

Delegated Powers and Law Reform Committee
Tuesday, 3rd September 2024
23rd Meeting, 2024 (Session 6)

Instrument Responses

Police Service of Scotland (Amendment) Regulations 2024 (SSI 2024/179)

On Tuesday 20th August 2024, the Committee asked the Scottish Government:

Regulation 8 of the instrument amends regulation 31 of the principal regulations with the effect that, in reckoning the service of a constable, the performance of duties of a higher rank (in respect of which temporary salary is payable) is to be treated as service in that higher rank where the duties were performed on or after 1 January 2023. However, the limitation (in regulation 8(3) of the instrument) that this applies only to duties performed on or after 1 January 2023 will not appear in the principal regulations as amended, as it is not a textual amendment. Will it be sufficiently clear to the reader of the principal regulations, as amended, that this limitation applies?

Please confirm whether any corrective action is proposed, and if so, what action and when.

On 27th August 2024, the Scottish Government responded:

The Scottish Government is of the view that corrective action is unnecessary in the circumstances. This instrument affects a specific group of persons who are likely to be aware of the relevant agreement which was reached by the Police Negotiating Board (that all periods of temporary duty performed at a higher rank will be reckonable with effect from 1 January 2023) and which forms the basis for this amendment. The Police Negotiating Board agreement was published in a circular and the information was also disseminated to all constables in the 'Police Officer Handbook - Agreed Guide to Police Officer Conditions in Scotland'.

A draft of this instrument was shared with the Police Negotiating Board for Scotland and also with the persons mentioned in section 54(2)(a)(i) to (vi) of the Police and Fire Reform (Scotland) Act 2012. No representations were made by any of these persons.

Valuation (Proposals Procedure) (Scotland) Amendment Regulations 2024 (SSI 2024/186)

On Monday 5th August 2024, the Committee asked the Scottish Government:

Regulation 17ZA(6) provides that: "(6) Where a proposal is made in reliance on section 3ZA(2)(d) of the 1975 Act (error in the entry), the last date for making a proposal is 31 March in the year preceding the year of revaluation immediately following the making of the proposal."

This provision replaces paragraph (c) of the sixth entry in Schedule 1 of the Valuation Timetable (Scotland) Order 2022, which provides that the last date for making a proposal under that section is “31 March in the year preceding the immediately following year of revaluation”.

New 17ZA(6) sets a deadline for making a proposal, but it does so by reference to the year in which that proposal is made. In other words, the deadline is self-referential. The effect would appear to be that the deadline will be a rolling deadline, which does not appear to be the policy intention.

We note that the Policy Note states, “On the ground that there is an error in the entry, the deadline to make a proposal is 31 March in the year preceding the immediately following year of revaluation.”

Can you please confirm whether section 17ZA(6) accurately reflects the policy intention, and, if not, whether any corrective action is proposed?

On Monday 26th August 2024, the Scottish Government responded:

Section 37(1) of the Local Government (Scotland) Act 1975 (“the 1975 Act”) defines “year of revaluation” as “the year 2023-2024 and each third year thereafter”.

New regulation 17ZA(6) of the Valuation (Proposals Procedure) (Scotland) Regulations 2022 says that where a proposal is made in reliance on section 3ZA(2)(d) of the 1975 Act, the last date for making a proposal is 31 March in the year preceding the year of revaluation immediately following the making of the proposal. This amounts to the day before the start of the next year of revaluation that comes around after a proposal is made. However, the original policy intention was that the deadline should be the day before the day on which the next revaluation year begins, directly following on the revaluation year at the start of which the valuation roll that contains an alleged error in an entry comes into force. This will be the last day that the valuation roll containing the relevant entry is in force. As such, you are correct to identify a discrepancy between the original policy intention and the wording in regulation 17ZA(6).

Although this has no bearing on the validity of the instrument, and in practice ratepayers are perhaps unlikely to make proposals in relation to an entry beyond the expiry of the 3 year valuation cycle to which that entry relates, the Scottish Government does consider it prudent to bring the regulation into alignment with the original policy intent. For that reason the Scottish Government intends to bring forward amending regulations to address the issue. This will be done at the next suitable opportunity, taking into consideration any other amendments to the 2022 Regulations that may potentially be required, and in any case well in advance of the intended cut-off date for making a proposal in reliance on section 3ZA(2)(d) of the 1975 Act in relation to an error in an entry in the valuation roll currently in force. That date is 31 March 2026.