



OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Delegated Powers and Law Reform Committee

Tuesday 19 September 2023

Session 6



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Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE
25th Meeting 2023, Session 6

CONVENER

*Stuart McMillan (Greenock and Inverclyde) (SNP)

DEPUTY CONVENER

*Bill Kidd (Glasgow Anniesland) (SNP)

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Con)

*Oliver Mundell (Dumfriesshire) (Con)

*Mercedes Villalba (North East Scotland) (Lab)

*attended

CLERK TO THE COMMITTEE

Greg Black

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 19 September 2023

[The Convener opened the meeting at 10:10]

Decision on Taking Business in Private

The Convener (Stuart McMillan): Welcome to the 25th meeting in 2023 of the Delegated Powers and Law Reform Committee. I remind everyone present to switch their mobile phones to silent.

The first item of business is to decide whether to take items 5 and 6 in private. Is the committee content to take those items in private?

Members *indicated agreement.*

Instrument subject to Affirmative Procedure

10:10

The Convener: Under agenda item 2, we are considering one instrument, on which no points have been raised.

Disability Assistance (Miscellaneous Amendment) (Scotland) Regulations 2023 [Draft]

The Convener: Is the committee content with the instrument?

Members *indicated agreement.*

Instruments subject to Negative Procedure

10:10

The Convener: Under agenda item 3, we are considering eight instruments. Issues have been raised on the following five instruments.

Police Pensions (Remediable Service) (Scotland) Regulations 2023 (SSI 2023/239)

Local Government Pension Scheme (Remediable Service) (Scotland) Regulations 2023 (SSI 2023/240)

Teachers' Pensions (Remediable Service) (Scotland) Regulations 2023 (SSI 2023/241)

Firefighters' Pensions (Remediable Service) (Scotland) Regulations 2023 (SSI 2023/242)

National Health Service Pension Schemes (Remediable Service) (Scotland) Regulations 2023 (SSI 2023/246)

The Convener: The five instruments form a package relating to Scottish public sector pension schemes and are the legislative response to a Court of Appeal decision that is known as the McCloud judgment, on discrimination in transitional protection arrangements.

In relation to all five instruments, does the committee wish to draw them to the attention of the Parliament on reporting ground (j), which is the failure to lay an instrument in accordance with laying requirements under the Interpretation and Legislative Reform (Scotland) Act 2010, as they have all breached the 28-day requirement?

Members indicated agreement.

The Convener: Does the committee wish to indicate that it is content with the explanation that the Scottish Government has provided for the breaches of the laying requirement?

Members indicated agreement.

The Convener: In relation to Scottish statutory instrument 2023/239, on police pensions, does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (h), that the meaning could be clearer, in that the references in regulations 10(c), 13(4), 16(b) and paragraph 1(1) of the schedule could be to defined terms; and that, in paragraph 3 of the schedule, the eligible decision maker is a guardian only, but it appears that this should also include a parent?

Members indicated agreement.

The Convener: Does the committee also wish to draw the instrument to the attention of the Parliament on the general reporting ground, in that, in the preamble, the reference to paragraph 7(a) of schedule 2 to the 2013 act should be to paragraph 7(b), and in respect of incorrect references in regulations 18(2) and 24(1)(b)(i) and in paragraph 1(1) of the schedule?

Members indicated agreement.

The Convener: Does the committee wish to note that the Scottish Government proposes to correct the error in the preamble by correction slip and to address the other points raised by way of an amending instrument?

Members indicated agreement.

The Convener: In relation to SSI 2023/240, on local government pensions, does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground, for the erroneous references to the Local Government Pension Scheme (Transitional Protection Remedy) (Scotland) Regulations 2023 in regulations 2(4), 3(13), 3(15) and 13(4) of the instrument?

Members indicated agreement.

The Convener: Does the committee wish to note that the Scottish Government intends to correct the errors by correction slip?

Members indicated agreement.

The Convener: In relation to SSI 2023/241, on teachers' pensions, does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (h), that the meaning could be clearer, in that references in regulations 2(1) and 46(7) and paragraph 1(1) of the schedule could be to defined terms; and that, in paragraph 3 of the schedule, the eligible decision maker is a guardian only, but it appears that this should also include a parent?

Members indicated agreement.

The Convener: Does the committee also wish to draw the instrument to the attention of the Parliament on the general reporting ground, in respect of incorrect references in regulations 23, 55(1)(b), 63(1)(c), 64(2) and 64(5)?

Members indicated agreement.

The Convener: Does the committee wish to note that the Scottish Government proposes to address those matters in the next amending instrument?

Members indicated agreement.

The Convener: In relation to SSI 2023/242, on firefighters' pensions, does the committee wish to

draw the instrument to the attention of the Parliament on reporting ground (i), on defective drafting, in that the drafting of regulation 17(11) appears to be defective given the error concerning to whom the money is to be paid, and that the drafting of paragraphs 11(2)(b)(ii) and 7(2)(b) of the schedule appears to be defective because the provisions fail to state who the eligible decision maker is?

Members *indicated agreement.*

10:15

The Convener: Does the committee also wish to draw the instrument to the attention of the Parliament on reporting ground (h), that the meaning could be clearer, in that references in regulations 10(c), 13(4), 16(b), 54(1)(b) and paragraph 1(1) of the schedule could be to defined terms and that, in paragraph 3 of the schedule, the eligible decision maker is a guardian only, but it appears that this should also include a parent?

Members *indicated agreement.*

The Convener: Does the committee also wish to draw the instrument to the attention of the Parliament on the general reporting ground, in respect of the fact that, in the preamble, the reference to paragraph 6(a) of schedule 2 to the 2013 act should be to paragraph 6(c); and that there are incorrect references in regulations 2(1), 12(8)(b), 24(1)(b)(i), 62(2), 65(9) and paragraph 1(1) of the schedule?

Members *indicated agreement.*

The Convener: Does the committee wish to note that the Scottish Government proposes to correct the error in the preamble by correction slip and to address the other matters by way of an amending instrument?

Members *indicated agreement.*

The Convener: In relation to SSI 2023/246, on national health service pensions, does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground, in respect of incorrect references in regulations 5(4), 7(2)(a) and 18(12)(b)?

Members *indicated agreement.*

The Convener: Does the committee also wish to note that the Scottish Government proposes to address those matters in the next amending instrument?

Members *indicated agreement.*

The Convener: Also under this agenda item, no points have been raised on the following three instruments.

**Parking Attendants (Wearing of Uniforms)
(North Ayrshire Council) Regulations 2023
(SSI 2023/248)**

**Local Government Investments (Scotland)
Amendment Regulations 2023 (SSI
2023/255)**

**Sports Grounds and Sporting Events
(Designation) (Scotland) Amendment
Order 2023 (SSI 2023/257)**

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instrument not subject to Parliamentary Procedure

10:17

Meeting continued in private until 10:29.

10:17

The Convener: Under agenda item 4, we are considering one instrument, on which no points have been raised.

Transport (Scotland) Act 2019 (Commencement No 7) Regulations 2023 (SSI 2023/250 (C 20))

The Convener: Is the committee content with the instrument?

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Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447
Fax: 0131 348 5423

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