DELEGATED POWERS AND LAW REFORM COMMITTEE

AGENDA

16th Meeting, 2018 (Session 5)

Tuesday 8 May 2018

The Committee will meet at 9.30 am in the Adam Smith Room (CR5).

1. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.

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

   - Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No. 2) Regulations 2018 [draft];
   - Community Right to Buy (Abandoned, Neglected or Detrimental Land) (Eligible Land, Regulators and Restrictions on Transfers and Dealing) (Scotland) Regulations 2018 [draft].

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

   - National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018 (SSI 2018/124);
   - Plant Health (Export Certification) (Scotland) Order 2018 (SSI 2018/132);
   - Community Right to Buy (Abandoned, Neglected or Detrimental Land) (Compensation) (Scotland) Order 2018 (SSI 2018/137);

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

   - Land Reform (Scotland) Act 2016 (Commencement No. 8 and Saving Provision) Regulations 2018 (SSI 2018/138 (C.11));
   - Community Empowerment (Scotland) Act 2015 (Commencement No. 11) Order 2018 (SSI 2018/139 (C.12)).
5. **European Union (Withdrawal) Bill (UK Parliament legislation):** The Committee will consider a draft report on supplementary legislative consent memorandum LCM-S5-10a.

6. **Prescription (Scotland) Bill (in private):** The Committee will consider the themes that have arisen following evidence gathering on the Bill.

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The papers for this meeting are as follows—

**Agenda Items 2, 3 and 4**

Briefing on Instruments (private)  
DPLR/S5/18/16/1(P)

**Agenda Item 3**

Instrument Responses  
DPLR/S5/18/16/2

**Agenda Item 5**

- European Union (Withdrawal) Bill - supplementary legislative consent memorandum (LCM-S5-10a)
- European Union (Withdrawal) Bill - letter from the Minister for UK Negotiations on Scotland’s Place in Europe regarding draft protocols
- European Union (Withdrawal) Bill - as introduced in the House of Lords
- European Union (Withdrawal) Bill - Supplementary Delegated Powers Memorandum

Draft Report (private)  
DPLR/S5/18/16/3(P)

**Agenda Item 6**

- Prescription (Scotland) Bill - As Introduced
- Prescription (Scotland) Bill - Explanatory Notes

Briefing Paper (private)  
DPLR/S5/18/16/4(P)

Summary of Evidence (private)  
DPLR/S5/18/16/5(P)

SPICe Briefing (private)  
DPLR/S5/18/16/6(P)
DELEGATED POWERS AND LAW REFORM COMMITTEE

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Instrument Responses

INSTRUMENTS SUBJECT TO NEGATIVE PROCEDURE

National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018 (SSI 2018/124)

On 25 April 2018, the Scottish Government was asked:

1. In regulation 2(1)(interpretation), in the definition of "normal benefit age", reference is made to a person's election "under regulation 3". Should this reference instead be to a person's election "under regulation 4"?

2. Regulation 4(8) (making and acceptance of elections) refers to the "NHS Pension Scheme Scotland", rather than the "NHS Pension Scheme", a term defined in regulation 2(1). Is the intention to refer here to the (defined) "NHS Pension Scheme"?

3. Regulation 9(1) (inward transfers) applies to a person who enters pensionable employment and who has paid contributions "to another additional voluntary contribution which is a registered pension scheme". Would the meaning be clearer with the alternative wording "to another additional voluntary contribution scheme which is a registered pension scheme"?

4. Regulation 15(1) (payments by the Scottish Ministers) applies where an authorised provider or a selected authorised provider "fails to pay a benefit referred to in regulation 11(1)...". Should this cross-reference instead be to failure to pay a benefit referred to in regulation 12(1)?

5. Is corrective action proposed?

The Scottish Government responded as follows:

In reply to question 1, the reference should be to regulation 4.

In reply to question 2 the reference should be to NHS Pension Scheme.

In reply to question 3, it is agreed that including the word ‘scheme’ would improve the drafting.

In reply to question 4, the reference should be to regulation 12(1).

In reply to question 5, it is proposed to amend the regulations as proposed by the Committee at the next set of amending regulations which is scheduled for late summer.