



The Scottish Parliament  
Pàrlamaid na h-Alba

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# **Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh**

## **Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 5 November 2019**



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# Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/delegated-powers-committee.aspx>



[dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot)



0131 348 5212

# Committee Membership



**Convener**  
**Graham Simpson**  
Scottish Conservative  
and Unionist Party



**Deputy Convener**  
**Stuart McMillan**  
Scottish National Party



**Tom Arthur**  
Scottish National Party



**Jeremy Balfour**  
Scottish Conservative  
and Unionist Party



**Mary Fee**  
Scottish Labour

# Introduction

## Technical Scrutiny of Instruments

1. The Committee determined that it did not need to draw the Parliament's attention to the instruments set out by the relevant lead Committee below.

# No Points Raised

## **Economy, Energy and Fair Work Committee**

Official Statistics (Scotland) Amendment Order 2019 (SSI 2019/draft)

## **Health and Sport Committee**

Public Services Reform (The Scottish Public Services Ombudsman) (Healthcare Whistleblowing) Order 2020 (SSI 2019/draft)

Scottish Public Services Ombudsman - Whistleblowing Principles

- Note: this is not a statutory instrument but is a document subject to parliamentary approval under section 16A of the Public Services Ombudsman Act 2002.

Scottish Dental Practice Board Amendment Regulations 2019 (SSI 2019/346)

## **Justice Committee**

Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Miscellaneous) 2019 (SSI 2019/321)

## **Local Government and Communities Committee**

Homelessness etc. (Scotland) Act 2003 (Commencement No. 4) Order 2019 (SSI 2019/316 (c.16))

- Further correspondence on this instrument can be found in the Annex.

## **Social Security Committee**

Council Tax Reduction (Scotland) Amendment (No. 3) Regulations 2019 (SSI 2019/325)

# Annex

## Letter from the Convener to the Minister for Local Government, Housing and Planning

30 October 2019

Dear Kevin

Homelessness etc. (Scotland) Act 2003 (Commencement No. 4) Order 2019 (SSI 2019/316 (C.16)) At its meeting yesterday the Committee agreed that I would write to you in relation to an issue stemming from its consideration of the above instrument.

As you know, the SSI will bring into force sections 4 and 8 of the Homelessness etc (Scotland) Act 2003 on 7 November 2019. As it has been 16 years since the Act was passed by the Scottish Parliament, the Committee would be grateful for an explanation as to why there has been such a considerable gap in bringing these sections into force.

I would be grateful for a response by 5 pm on Thursday 31 October in order to allow the Committee to consider the instrument again at its meeting on Tuesday 5 November.

I look forward to hearing from you.

## Response from the Minister for Local Government, Housing and Planning to the Convener

31 October 2019

Dear Graham

### **Homelessness etc. (Scotland) Act 2003 (Commencement No. 4) Order 2019 (SSI 2019/316 (C.16))**

I am replying to your letter of 30 October 2019 regarding the above SSI and the Committee's request for an explanation as to why there has been a gap in bringing sections 4 and 8 of the Homelessness etc. (Scotland) Act 2003 ("the 2003 Act") into force.

It may be helpful to the Committee to provide some background on the origins of the provisions to be commenced by The Homelessness etc. (Scotland) Act 2003 (Commencement No. 4) Order 2019.

These provisions were included in the 2003 Act following recommendations made by the Homelessness Task Force, appointed by the Scottish Executive in 1999, which published its final report in 2002.

While the majority of provisions in the 2003 Act have been implemented, we consulted earlier this year on the recommendation, from the Homelessness and Rough Sleeping Action Group, to implement the local connection and intentionality provisions, which had still to be commenced.

Initial discussions about commencing the provisions began with local authorities and other stakeholders in 2005 and a consultation on modifying local connection was held in 2006.

Commencement of the provisions was delayed due to concerns from local authorities about the potential for modifications to the local connection legislation to lead to significant



increases to the number of homelessness applications in their area which they would struggle to deal with, and about how we would be able to measure impact. Therefore, in 2007, we updated our homelessness data collection to reflect legislative change and provide more robust information, including in relation to local connection data.

Following subsequent discussions in 2009, we decided to fully implement the abolition of priority need before revisiting the local connection and intentionality provisions. The Homeless (Abolition of Priority Need Test) (Scotland) Order 2012 implemented the commitment introduced in the 2003 Act to end the use of the 'priority need test', with effect from 31 December 2012. The abolition of the priority need legislation meant that local authorities needed to fundamentally change their approach to dealing with people experiencing homelessness and there were significant concerns about the consequences of this change. We worked closely with local authorities during this time to support them to be able to implement this change and provide the training and guidance they needed.

We have been monitoring the impact of the changes brought about by the abolition of priority need and how this has interacted with other policy and practice. Our statistics show that the numbers of homelessness applicants referred to another local authority under the local connection legislation has decreased over time since 2007.

The improvements to our data collection means that we are now in a stronger position to be able to monitor the impact of the changes to local connection and intentionality on local authorities. This will mean that we will be aware of any local authorities coming under undue pressure as a result of disproportionate net inflows and will be able to take appropriate action should it be proved necessary.

Our Ending Homelessness Together: High Level Action Plan sets out our commitment to a person-centered approach. Commencing these provisions now is fundamental to delivering this commitment, and enabling people to access the support they need when and where they need it.

I hope the Committee finds this information helpful, but please let me know if there are any further questions related to this work.

