



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 26 November 2019**

**Session 5**



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Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**  
**32<sup>nd</sup> Meeting 2019, Session 5**

**CONVENER**

\*Graham Simpson (Central Scotland) (Con)

**DEPUTY CONVENER**

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

**COMMITTEE MEMBERS**

\*Tom Arthur (Renfrewshire South) (SNP)

Jeremy Balfour (Lothian) (Con)

\*Mary Fee (West Scotland) (Lab)

\*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 26 November 2019*

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

### Decision on Taking Business in Private

**The Convener (Graham Simpson):** I welcome everyone to the 32nd meeting in 2019 of the Delegated Powers and Law Reform Committee.

Under agenda item 1, it is proposed that the committee take items 5 and 6 in private. Do members agree to do that?

**Members** *indicated agreement.*

## Instrument subject to Affirmative Procedure

**Environment (EU Exit) (Scotland)  
(Amendment etc) (No 2) Regulations 2019  
[Draft]**

10:00

**The Convener:** Agenda item 2 is consideration of an affirmative instrument, on which no points have been raised. Is the committee content with the instrument?

**Members** *indicated agreement.*

## Instruments subject to Negative Procedure

### Police Pensions Amendment (Increased Pension Entitlement) (Scotland) Regulations 2019 (SSI 2019/380)

10:00

**The Convener:** The first instrument for consideration under agenda item 3 is SSI 2019/380, which will amend the Police Pensions Regulations 1987 (SI 1987/257) to make provision to ensure continuity of an affected member's police pension at its current rate, where incorrect guaranteed minimum pension data has applied to the annual indexation of that pension.

The instrument uses the acronyms "HMRC" and "SPPA" without defining what they mean. They are also undefined in the 1987 regulations that are being amended and in the parent statutes. That is not in line with Scottish Government drafting guidance, which states that acronyms nearly always need the support of a definition.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (h), because the meaning of the terms "HMRC" and "SPPA" could be clearer?

**Members indicated agreement.**

**The Convener:** Does the committee wish to call on the Scottish Government to amend the 1987 regulations to clarify the matter at the next available opportunity?

**Members indicated agreement.**

### Firefighters' Pension Scheme Amendment (Increased Pension Entitlement) (Scotland) Order 2019 (SSI 2019/381)

**The Convener:** SSI 2019/381 will amend the Firemen's Pension Scheme Order 1992 (SI 1992/129) to make provision to ensure continuity of an affected firefighter's pension at its current rate, where incorrect guaranteed minimum pension data has applied to the annual indexation of that pension.

The same issue arises with this instrument as arose with the previous one, in that the acronyms "HMRC" and "SPPA" are used but not defined in the instrument itself, the 1992 order that is being amended or the parent statutes.

Does the committee therefore wish to draw the instrument to the attention of the Parliament on reporting ground (h), because the meaning of the terms "HMRC" and "SPPA" could be clearer?

**Members indicated agreement.**

**The Convener:** Does the committee wish to call on the Scottish Government to amend the 1992 order to clarify the matter at the next available opportunity?

**Members indicated agreement.**

### Firefighters' Pension and Compensation Schemes (Amendment) (Scotland) Order 2019 (SSI 2019/382)

**The Convener:** SSI 2019/382 will amend the Firemen's Pension Scheme Order 1992 and the Firefighters' Compensation Scheme (Scotland) Order 2006 (SSI 2006/338) to improve the fairness of those schemes and to enable the Scottish Fire and Rescue Service to pay a higher lump sum.

There is an error relating to the consistency of the retrospective provision that is made in article 1(3). For consistency with article 1(3), article 2 should have retrospective effect from 1 April 2007, because that is necessary to give effect to article 3, which has effect from that date. Article 2 should also have retrospective effect from 16 December 2014 because that is necessary to give effect to article 7, which has effect from that date. Furthermore, article 9 should have retrospective effect from 5 December 2005, because that is necessary to give effect to articles 10 to 12, which have effect from that date.

Does the committee wish to draw the instrument to the attention of the Parliament on the general reporting ground, because there is inconsistency in the retrospective provision?

**Members indicated agreement.**

**The Convener:** Does the committee wish to call on the Scottish Government to lay an amending instrument to rectify that error?

**Members indicated agreement.**

### Scottish Tribunals (Eligibility for Appointment) Amendment Regulations 2019 (SSI 2019/384)

### Charities Accounts (Scotland) Amendment Regulations 2019 (SSI 2019/393)

**The Convener:** No points have been raised on SSI 2019/384 or on SSI 2019/393. Is the committee content with the instruments?

**Members indicated agreement.**

## Instruments not subject to Parliamentary Procedure

10:06

*Meeting continued in private until 10:14.*

### **Planning (Scotland) Act 2019 (Commencement No 2, Saving and Transitional Provisions) Regulations 2019 (SSI 2019/377 (C 19))**

10:05

**The Convener:** The first instrument for consideration under agenda item 4 is SSI 2019/377, which will commence three sections of the Planning (Scotland) Act 2019 and make saving and transitional provisions.

Regulation 9 saves the provisions of section 145 of the Town and Country Planning (Scotland) Act 1997, as they have effect before 20 December 2019 in respect of a planning contravention notice that is served before that date. However, the provisions should instead have been saved in respect of a breach of condition notice—a different type of notice—that is served before that date. That means that the provision will not have the intended effect.

The Scottish Government has acknowledged the error and has indicated that it intends to lay an amending instrument in time for the regulations' coming into force on 20 December.

Does the committee wish to draw the regulations to the attention of the Parliament on reporting ground (i), because the drafting of regulation 9 appears to be defective?

**Members** *indicated agreement.*

**The Convener:** Does the committee wish to welcome the Scottish Government's intention to lay an amending instrument before the regulations come into force?

**Members** *indicated agreement.*

### **Planning (Scotland) Act 2019 (Commencement No 3) Regulations 2019 (SSI 2019/385 (C 20))**

### **Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019 (Commencement No 1 and Transitional Provisions) Regulations 2019 (SSI 2019/392 (C 21))**

**The Convener:** No points have been raised on SSI 2019/385 and SSI 2019/392. Is the committee content with the instruments?

**Members** *indicated agreement.*



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