



OFFICIAL REPORT
AITHISG OIFIGEIL

Delegated Powers and Law Reform Committee

Tuesday 4 September 2018

Session 5



The Scottish Parliament
Pàrlamaid na h-Alba

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DELEGATED POWERS AND LAW REFORM COMMITTEE

24th 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

CLERK TO THE COMMITTEE

Andrew Proudfoot

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Delegated Powers and Law Reform Committee

Tuesday 4 September 2018

[The Convener opened the meeting at 09:45]

Decision on Taking Business in Private

The Convener (Graham Simpson): I welcome members to the 24th meeting in 2018 of the Delegated Powers and Law Reform Committee. Under agenda item 1, it is proposed that the committee takes items 6, 7, 8, 9 and 10 in private. Those items are consideration of the delegated powers provisions in various bills, and our work programme.

It is also proposed that the committee considers in private its approach to the delegated powers provisions in the bills being taken at its meeting on 11 September.

Does the committee agree to take those items in private?

Members *indicated agreement.*

Instruments/documents laid for Consultation

Land Reform (Scotland) Act 2016 (Register of Persons Holding a Controlled Interest in Land) (Scotland) Regulations 2021— Proposed Draft Regulations (SG/2018/103) and Proposed Explanatory Document (SG/2018/104)

09:45

The Convener: Agenda item 2 is consideration of a document laid for consultation.

The proposed draft regulations would create a new register—the register of persons holding a controlled interest in land—under section 39 of the Land Reform Scotland Act 2016.

Does the committee wish to draw the proposed draft regulations to the attention of the Parliament on reporting ground (h), as the meaning of paragraphs 15(a) to (c) of schedule 1 to the draft regulations could be clearer? The effect of the sub-paragraphs is to provide examples to explain the type of situation where significant influence or control may exist in respect of an overseas entity. Reference is made to “the company”. That could be clearer, as the provision is not intended to refer to United Kingdom companies.

Members *indicated agreement.*

The Convener: There is also an instance of drafting that is not gender neutral. Draft regulation 7(1) refers to the keeper of the registers of Scotland as “she”.

Does the committee wish to draw the proposed draft regulation to the attention of the Parliament on that general ground?

Members *indicated agreement.*

The Convener: Does the committee wish to note that the Government has undertaken to correct those matters in the next version of the draft regulations, which would be laid under section 40 of the Land Reform (Scotland) Act 2016?

Members *indicated agreement.*

Instruments subject to Affirmative Procedure

09:47

The Convener: Under agenda item 3, no points have been raised on the following three instruments.

Public Services Reform (Poverty and Inequality Commission) (Scotland) Order 2018 [Draft]

Public Appointments and Public Bodies etc (Scotland) Act 2003 (Treatment of Poverty and Inequality Commission and Scottish Commission on Social Security as Specified Authorities) Order 2018 [Draft]

Regulation of Social Housing (Influence of Local Authorities) (Scotland) Regulations 2018 [Draft]

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments subject to Negative Procedure

Council Tax Reduction (Scotland) Amendment (No 2) Regulations 2018 (SSI 2018/211)

09:48

The Convener: The first instrument for consideration under agenda item 4 is SSI 2018/211.

The regulations make further amendments to the Council Tax Reduction (Scotland) Regulations 2012 (SSI 2012/203) and the Council Tax Reduction State Pension Credit (Scotland) Regulations 2012 (SSI 2012/319), which are the principal regulations.

Our legal advisers suggest that the regulations raise a devolution issue for the same reason as was discussed by the committee when previously considering the principal regulations and subsequent amending instruments, which is that the regulations may relate to matters that are reserved by section F1 of part 2 of schedule 5 to the Scotland Act 1998, in relation to social security schemes.

It is recognised that the Scottish Government takes a contrary view. "Exception 10" has been inserted into the social security reservation in the Scotland Act 1998. That exception has given the Scottish Parliament powers to create benefit schemes in areas of devolved responsibility where the requirements of the exception are satisfied—including that the scheme must be funded from the Scottish consolidated fund.

In relation to the Council Tax Reduction (Scotland) Amendment Regulations 2017 (SSI 2017/41) and the Council Tax Reduction (Scotland) Amendment (No 2) Regulations 2017 (SSI 2017/326), the committee suggested to the Scottish Government that framing a new discrete scheme could avoid the committee's concern, were that scheme to comply with the requirements of exception 10. The committee also highlighted that a new discrete scheme would have a further benefit of accessibility to readers, if consolidated regulations could be produced, as that was the 14th amending instrument. The principal regulations are well in need of consolidation.

On 7 February 2018, the Cabinet Secretary for Finance and the Constitution wrote to me expressing the view that consolidation of the principal regulations was not essential. However, the cabinet secretary committed to updating the committee on potential ways forward for the council tax reduction scheme, in the light of

changes to both the reserved and devolved benefits systems, and said that that would be done in the

“late summer of this year”.

Do members have any comments?

Members: No.

The Convener: Does the committee wish to draw the regulations to the attention of Parliament on reporting ground (f), on the basis that they raise a devolution issue? My view is that we should, so I have a proposition that we can put to a vote.

The proposition is, that the committee considers that the regulations raise a devolution issue and should be drawn to the attention of the Parliament on that basis. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Findlay, Neil (Lothian) (Lab)
Harris, Alison (Central Scotland) (Con)
Simpson, Graham (Central Scotland) (Con)

Against

Arthur, Tom (Renfrewshire South) (SNP)
McMillan, Stuart (Greenock and Inverclyde) (SNP)

The Convener: The result of the division is: For 3, Against 2, Abstentions 0.

The proposition is agreed to.

Is the committee also content to write again to the finance secretary to obtain an update, in light of the earlier commitment?

Members *indicated agreement.*

The Convener: No points have been raised on the following instruments.

**Letting Agent Registration (Scotland)
Amendment Regulations 2018
(SSI 2018/196)**

**National Health Service (General
Ophthalmic Services) (Scotland)
Amendment Regulations 2018
(SSI 2018/212)**

**Firefighters' Pension Scheme (Scotland)
Amendment Order 2018 (SSI 2018/215)**

**Firemen's Pension Scheme (Amendment)
(Scotland) Order 2018 (SSI 2018/216)**

**Regulation of Investigatory Powers
(Prescription of Offices, etc and
Specification of Public Authorities)
(Scotland) Amendment Order 2018
(SSI 2018/218)**

**Scalpay Island, Isle of Skye, Scallops
Several Fishery Order 2018 (SSI 2018/245)**

**Licensing (Fees) (Scotland) Amendment
Regulations 2018 (SSI 2018/256)**

**Scottish Administration (Offices) Order
2018 (SI 2018/781)**

**CRC Energy Efficiency Scheme
(Revocation and Savings) Order 2018
(SI 2018/841)**

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

Instruments not subject to Parliamentary Procedure

09:53

Meeting continued in private until 10:18.

09:52

The Convener: No points have been raised on the following instruments.

**Act of Adjournal (Criminal Procedure
Rules 1996 Amendment) (Approval of
Sentencing Guidelines) 2018
(SSI 2018/229)**

**Housing (Amendment) (Scotland) Act 2018
(Commencement and Savings Provisions)
Regulations 2018 (SSI 2018/253 (C18))**

The Convener: Is the committee content with the instruments?

Members *indicated agreement.*

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.

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