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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 25 February 2020**



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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>



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# 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

1. At its meeting on 25 February 2020, the Delegated Powers and Law Reform Committee considered the following instrument subject to the negative procedure and agreed to draw it to the attention of the lead committee:
  - Council Tax Reduction (Scotland) Amendment Regulations 2020 (SSI 2020/25)
2. The Committee's conclusions in relation to this instrument are set out later in the report.

## Other instruments considered

3. The Committee determined that it did not need to draw the Parliament's attention to the instruments set out by the relevant lead committee at the end of this Report.

# Instruments Drawn to the Attention of the Lead Committee

## Council Tax Reduction (Scotland) Amendment Regulations 2020 (SSI 2020/25)

### Purpose

4. This instrument makes provision to annually uprate various allowances, premiums and deductions in the Council Tax Reduction (Scotland) Regulations 2012, known as the “Working Age Regulations”, and the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012, known as the “Pension Age Regulations”. These are referred to together as the Principal Regulations.

### Committee Consideration

5. Regulations 3 and 4 of this instrument incorrectly refer to regulation 23A of the Working Age Regulations. Instead they should refer to regulation 22A of those regulations.

6. The Committee therefore reports this instrument to the lead Committee, the Social Security Committee, under the general reporting ground.

7. The Scottish Government acknowledged this error and stated its intention to correct it when the Working Age Regulations are next amended.
8. While the Committee generally welcomes such commitments from the Scottish Government to correct errors in legislation, it was somewhat concerned by this in these circumstances.
9. The Committee has previously called on the Scottish Government to amend the Principal Regulations, which have now been amended 19 times. Future plans to amend this instrument further would seem to indicate that a consolidation exercise is not anticipated. The Committee has written to the Scottish Government seeking further information on this (see Annex).

# No Points Raised

## **Social Security Committee**

Funeral Expense Assistance and Young Carer Grants (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/draft)

Carer's Allowance Up-rating (Scotland) Order 2020 (SSI 2020/draft)

Social Security (Advocacy Service Standards) (Scotland) Regulations 2020 (SSI 2020/draft)

- A concern was raised about the meaning of "independent" in the context of the Advocacy Service Standards. The Committee brings this concern to the attention of the lead Committee as it may wish to consider what is meant by this term.

Carer's Allowance Up-rating (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/32)

## **Justice Committee**

First-tier Tribunal for Scotland (Transfer of Functions of Parking Adjudicators) Regulations 2020 (SSI 2020/draft)

First-tier Tribunal for Scotland (Transfer of Functions of Bus Lane Adjudicators) Regulations 2020 (SSI 2020/draft)

First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Appeals (Rules of Procedure) Regulations 2020 (SSI 2020/draft)

First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Cases and Upper Tribunal for Scotland (Composition) Regulations 2020 (SSI 2020/draft)

Scottish Courts and Tribunals Service (Judicial Members) Amendment Order 2020 (SSI 2020/draft)

Scottish Courts and Tribunals Service (Procedure for Appointment of Members) Amendment Regulations 2020 (SSI 2020/draft)

Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 (Success Fee Agreements) Regulations 2020 (SSI 2020/draft)

Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 (Commencement No. 2 and Transitional Provision) Regulations 2020 (SSI 2020/23 (C.2))

Act of Adjournment (Criminal Procedure Rules 1996 Amendment) (Miscellaneous) 2020 (SSI 2020/27)

Act of Sederunt (Rules of the Court of Session 1994, Sheriff Appeal Court Rules and Sheriff Court Rules Amendment) (Reporting Restrictions) 2020 (SSI 2020/28)

## **Parliament**



Local Government Finance (Scotland) Order 2020 (SSI 2020/draft)

**Documents Laid for Consultation**

Proposed Draft Order - UEFA European Championship (Scotland) Act 2020 Remedial Order 2020 (SG/2020/18)

Proposed Draft Order - UEFA European Championship (Scotland) Act 2020 Remedial Order 2020: Statement of Reasons (SG/2020/19)

# Annex

## Letter to the Minister for Parliamentary Business and Veterans dated 25 February 2020

Dear Minister,

I write in relation to the Delegated Powers and Law Reform Committee's recent consideration of the Council Tax Reduction (Scotland) Amendment Regulations 2020 (SSI 2020/25).

The Committee notes the Scottish Government's intention to correct the error that was identified in these regulations the next time the Council Tax Reduction (Scotland) Regulations 2012 (the "Working Age Regulations") are updated. However, the Committee also notes that these regulations, alongside the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012 (the "Pension Age Regulations"), together known as the "Principal Regulations", have already been updated numerous times.

The Committee has previously called on the Scottish Government to consolidate the Principal Regulations. It is concerned that the intention to update the Working Age Regulations further in order to correct the error identified in SSI 2020/25 suggests that a consolidation exercise is not anticipated.

The Committee would be grateful for an update on when consolidating instruments might be expected in relation to the Principal Regulations.

Yours sincerely,

Graham

Convener of the Delegated Powers and Law Reform Committee

