



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

**Tuesday 2 October 2018**

**Session 5**



The Scottish Parliament  
Pàrlamaid na h-Alba

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**DELEGATED POWERS AND LAW REFORM COMMITTEE**

**29<sup>th</sup> 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 2 October 2018*

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

**Decision on Taking Business in Private**

**The Convener (Graham Simpson):** I welcome everyone to the 29th meeting in 2018 of the Delegated Powers and Law Reform Committee.

Under agenda item 1, it is proposed that the committee takes in private items 5 to 9, which involve consideration of delegated powers provisions in bills and in legislative consent memorandums relating to United Kingdom bills. Does the committee agree to take those items in private?

**Members** *indicated agreement.*

**Instruments subject to Affirmative Procedure**

**First-tier Tribunal for Scotland Social Security Chamber and Upper Tribunal for Scotland (Composition) Regulations 2018 [Draft]**

10:01

**The Convener:** The regulations provide for the composition of the social security chamber of the First-tier Tribunal for Scotland when dealing with appeals under certain provisions of the Social Security (Scotland) Act 2018.

The committee may wish to draw the regulations to the attention of the Parliament on reporting ground (e), as there appears to be a doubt about whether regulation 5 is *intra vires*. Specifically, there is a doubt about whether regulation 5 complies with section 40 of the Tribunals (Scotland) Act 2014, which sets out the rules relating to whether members of the Upper Tribunal should be ordinary, legal or judicial members.

Does the committee wish to draw the regulations to the attention of the Parliament on reporting ground (e)?

**Members** *indicated agreement.*

**The Convener:** Does the committee consider that the provisions should be corrected to remove doubt about their compliance with section 40 of the 2014 act, by means of the Scottish Government withdrawing and relaying the draft regulations?

**Members** *indicated agreement.*

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

**First-tier Tribunal for Scotland (Allocation of Functions to the Social Security Chamber) Regulations 2018 [Draft]**

**First-tier Tribunal for Scotland (Chambers) Amendment Regulations 2018 [Draft]**

**The Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

## **Instruments subject to Negative Procedure**

### **First-tier Tribunal for Scotland Social Security Chamber (Procedure) Regulations 2018 (SSI 2018/273)**

10:03

**The Convener:** The regulations establish a new chamber of the First-tier Tribunal for Scotland to consider appeals in relation to social security cases in the Scottish system. There are a couple of reporting grounds on which the committee may wish to draw the regulations to the attention of the Parliament. It may wish to do so on reporting ground (h), on the basis that the meaning of rule 9(3)(a) in the schedule could be clearer; and on the general reporting ground, in respect of drafting errors in rule 22(4)(g) and rules 35(5) and (7) in the schedule. The Scottish Government has indicated that it will correct those errors by amending regulations.

Does the committee wish to draw the regulations to the attention of the Parliament on reporting ground (h) and on the general reporting ground?

**Members** *indicated agreement.*

**The Convener:** Does the committee wish to welcome the Scottish Government's commitment to lay amending regulations to correct the errors?

**Members** *indicated agreement.*

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

### **Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018 (SSI 2018/274)**

### **Social Security Appeals (Expenses and Allowances) (Scotland) Regulations 2018 (SSI 2018/275)**

### **Scottish Tribunals (Eligibility for Appointment) Amendment Regulations 2018 (SSI 2018/276)**

### **Road Traffic (Permitted Parking Area and Special Parking Area) (Falkirk Council) Designation Order 2018 (SSI 2018/279)**

### **Parking Attendants (Wearing of Uniforms) (Falkirk Council Parking Area) Regulations 2018 (SSI 2018/280)**

### **Road Traffic (Parking Adjudicators) (Falkirk Council) Regulations 2018 (SSI 2018/281)**

### **Plant Health (Scotland) Amendment (No 2) Order 2018 (SSI 2018/283)**

### **Marketing of Ornamental Plant Propagating Material Amendment (Scotland) Regulations 2018 (SSI 2018/284)**

**The Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

**Instrument not subject to  
Parliamentary Procedure**

10:04

*Meeting continued in private until 10:13.*

**Islands (Scotland) Act 2018  
(Commencement) Regulations 2018 (SSI  
2018/282 (C19))**

10:04

**The Convener:** Under agenda item 4, there is one instrument to consider, on which no points have been raised. Is the committee content with it?

**Members** *indicated agreement.*



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Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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