



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Murdo Fraser MSP
Convener
COVID-19 Committee

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Coronavirus (Scotland) (No.2) Bill

Dear Convener,

At its meeting this afternoon, the Delegated Powers and Law Reform Committee considered the delegated powers in the Coronavirus (Scotland) (No.2) Bill.

The Committee is aware that your Committee also considered the Bill this morning. However, the Delegated Powers and Law Reform Committee agreed to highlight the following matters to you in advance of your Committee publishing any conclusions it has reached on this Bill.

As the Scottish Government has acknowledged, the Bill contains extraordinary measures required to respond to an emergency situation. The Committee accepts that this is necessary and notes that the Parliament may wish to ensure that the Scottish Government has the toolkit it needs to deliver necessary changes across the statute book, in what are currently uncertain circumstances.

The Committee recognises that this Bill provides safeguards for exercise of the powers contained within it and accepts that the Parliament will have the opportunity to fully scrutinise the exercise of the powers at the point at which the subordinate legislation is laid.

However, the Committee also notes that most of the subordinate legislation which has been made in response to the coronavirus pandemic has not been made under powers in the Coronavirus Acts (the UK Act and the previous Scottish Act). Instead it is made under existing powers in other legislation. This means that the safeguards offered by the Coronavirus Acts do not necessarily apply. In particular:

- Not all of the instruments made in response to the coronavirus pandemic will expire when the emergency provisions of the Coronavirus Acts expire.

- Not all of the instruments are subject to a review or have any reporting requirements. The 2-monthly review and report by Scottish Ministers to the Parliament required under section 15 of the 2020 Act (replicated in section 12 of this Bill) only applies to provisions of those Acts, and instruments made under them.
- Not all of the instruments are only made in connection with the current coronavirus emergency. Some also make provision which applies in relation to “an emergency” more generally.

The Committee agreed to draw this matter to your attention and suggest that **it would be beneficial in the interests of effective scrutiny if the Scottish Government would review and report to the Scottish Parliament on all subordinate legislation made in response to the Coronavirus emergency, as if it were made under provisions of the Scottish Coronavirus Act or this Bill.** This would ensure that the Parliament can be kept informed of the status of all subordinate legislation made in response to the Coronavirus pandemic, and can hold the Scottish Government to account in relation to whether that legislation should remain in force.

Yours sincerely,



Bill Bowman
Convener of the Delegated Powers and Law Reform Committee