



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# HEALTH AND SPORT COMMITTEE

Tuesday 11 March 2014

Session 4

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**Tuesday 11 March 2014**

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**HEALTH AND SPORT COMMITTEE**  
**8<sup>th</sup> Meeting 2014, Session 4**

**CONVENER**

\*Duncan McNeil (Greenock and Inverclyde) (Lab)

**DEPUTY CONVENER**

\*Bob Doris (Glasgow) (SNP)

**COMMITTEE MEMBERS**

- \*Rhoda Grant (Highlands and Islands) (Lab)
- \*Colin Keir (Edinburgh Western) (SNP)
- \*Richard Lyle (Central Scotland) (SNP)
- \*Aileen McLeod (South Scotland) (SNP)
- \*Nanette Milne (North East Scotland) (Con)
- \*Gil Paterson (Clydebank and Milngavie) (SNP)
- \*Dr Richard Simpson (Mid Scotland and Fife) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Michael Matheson (Minister for Public Health)

**CLERK TO THE COMMITTEE**

Eugene Windsor

**LOCATION**

Committee Room 4



## Scottish Parliament

### Health and Sport Committee

*Tuesday 11 March 2014*

[The Convener *opened the meeting at 11:05*]

### Decision on Taking Business in Private

**The Convener (Duncan McNeil):** Good morning and welcome to the eighth meeting in 2014 of the Health and Sport Committee. As usual, I ask everyone in the room to switch off mobile phones and other wireless devices, and I give notice that some members and officials are using tablet devices instead of hard copies of their papers.

The first item on the agenda is a decision whether to take items 5 and 6 in private. Item 5 is consideration of the approach to stage 1 of the Assisted Suicide (Scotland) Bill and item 6 is the work programme.

Does the committee agree to take items 5 and 6 in private?

**Members** *indicated agreement.*

## Subordinate Legislation

### Social Care (Self-directed Support) (Scotland) Act 2013 (Consequential and Saving Provisions) Order 2014 [Draft]

11:06

**The Convener:** We come to agenda item 2, which is consideration of an affirmative instrument. As is usual with affirmative instruments, we will have an evidence-taking session with the minister and his officials. Once we have had all our questions answered we will have the formal debate on the motion.

I welcome the Minister for Public Health, Michael Matheson, and his officials: John Paterson, divisional solicitor in the Scottish Government; and Heather Palmer, policy manager, and Sarah Grant, policy officer, both from the self-directed support direct payments branch of the Scottish Government.

**The Minister for Public Health (Michael Matheson):** Good morning. The order makes minor amendments to primary and secondary legislation, all of which are in consequence of changes made by the Social Care (Self-directed Support) (Scotland) Act 2013, which is set to come into force in April this year.

As you might expect, the order removes from primary legislation references to provisions that are repealed by the 2013 act. The order also updates references to provisions in the Social Work (Scotland) Act 1968 with references to the relevant provisions in the 2013 act.

The order revokes the current direct payments regulations that will be replaced by the 2014 direct payments regulations, which were laid in Parliament in January under negative procedure.

The order does not implement any new policy.

I am happy to take questions on any of the repeals and modifications that it makes.

**The Convener:** Thank you. Are there any questions from the committee?

**Rhoda Grant (Highlands and Islands) (Lab):** I notice that there was no consultation on the order. I understand that that is because the issues that the order is concerned with were consulted on quite widely in relation to the 2013 act.

My question is about the number of possible options. I have a group of concerned constituents who have self-directed support. They can organise their own support and respite, but there is no respite care available that is suitable for their needs. This would have been an opportunity to allow those people to group together, pool their respite money and look at encouraging a service provider into the area that could provide respite that was suitable for them. That option does not seem to be included. Why is that? Sorry, I know that that question is from the left field and is perhaps unexpected.

**Michael Matheson:** The order does not deal with that issue, which would be a matter for the regulations that were laid before the Parliament in January.

**Rhoda Grant:** Do those regulations allow people to pool their resources?

**Michael Matheson:** Yes. The order repeals references to direct payments and replaces them with the terms that are set out in the 2013 act.

**Rhoda Grant:** If my reading of the notes is correct, the order allows people to use local government services as well as to organise their own care.

**Michael Matheson:** That relates to provisions in the 2013 act and the regulations under it. The order largely repeals terms in other legislation that refer to older provisions.

**The Convener:** Is Rhoda Grant referring to the policy note that accompanied the order?

**Rhoda Grant:** Yes. I understand from the note that the order repeals one option and replaces it with four options. Am I right?

**Michael Matheson:** Under the present regulations, someone can use a direct payment to purchase care. The 2013 act provides for four options, including direct payments. The act added to the options; it did not remove anything.

**Rhoda Grant:** I understand that. I come back to the question whether, if the order had been consulted on, we could have added more options and not had just four. Are you saying that those four options were predetermined in the primary legislation?

**Michael Matheson:** The order does not deal with the four options; the 2013 act set them out.

**The Convener:** If there is a bit of dubiety and confusion, perhaps Rhoda Grant can take time to relate her points to the policy note. Her point is about wider consultation and the four options.

**Michael Matheson:** The order deals only with technical changes to terms in legislation; it does not deal with the four options that Rhoda Grant

referred to. The 2013 act, on which there was extensive consultation, dealt with those options.

**The Convener:** It is okay; there are no wrong questions here. If Rhoda Grant needed a bit of clarity, that is fine.

**Rhoda Grant:** The position was not clear from the note.

**The Convener:** That is fine. As members have no other questions, we will move to item 3, which is the formal debate on the affirmative Scottish statutory instrument that we have just taken evidence on. I remind members that they should not put questions to the minister under this item, as it is a formal debate, and that officials may not speak.

*Motion moved,*

That the Health and Sport Committee recommends that the Social Care (Self-directed Support) (Scotland) Act 2013 (Consequential and Saving Provisions) Order 2014 [draft] be approved.—[*Michael Matheson.*]

*Motion agreed to.*

**The Convener:** I thank the minister and his officials for their attendance.

### **National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2014 (SSI 2014/38)**

**The Convener:** Item 4 is consideration of two negative Scottish statutory instruments. No motion to annul SSI 2014/38 has been lodged and the Delegated Powers and Law Reform Committee made no comments on the regulations. Does anybody wish to comment?

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** The committee may wish to consider the effects of the changes in pension contributions on the early retirement of consultants, and the consequential effects on the health service as a whole. I hear that substantial numbers of consultants are now retiring, both because of the increased contributions as set out in the regulations before us and because of the cap on the pension level—the lifetime allowance—which has been introduced by the UK Government. Those two factors are having an effect on some of the most experienced, senior consultants, who are choosing to retire early. However, those points do not affect the SSI.

11:15

**The Convener:** You are echoing some of the comments that the Cabinet Secretary for Health and Wellbeing made at our briefing earlier with regard to other unforeseen impacts on out-of-hours care. We could bear the issue in mind.

Does the committee agree to make no recommendation on the regulations?

**Members** *indicated agreement.*

**HIV Testing Kits and Services Revocation (Scotland) Regulations 2014 (SSI 2014/42)**

**The Convener:** We move on to the second instrument before us under item 4. No motion to annul the regulations has been lodged and the Delegated Powers and Law Reform Committee made no comments on the regulations.

If there are no comments from the committee, do we agree to make no recommendation on the regulations?

**Members** *indicated agreement.*

**The Convener:** That concludes the public part of the meeting. As was agreed earlier, the committee will now go into private session.

11:16

*Meeting continued in private until 11:56.*



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