



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 10 March 2020

Session 5



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE
9th Meeting 2020, Session 5

CONVENER

*Bill Bowman (North East Scotland) (Con)

DEPUTY CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

COMMITTEE MEMBERS

*Mary Fee (West Scotland) (Lab)

*Gordon Lindhurst (Lothian) (Con)

*Gil Paterson (Clydebank and Milngavie) (SNP)

*attended

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 10 March 2020

[The Convener opened the meeting at 10:07]

Decision on Taking Business in Private

The Convener (Bill Bowman): Good morning. I welcome everyone to the ninth meeting in 2020 of the Delegated Powers and Law Reform Committee.

Under agenda item 1, it is proposed that the committee takes items 4 and 5 in private, as they involve consideration of reports that will be published once they have been agreed.

Does the committee agree to take items 4 and 5 in private?

Members indicated agreement.

Instruments subject to Affirmative Procedure

10:07

The Convener: Agenda item 2 is consideration of three affirmative instruments, on which no points have been raised.

Representation of the People (Annual Canvass) (Miscellaneous Amendments) (Scotland) Regulations 2020 [Draft]

Local Government Finance (Scotland) Order 2020 [Draft]

Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2020 (SSI 2020/65)

The Convener: Is the committee content with the instruments?

Members indicated agreement.

Instruments subject to Negative Procedure

Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/31)

10:08

The Convener: Agenda item 3 is consideration of two negative instruments, the first of which is SSI 2020/31. Regulation 1(1) provides that, “subject to paragraph (2)”, the regulations come into force on 31 March 2020. Paragraph (2) provides that

“Regulation 3 has effect from 1 March 2020.”

It could be considered insufficiently clear whether the effect of that provision is that the regulation comes into force and has effect on 1 March or whether it comes into force on 31 March but its legal effect is backdated to 1 March. The Scottish Government has confirmed that the intention is the latter, with all the regulations coming into force on 31 March.

Furthermore, regulation 2(2) inserts new paragraph 2A into schedule 4 of the Local Government Pension Scheme (Scotland) Regulations 2018 (SSI 2018/141). It provides that

“The Scottish Ministers may, on application of an administering authority ... substitute a different fund maintained by that administering authority as the appropriate fund for a Scheme employer.”

The Scottish Government has confirmed that the reference in paragraph 2A to “the appropriate fund” is to the appropriate fund that is specified in column 2 of the table in schedule 4. However, at present, that column identifies only the authority whose fund is the appropriate fund for a particular employee. The Scottish Government has explained that the intention is to enable a sub-fund to be specified. It could be considered that the meaning of paragraph 2A could be clearer in expressing the intention to enable a sub-fund to be specified.

Does the committee therefore wish to report the regulations on reporting ground (h), as the meaning of regulations 1 and 2(2) could be clearer?

Members indicated agreement.

The Convener: Does the committee wish to call on the Scottish Government to take action to clarify the meaning of the provisions in question at the next opportunity?

Members indicated agreement.

Mary Fee (West Scotland) (Lab): It is fairly unusual for us to consider an instrument on which a number of different issues have been highlighted in our papers, and I think that it would be helpful to write to the Government to raise the points that we have discussed. We should ask for clarity on those points and on the timetable for making the amendments that are required.

The Convener: That seems a reasonable suggestion. Does the committee agree to do that?

Members indicated agreement.

The Convener: The regulations also correct a drafting error in the Local Government Pension Scheme (Increased Pension Entitlement) (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI 2019/438) that was identified by the committee in its report of 21 January 2020.

Does the committee wish to welcome that correction?

Members indicated agreement.

Council Tax Reduction (Scotland) Amendment (No 2) Regulations 2020 (SSI 2020/64)

The Convener: No points have been raised on SSI 2020/64. Is the committee content with it?

Members indicated agreement.

The Convener: Does the committee wish to welcome the fact that the instrument corrects cross-referencing errors in regulations 3 and 4 of the Council Tax Reduction (Scotland) Amendment Regulations 2020 (SSI 2020/25), as reported by the committee at its meeting on 25 February 2020?

Members indicated agreement.

10:11

Meeting continued in private until 10:33.

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