DELEGATED POWERS AND LAW REFORM COMMITTEE

AGENDA

8th Meeting, 2018 (Session 5)

Tuesday 13 March 2018

The Committee will meet at 10.00 am in the Adam Smith Room (CR5).

1. **Decision on taking business in private:** The Committee will decide whether to take items 5, 6, 7, 8 and 9 in private.

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

   Alcohol (Minimum Price per Unit) (Scotland) Order 2018 [draft].

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

   Sheriff Court Fees Order 2018 (SSI 2018/81);
   Sheriff Appeal Court Fees Order 2018 (SSI 2018/82);
   Court of Session etc. Fees Order 2018 (SSI 2018/83);
   High Court of Justiciary Fees Order 2018 (SSI 2018/84);
   Justice of the Peace Court Fees (Scotland) Order 2018 (SSI 2018/85);
   Adults with Incapacity (Public Guardian’s Fees) (Scotland) Regulations 2018 (SSI 2018/86).

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

   Alcohol (Minimum Pricing) (Scotland) Act 2012 (Commencement No. 2) Order 2018 (SSI 2018/88 (C.8)).

5. **UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill:** The Committee will consider further the delegated powers provisions in this Bill at Stage 1.

6. **Scottish Crown Estate Bill:** The Committee will consider further the delegated powers provisions in this Bill at Stage 1.

7. **Planning (Scotland) Bill:** The Committee will consider the contents of a report to the Local Government and Communities Committee.
8. **Trade Bill (UK Parliament legislation):** The Committee will consider its approach to the powers to make subordinate legislation conferred on Scottish Ministers in the Trade Bill (UK Parliament legislation).

9. **Human Rights and the Scottish Parliament:** The Committee will consider correspondence from the Convener of the Equalities and Human Rights Committee.

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The papers for this meeting are as follows—

**Agenda Items 2, 3 and 4**
Briefing on Instruments (private)  DPLR/S5/18/8/1(P)

**Agenda Item 3**
Instrument Responses  DPLR/S5/18/8/2

**Agenda Item 5**
UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill - As Introduced

UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill - Delegated Powers Memorandum

Letter from the Convener to the Presiding Officer

**Agenda Item 6**
Scottish Crown Estate Bill - As Introduced

Scottish Crown Estate Bill - Delegated Powers Memorandum

Briefing Paper (private)  DPLR/S5/18/8/3(P)

**Agenda Item 7**
Planning (Scotland) Bill - As Introduced

Planning (Scotland) Bill - Delegated Powers Memorandum

Draft Report (private)  DPLR/S5/18/8/4(P)

**Agenda Item 8**
Trade Bill - Bill Documents

Trade Bill (UK Parliament legislation) : Legislative Consent Memorandum

Briefing Paper (private)  DPLR/S5/18/8/5(P)

**Agenda Item 9**
Human Rights and the Scottish Parliament Inquiry - Letter from the Convener of the Equalities and Human Rights Committee

Briefing Paper (private)  DPLR/S5/18/8/6(P)
INSTRUMENTS SUBJECT TO NEGATIVE PROCEDURE

Sheriff Court Fees Order 2018 (SSI 2018/81)

On 5 March 2018, the Scottish Government was asked:

Article 5(2) states “[t]he matter specified in paragraph 13 of the Table of Fees in Part 1 of schedule 1, 2 or 3 includes, where appropriate, the issue of extracts and the issue of an abbreviate.” Column 1 of paragraph 13 in each of schedules 1, 2 and 3 simply says “[n]o fee.” but I note previously referred to applications for the approval of composition in bankruptcy actions. The Policy Note states this fee item has been removed as it is effectively redundant following changes to bankruptcy legislation.

If paragraph 13 of the Table of Fees in Part 1 of schedule 1, 2 or 3 is effectively redundant, why is it considered necessary to include article 5(2) in the Order?

The Scottish Government responded as follows:

The Scottish Government is grateful to the Delegated Powers and Law Reform Committee for highlighting this point. Article 5(2) appears in the same form in the Sheriff Court Fees Order 2015 and was erroneously carried forward into the Sheriff Court Fees Order 2018. As the Committee’s legal advisers highlight, article 5(2) now has no function because paragraph 13 of the Table of Fees in Part 1 of schedules 1, 2 and 3 no longer specifies any fees for applications for the approval of composition.

The Scottish Government considers that article 5(2) has no substantive effect and does not present any practical issues in terms of the application or administration of the sheriff court fees regime. Nonetheless, the Scottish Government undertakes to revoke article 5(2) should an amending opportunity arise, for example in the course of implementing the Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill.