



The Scottish Parliament  
Pàrlamaid na h-Alba

## DELEGATED POWERS AND LAW REFORM COMMITTEE

### AGENDA

26th Meeting, 2020 (Session 5)

Tuesday 1 September 2020

The Committee will meet at 10.30 am in the David Livingstone Room (CR6).

1. **Decision on taking business in private:** The Committee will decide whether to take items 7 and 8 in private.
2. **Consideration of the work of the Committee in the year 2019-20:** The Committee will take evidence from—

Graeme Dey, Minister for Parliamentary Business and Veterans, Susan Herbert, Head of Parliament and Legislation Unit SSI Team, Steven Macgregor, Head of Parliament and Legislation Unit, Jenny Brough, Head of Coronavirus Legislation Co-ordination Team and Rachel Rayner, Head of Scottish Government Legal Directorate SSI Unit

3. **Instruments subject to the made affirmative procedure:** The Committee will consider the following—

[Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) Amendment \(No. 11\) Regulations 2020 \(SSI 2020/241\);](#)  
[Health Protection \(Coronavirus\) \(Restrictions\) \(Scotland\) Amendment \(No. 12\) Regulations 2020 \(SSI 2020/251\);](#)  
[Health Protection \(Coronavirus\) \(International Travel\) \(Scotland\) Amendment \(No. 10\) Regulations 2020 \(SSI 2020/252\);](#)  
[Health Protection \(Coronavirus, Restrictions\) \(Aberdeen City\) Amendment Regulations 2020 \(SSI 2020/253\)](#)

4. **Instruments subject to affirmative procedure:** The Committee will consider the following—

[Management of Offenders \(Scotland\) Act 2019 \(Consequential Amendments\) Regulations 2020 \(SSI 2020/draft\);](#)  
[Equality Act 2010 \(Specification of Public Authorities\) \(Scotland\) Order 2020 \(SSI 2020/draft\);](#)

[Coronavirus \(Scotland\) Acts \(Amendment of Expiry Dates\) Regulations 2020 \(SSI 2020/draft\)](#)

5. **Instruments subject to negative procedure:** The Committee will consider the following—

[Mental Health Tribunal for Scotland \(Practice and Procedure\) \(No. 2\) Amendment Rules 2020 \(SSI 2020/246\);](#)  
[Coronavirus \(Scotland\) Acts \(Early Expiry of Provisions\) Regulations 2020 \(SSI 2020/249\);](#)  
[Town and Country Planning \(Emergency Period and Extended Period\) \(Coronavirus\) \(Scotland\) Regulations 2020 \(SSI 2020/254\)](#)

6. **Instruments not subject to any parliamentary procedure:** The Committee will consider the following—

[Management of Offenders \(Scotland\) Act 2019 \(Commencement No. 4 and Saving Provision\) Regulations 2020 \(SSI 2020/245 \(C.20\)\);](#)  
[Scottish Biometrics Commissioner Act 2020 \(Commencement\) Regulations 2020 \(SSI 2020/250 \(C.21\)\)](#)

7. **Scottish Law Commission Bills:** The Committee will consider a draft report on its review of the Presiding Officer's determination on designating a Bill as a Scottish Law Commission Bill as defined in Rule 9.17A of Standing Orders.

8. **Consideration of the work of the Committee in the year 2019-20:** The Committee will consider the evidence it heard earlier.

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**Instrument Responses**

**Health Protection (Coronavirus) (Restrictions) (Scotland) Amendment (No. 11) Regulations 2020 (SSI 2020/241)**

**On 19 August 2020, the Scottish Government was asked:**

Regulation 3 of the instrument inserts a new Regulation 4ZA (*Requirement to collect and share information to minimise risk of spread of coronavirus*) into the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 - S.S.I. 2020/103 (the “Principal Regulations”).

Regulation 4ZA states that the provision applies to persons responsible for premises to which paragraph 2 applies and Regulation 4ZA(2) outlines that the relevant premises for the purposes of the provision are restaurants, cafes, bars, public houses and hotels in which food or drink is sold for consumption on the premises. Regulation 4ZA(5) then provides a definition of “person responsible for premises to which paragraph (2) applies” includes the owner, proprietor and manager of the premises.

Can you please clarify the policy intention of the definition of “person responsible for premises to which paragraph (2) applies”

In particular is it the intention that the owner, proprietor and manager each have a joint responsibility to take measures to satisfy the requirements within Regulation 4ZA(3)? And whether it is the intention that the owner, proprietor and manager would as a result each have a joint liability for a failure to do so under Regulation 8(1) of the Principal Regulations?

**On 25 August 2020, the Scottish Government responded as follows:**

The policy intention is that the owner, proprietor and manager are each responsible for satisfying the requirements set out in regulation 4ZA. There is more than one category of person who can fulfil the duty, as is explained by the use of “include”. Each such person would also be liable under regulation 8(1) for contravention of the requirements in regulation 4ZA. This is entirely consistent with other provisions in the regulations concerning responsible persons.