agreement.**

**Instrument not subject to  
Parliamentary Procedure**

10:12

*Meeting continued in private until 10:51.*

10:11

**The Deputy Convener:** Under agenda item 4, we are considering one instrument, on which no points have been raised.

**Planning (Scotland) Act 2019  
(Commencement No 11 and Saving and  
Transitional Provisions) Regulations 2023  
(SSI 2023/10 (C 2))**

**The Deputy Convener:** Is the committee content with the instrument?

**Members** *indicated agreement.*

**The Deputy Convener:** I now move the committee into private.





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