



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 21 March 2023  
SP Paper 345  
22nd Report, 2023 (Session 6)

# **Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh**

## **Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 21 March 2023**



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

---

All documents are available on the Scottish  
Parliament website at:  
[http://www.parliament.scot/abouttheparliament/  
91279.aspx](http://www.parliament.scot/abouttheparliament/91279.aspx)

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)

# Contents

<b>Introduction</b>	<b>1</b>
<b>Scrutiny of instruments under the Committee's remit: instruments drawn to the attention of the lead committee</b>	<b>2</b>
<b>No points raised</b>	<b>3</b>
<b>Annex</b>	<b>4</b>

# Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



[dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot)



0131 348 5212

# Committee Membership



**Convener**  
**Stuart McMillan**  
Scottish National Party



**Deputy Convener**  
**Bill Kidd**  
Scottish National Party



**Jeremy Balfour**  
Scottish Conservative  
and Unionist Party



**Carol Mochan**  
Scottish Labour



**Oliver Mundell**  
Scottish Conservative  
and Unionist Party

# Introduction

1. At its meeting on 21 March, the Committee considered the following instrument under its remit and agreed to draw it to the attention of the relevant lead committee:
  - Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules 1999 Amendment) (Sexual Harm Prevention Orders and Sexual Risk Orders) 2023 (SSI 2023/62)
2. The Committee's recommendations in relation to this instrument are set out in the next section of this report.
3. The Committee also determined that, in terms of its remit, it did not need to draw the Parliament's attention to the instrument at the end of the report.

# Scrutiny of instruments under the Committee's remit: instruments drawn to the attention of the lead committee

## Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules 1999 Amendment) (Sexual Harm Prevention Orders and Sexual Risk Orders) 2023 (SSI 2023/62)

4. This instrument provides new court rules for handling applications to the court arising under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.
5. The Committee identified an incorrect cross-reference in paragraph (6) of Rule 3.54.4, in that the reference to paragraph (4)(b) should be to paragraph (4)(c).
6. The Lord President's Private Office confirmed that the cross-reference is an error and proposes to rectify it in a forthcoming instrument to amend the Summary Application Rules.
7. A copy of the correspondence can be found in the **Annex**.
8. The lead committee for this instrument is the Criminal Justice Committee.

9. **The Committee draws this instrument to the attention of the Parliament on the general reporting ground in respect of a cross-referencing error in paragraph (6) of Rule 3.54.4.**

10. **The Committee welcomed that the Lord President intends to correct the error in a forthcoming amending instrument.**

# No points raised

## Criminal Justice Committee

Offensive Weapons Act 2019 (Commencement No. 3) (Scotland) Regulations 2023 (SSI 2023/72 (C.6))

# Annex

## **Act of Sederunt (Summary Applications, Statutory Applications and Appeals etc. Rules 1999 Amendment) (Sexual Harm Prevention Orders and Sexual Risk Orders) 20233 (SSI 2023/62)**

On 10 March 2023, the Committee asked the Scottish Government:

Paragraph 2 of the Act of Sederunt amends the Summary Applications, Statutory Applications and Appeals etc. Rules and inserts Part LIV which provides the procedural rules for applications for sexual harm prevention orders and sexual risk orders. Rule 3.54.4 makes rules for applications to vary, renew or discharge these orders. Any person who receives intimation of an application may give notice that they wish to have a hearing to consider the application. Rule 3.54.4 paragraph (6) provides that where no notice of a wish for a hearing has been given and the sheriff gives an opportunity to parties to make written representations the sheriff must specify the period within which the representations must be lodged and any party lodging written representations must intimate them to any other party.

1. In Rule 3.54.4 paragraph (6) should the reference to paragraph 4(b) be to paragraph 4(c)?
2. Please confirm whether any corrective action is proposed, and if so, what action and when.

On 10 March 2023, the Lord President's Private Office responded:

1. The reference in the chapeau to rule 3.54.4(6) should be to paragraph (4)(c) rather than paragraph (4)(b).
2. This will be rectified in a forthcoming instrument which will be making amendments to the Summary Application Rules.

