

DELEGATED POWERS AND LAW REFORM COMMITTEE

4th Meeting, 2021 (Session 6)

Tuesday 14 September 2021

Instrument Responses

Made Affirmative Instruments

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

On 6 September 2021, the Scottish Government was asked:

Regulation 4(b) of the instrument inserts paragraph 9, which defines a “private provider”, into regulation 5F of the Health Protection (Coronavirus)(International Travel) (Scotland) Regulations 2020. Paragraph 9(b) states “is currently on the UK Government published list of private day 2 and day 2 test providers for persons arriving in England”. Should the second occurrence of “day 2” refer to “day 8”?

Is any corrective action proposed and, if so, what action and when?

On 6 September 2021, the Scottish Government responds as follows:

The Scottish Government replies that it totally agrees that there is an error and day 2 should in the place mentioned read day 8 and that they accordingly intend to rectify the error by including the rectification in an amending instrument scheduled for making this month.

Draft Affirmative Instruments

Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Amendment Regulations 2021 (SSI 2021/draft)

On 3 September 2021, the Scottish Government was asked:

Regulations 2(2) and 2(3) of the instrument make amendments to the Animal Welfare (Licensing of Activities Involving Animals)(Scotland) Regulations 2021 (“Licensing Regulations”) by amending and inserting licence conditions applicable to the licensable activities described. The Licensing Regulations came into force on 1st September 2021.

Regulations 3 and 4 of the instrument make transitional provisions for existing licences for engaging in animal rehoming activities and existing licences for operating an animal welfare establishment respectively. Where the licensable activities are carried out on or after 10th October 2021, when the instrument is due to come into effect, any existing

licences issued before 10 October 2021 will be subject to the licence conditions as amended. The penalties for non-compliance with such licence conditions are set out in Regulation 23 of the Licensing Regulations. In absence of an explanation in the policy note on the transitional provisions, please explain how a licence holder that may be affected by these amendments will be aware of the conditions they are required to comply with from 10 October 2021?

On 7 September 2021, the Scottish Government responds as follows:

While the Scottish Government did not consider it necessary to include an explanation of the transitional provisions in the policy note, the explanatory note to the instrument provides the lay reader with a short, clear statement of explanation of the effect of the transitional provisions, namely the variation of existing licences for particular licensable activities.

The Scottish Government issued guidance regarding the Animal Welfare (Licensing of Activities Involving Animals) (Scotland) Regulations 2021 to local authorities prior to the coming into force of the new licensing regime. The Scottish Government intends to update this guidance to reflect the changes made by the instrument prior to its publication on the Scottish Government's website, in the event that it is approved by the Scottish Parliament. In addition to publishing updated guidance, the Scottish Government will recommend to local authorities that they timeously communicate the effect of the amendments made by the instrument to the holders of any licences for the relevant licensable activities granted before 10 October 2021.

In particular circumstances, the Scottish Government may also be a licensing authority for the activity of engaging in animal rehoming. The Scottish Government will similarly communicate with any holders of licences granted by it during the period prior to the coming into force of the instrument in order to explain the effect of the instrument on existing licences.

We hope this is of assistance but would be happy to provide more information if required.