



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 14 November 2017**

**Session 5**



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Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**  
**31<sup>st</sup> Meeting 2017, Session 5**

**CONVENER**

\*Graham Simpson (Central Scotland) (Con)

**DEPUTY CONVENER**

\*Stuart McMillan (Greenock and Inverclyde) (SNP)

**COMMITTEE MEMBERS**

\*Alison Harris (Central Scotland) (Con)  
Monica Lennon (Central Scotland) (Lab)  
\*David Torrance (Kirkcaldy) (SNP)

\*attended

**CLERK TO THE COMMITTEE**

Euan Donald

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Delegated Powers and Law Reform Committee

Tuesday 14 November 2017

*[The Convener opened the meeting at 10:00]*

#### Decision on Taking Business in Private

**The Convener (Graham Simpson):** I welcome members to the 31st meeting in 2017 of the Delegated Powers and Law Reform Committee. We have received apologies from Monica Lennon.

Under agenda item 1, it is proposed that the committee take in private agenda item 5, which is consideration of a draft report to the Finance and Constitution Committee on the legislative consent memorandum relating to the European Union (Withdrawal) Bill. Does the committee agree to do so?

**Members** *indicated agreement.*

#### Instrument subject to Affirmative Procedure

##### Public Bodies (Joint Working) (Prescribed Local Authority Functions etc) (Scotland) Amendment (No 2) Regulations 2017 [Draft]

10:00

**The Convener:** No points have been raised by our legal advisers on the instrument. Is the committee content with it?

**Members** *indicated agreement.*

## Instruments subject to Negative Procedure

### First-tier Tribunal for Scotland General Regulatory Chamber Charity Appeals (Procedure) Regulations 2017 (SSI 2017/364)

10:01

**The Convener:** The first instrument under agenda item 3 is part of a package of instruments relating to tribunals. Scottish statutory instrument 2017/364 establishes rules of procedure for the first-tier tribunal general regulatory chamber to follow when it deals with appeals against decisions of the Office of the Scottish Charity Regulator.

The rules that are set out in the schedule to the instrument are entitled "The First-tier Tribunal for Scotland General Regulatory Chamber Charity Appeals Rules of Procedure 2018". However, regulation 1 of the instrument provides in error that the rules may be cited as "The First-tier Tribunal for Scotland General Regulatory Chamber Rules of Procedure 2018".

Does the committee wish to draw the instrument to the attention of the Parliament under the general reporting ground, as it contains a drafting error?

**Members** *indicated agreement.*

**The Convener:** Does the committee wish to welcome the fact that the Scottish Government has agreed to make an amending instrument to correct that error, which will come into force at the same time as the instrument?

**Members** *indicated agreement.*

### First-tier Tribunal for Scotland Health and Education Chamber (Procedure) Regulations 2017 (SSI 2017/366)

**The Convener:** The regulations establish rules of procedure for the first-tier tribunal health and education chamber, and our legal advisers have indicated that they contain some drafting errors.

First, rules 32(2), 33(4), 78(2) and 79(4) in the schedule make provision for citations to call witnesses and for the recovery of documents. The citations must explain that it is an offence under the Scottish Tribunals (Offences in Relation to Proceedings) Regulations 2016 (SSI 2016/342) to do certain things that are specified in those rules and that a person who is guilty of such an offence may be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale. There should be an additional reference in those rules to

such a person's liability, on summary conviction, to imprisonment for a term not exceeding 12 months.

Secondly, the reference under "Attendance at hearings" in rule 84(7)(a) to

"the person to whom the claim relates, where the person is the claimant"

should be omitted, as it appears to be superfluous.

Thirdly, there is a paragraphing error in rule 92, "Restricted reporting orders". The text of paragraphs (2) and (3) should all be in paragraph (2). As a result, paragraphs (2) to (5) should be renumbered (2) to (4).

Does the committee agree to draw the regulations to the attention of the Parliament on the general reporting ground, as they contain those drafting errors?

**Members** *indicated agreement.*

**The Convener:** Does the committee welcome the fact that the Scottish Government has undertaken to make an amending instrument for the regulations, which will come into force on 12 January 2018, timeously?

**Members** *indicated agreement.*

**The Convener:** No points have been raised by our legal advisers on the following three instruments.

**First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 (SSI 2017/369)**

**Land Reform (Scotland) Act 2016 (Commencement No 6, Transitory and Saving Provisions) (Modern Limited Duration Tenancies) Miscellaneous Amendments Regulations 2017 (SSI 2017/370)**

**Public Bodies (Joint Working) (Prescribed Health Board Functions) (Scotland) Amendment Regulations 2017 (SSI 2017/381)**

**The Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

**The Convener:** Does the committee welcome the fact that SSI 2017/369 and SSI 2017/370 implement promptly the Scottish Government's undertaking to correct the errors that we pointed out at last week's meeting?

**Members** *indicated agreement.*

**The Convener:** The Government should be commended for acting so swiftly, given how many errors there were.

**Instrument not subject to Parliamentary Procedure**

**Education (Scotland) Act 2016 (Commencement No 4) Regulations 2017 (SSI 2017/354 (C 28))**

10:05

**The Convener:** No points have been raised by our legal advisers on the instrument. Is the committee content with it?

**Members** *indicated agreement.*

10:05

*Meeting continued in private until 10:15.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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