



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 30 October 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot or by contacting Public Information on 0131 348 5000

Tuesday 30 October 2018

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	1
INSTRUMENT SUBJECT TO NEGATIVE PROCEDURE.....	2
Council Tax Reduction (Scotland) Amendment (No 3) Regulations 2018 (SSI 2018/295).....	2

DELEGATED POWERS AND LAW REFORM COMMITTEE

31st Meeting 2018, Session 5

CONVENER

*Graham Simpson (Central Scotland) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

*Tom Arthur (Renfrewshire South) (SNP)

Neil Findlay (Lothian) (Lab)

Alison Harris (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Bill Bowman (North East Scotland) (Con) (Committee Substitute)

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 30 October 2018

[The Convener opened the meeting at 10:00]

Decision on Taking Business in Private

The Convener (Graham Simpson): I welcome everyone to the 31st meeting in 2018 of the Delegated Powers and Law Reform Committee.

Under agenda item 1, it is proposed that the committee takes in private item 3, which is consideration of the delegated powers provisions in the Census (Amendment) (Scotland) Bill. Does the committee agree to take that item in private?

Members indicated agreement.

The Convener: I should have mentioned that we have received apologies from Neil Findlay and Alison Harris.

Instrument subject to Negative Procedure

Council Tax Reduction (Scotland) Amendment (No 3) Regulations 2018 (SSI 2018/295)

10:01

The Convener: The regulations make further amendments to the Council Tax Reduction (Scotland) Regulations 2012 (SSI 2012/303) and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (SSI 2012/319), which are the principal regulations. There are two issues for the committee to address, the first of which is a drafting error that relates to the definition of

“an error on a point of law”

that is contained in regulation 4(a). The error has been acknowledged by the Scottish Government.

Does the committee wish to draw the regulations to the attention of the Parliament on reporting ground (i), as there appears to be defective drafting in regulation 4(a)?

Members indicated agreement.

The Convener: Does the committee wish to recommend that, if the Scottish Government assesses that that drafting error could have some unintended effects, it might be preferable to bring forward an amendment to correct the error promptly, given that the provisions will come into force on 28 November?

Members indicated agreement.

The Convener: The second issue relates to the question whether the regulations raise a devolution issue, as they might relate to matters that are reserved under section F1 of part II of schedule 5 to the Scotland Act 1998, which concerns social security schemes. As the committee knows, we have considered that question each time the principal regulations have been amended. This is the fifteenth such amendment of the principal regulations. On the five amendments that have been considered this session, the committee has agreed, on division, to report that the regulations raise a devolution issue. The committee recognises that the Scottish Government takes a contrary view.

Since September 2016, new exception 10 to the social security reservation has given the Parliament powers to create new benefit schemes in areas of devolved responsibility where the requirements of the exception are satisfied, including that the new scheme must be funded from the Scottish consolidated fund.

When the committee reported on the Council Tax Reduction (Scotland) Amendment Regulations 2017 (SSI 2017/41), it suggested to the Scottish Government that framing a new scheme in consolidating regulations could remove the committee's concern, if that scheme were to comply with the requirements of exception 10. To date, the Scottish Government has indicated that it has no plans to undertake a consolidation. Therefore, it seems unlikely that the difference of view on the devolution issue will be resolved in the immediate future.

Do members have any comments?

Members: No.

The Convener: As the committee has clearly stated its position on the devolution issue and its possible resolution in previous reports, does the committee consider that it is not necessary to repeat that view again, and for that to be explained in the report on the regulations before us?

Members *indicated agreement.*

The Convener: Does the committee wish to continue to encourage the Scottish Government to undertake a consolidation of the principal regulations within a reasonable timescale in the interests of clarity and accessibility?

Members *indicated agreement.*

10:05

Meeting continued in private until 10:08.

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.

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on
the Scottish Parliament website at:

www.parliament.scot

Information on non-endorsed print suppliers
is available here:

www.parliament.scot/documents

For information on the Scottish Parliament contact
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: sp.info@parliament.scot



The Scottish Parliament
Pàrlamaid na h-Alba