



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 10 March 2020  
SP Paper 700  
18th Report, 2020 (Session 5)

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

## **Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee at its meeting on 10 March 2020**



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

---

All documents are available on the Scottish Parliament website at:  
<http://www.parliament.scot/abouttheparliament/91279.aspx>

For information on the Scottish Parliament contact Public Information on:  
Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

# Contents

|   |          |
|---|----------|
| <b>Introduction</b>   | <b>1</b> |
| <b>Instruments Drawn to the Attention of the Lead Committee</b> | <b>2</b> |
| <b>No Points Raised</b>   | <b>4</b> |

# 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**  
**Bill Bowman**  
Scottish Conservative  
and Unionist Party



**Mary Fee**  
Scottish Labour



**Gordon Lindhurst**  
Scottish Conservative  
and Unionist Party



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



**Gil Paterson**  
Scottish National Party

# Introduction

1. At its meeting on 10 March 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:
  - Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/31)
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

## Local Government Pension Scheme (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/31)

### Purpose

4. The primary purpose of this instrument is to amend schedule 4 of the Local Government Pension Scheme (Scotland) Regulations 2018 to provide that, on the application of an administering authority, the Scottish Ministers may, by direction, substitute a different pension fund maintained by that same administering authority as the appropriate fund for a scheme employer.
5. The regulations also correct a drafting error in the Local Government Pension Scheme (Increased Pension Entitlement) (Miscellaneous Amendments) (Scotland) Regulations 2019 that was identified by the Committee in its report dated 21 January 2020.

6. The Committee welcomes this correction.

### Committee Consideration

7. Regulation 1(1) of this instrument provides that, “subject to paragraph (2)” the Regulations come into force on 31 March 2020. Paragraph (2) provides that “regulation 3 has effect from 1 March 2020”.
8. The Committee consider that it is insufficiently clear whether the effect of this provision is that the regulation comes into force and has effect on 1 March or whether it comes into force on 31 March but its legal effect is then back-dated to 1 March. The Scottish Government has confirmed that the intention is the latter.
9. Furthermore, regulation 2(2) inserts new paragraph 2A into schedule 4 of the Local Government Pension Scheme (Scotland) Regulations 2018. This provides that the Scottish Ministers may, on the application of an administering authority, substitute a different pension fund maintained by the same administering authority as the appropriate fund for the scheme employer.
10. The Scottish Government has confirmed that the reference in paragraph 2A to “the appropriate fund” refers to the appropriate fund specified in column 2 of the table in schedule 4. However, at present this column only identifies the authority whose fund is the appropriate fund for a particular employee. The Scottish Government has explained that the intention is to enable a sub-fund to be specified. The Committee consider that the meaning of paragraph 2A could be clearer in expressing the intention to enable a sub-fund to be specified.

11. The Committee therefore draws this instrument to the attention of the lead committee, the Local Government and Communities Committee, under reporting

ground (h) as the meaning of both regulation 1 and regulation 2(2) could be clearer.

12. The Committee also agreed to write to the Scottish Government about its concerns in relation to this instrument. This letter will be published on the Committee's [correspondence page](#).



# No Points Raised

## **Standards, Procedures and Public Appointments Committee**

Representation of the People (Annual Canvass) (Miscellaneous Amendments) (Scotland) Regulations 2020 (SSI 2020/draft)

## **Finance and Constitution Committee**

Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2020 (SSI 2020/65)

## **Social Security Committee**

Council Tax Reduction (Scotland) Amendment (No. 2) Regulations 2020 (SSI 2020/64)

- The Committee welcomes that this instrument corrects cross-referencing errors in regulations 3 and 4 of the Council Tax Reduction (Scotland) Amendment Regulations 2020, as reported by the Committee at its meeting on 25 February 2020.

## **Parliament**

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

