

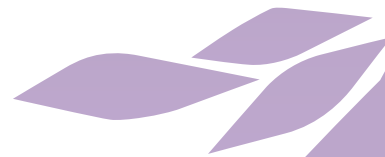


The Scottish Parliament
Pàrlamaid na h-Alba

Published 6 June 2018
SP Paper 348
6th report (Session 5)

Health and Sport Committee Comataidh Slàinte is Spòrs

Subordinate Legislation considered by the Health and Sport Committee on 05 June 2018



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](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

Contents

The Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No. 2) Regulations 2018 [draft]	1
Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2018 [draft]	3
ILF Scotland (Miscellaneous Listings) Order 2018 [draft]	5

Health and Sport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Sport.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/health-committee.aspx>

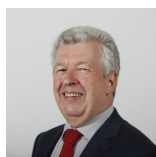


healthandsport@parliament.scot



0131 348 5524

Committee Membership



Convener
Lewis Macdonald
Scottish Labour



Deputy Convener
Ash Denham
Scottish National Party



Miles Briggs
Scottish Conservative
and Unionist Party



Alex Cole-Hamilton
Scottish Liberal
Democrats



Kate Forbes
Scottish National Party



Emma Harper
Scottish National Party



Alison Johnstone
Scottish Green Party



Ivan McKee
Scottish National Party



David Stewart
Scottish Labour



Sandra White
Scottish National Party



Brian Whittle
Scottish Conservative
and Unionist Party

The Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No. 2) Regulations 2018 [draft]

The Committee reports to the Parliament as follows—

1. The Community Care (Personal Care and Nursing care) (Scotland) Amendment (No. 2) Regulations 2018 [draft] was laid before the Parliament on 30 April 2018 and referred to the Health and Sport Committee.
2. The Community Care (Personal Care and Nursing care) (Scotland) Amendment (No. 2) Regulations 2018 [draft] is subject to the affirmative procedure (Rule 10.6). It is for the Health and Sport Committee to recommend to Parliament whether the Regulations should be approved.
3. The order is made under section 1(2)(a) of the Community Care and Health (Scotland) Act 2002. Subject to Parliamentary approval it will come into force on 1 April 2019.
4. Section 1(1) of the Community Care and Health (Scotland) Act 2002 (“the 2002 Act”) provides that a local authority are not to charge for social care provided by them (or the provision of which is secured by them) if that social care is: personal care as defined in paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010; personal support as so defined; care mentioned in schedule 1 to the 2002 Act; or nursing care. The requirement not to charge is currently qualified to persons aged 65 or over by the Community Care (Personal Care and Nursing Care) (Scotland) Regulations 2002.
5. This instrument will remove the qualification to the requirement not to charge to persons aged 65 or over only. This will ensure adults under the age of 65 who are assessed as needing free personal care, will receive this service irrespective of condition, income or age, including whether they live at home or in residential care.
6. The Delegated Powers and Law Reform Committee considered this instrument at its meeting on 8 May 2018 and agreed that it did not need to draw it to the attention on the Parliament on any grounds within its remit.

[Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 8 May 2018.](#)

7. At the Health and Sport Committee's 18th meeting, on 5 June 2018, the Committee took evidence on the Community Care (Personal Care and Nursing care) (Scotland) Amendment (No. 2) Regulations 2018 [draft] from—
 - John Wood, Chief Officer for Health and Social Care, COSLA;
 - Councillor Peter Johnston, Health and Social Care Spokesman, COSLA; and
 - Jonathan Sharma, Policy Manager, Local Government Finance, COSLA.

And then from—

- Shona Robison, Cabinet Secretary for Health and Sport;
 - Mike Liddle, Adult Social Care Policy, Scottish Government; and
 - Ann Davies, Solicitor, Directorate for Legal Services, Scottish Government.
8. In addition to the oral evidence session the Committee also received [written evidence from COSLA](#) on the Community Care (Personal Care and Nursing care) (Scotland) Amendment (No. 2) Regulations 2018 [draft].
9. Motion S5M-12210 was lodged by Shona Robison, Cabinet Secretary for Health and Sport. Following the evidence session, Shona Robison moved the motions S5M-12210 -

That the Health and Sport Committee recommends that the Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No. 2) Regulations 2018 be approved.

The motion was agreed to without division.

10. The evidence taken and debated can be found in the [Official Report](#) for 5 June 2018.
11. The Health and Sport Committee recommends to the Parliament that the Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No. 2) Regulations 2018 be approved.

Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2018 [draft]

The Committee reports to the Parliament as follows—

12. The Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2018 [draft] was laid before the Scottish parliament on 10 May 2018 and referred to the Health and Sport Committee.
13. The Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2018 [draft] is subject to the affirmative procedure (Rule 10.6). It is for the Health and Sport Committee to recommend to Parliament whether the Regulations should be approved.
14. These regulations are made in exercise of the powers conferred by section 153(3) of the Equality Act 2010 and amend the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (“the 2012 Regulations”) by adding Independent Living Fund Scotland (ILF Scotland) to the public authorities listed.
15. The purpose of this instrument is to list ILF Scotland to in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (“the 2012 Regulations”), making them subject to various duties. Specific duties include: assessing the impact of new or revised policies/practice on the needs set out in the public sector equality duty; the publication of equality outcomes; reporting on mainstreaming equality; publishing information on the gender pay gap and equal pay; gathering employee information in relation to protected characteristics and using this information to better perform the equality duty; and taking account of the equality duty in the context of procurement.
16. ILF Scotland is listed in paragraph (1) of new regulation 2B, which is inserted into the 2012 Regulations by regulation 5 of these Regulations. Regulation 5 also modifies the 2012 Regulations in their application to ILF Scotland so as to provide different dates by which certain duties have to be complied with. Regulations 3 and 4 of these Regulations make consequential changes to the definition of “listed authority” in regulation 2 of the 2012 Regulations and to regulation 2A of the 2012 Regulations.
17. Regulation 6 amends regulation 8A of the 2012 Regulations to provide different dates by which publication is to take place by ILF Scotland under regulations 7(1) and 8(1) of the 2012 Regulations, and to add a further category of “relevant period” for the purposes of regulation 8A(3) of the 2012 Regulations.
18. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 22 May 2018. The Committee determined that it did not need to draw the attention of the Parliament to this instrument on any grounds within its remit.

[Subordinate legislation considered by the Delegated Powers and Law Reform Committee on 22 May 2018](#)

19. At the Health and Sport Committee's 18th meeting, on 05 June 2018, the Committee took evidence on the Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2018 [draft] from-
 - Shona Robison, Cabinet Secretary for Health and Sport, Scottish Government; and
 - Ann Davies, Solicitor, Directorate for Legal Services, Scottish Government.
20. Motion S5M-12402 was lodged by Aileen Campbell, Minister for Public Health and Sport and supported by Shona Robison, Cabinet Secretary for Health and Sport. Following the evidence session, Shona Robison moved motion S5M-12402-

That the Health and Sport Committee recommends that the Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2018 [draft] be approved.

The motion was agreed to without division.
21. The evidence taken and the debate held can be found in the [Official Report](#) for 05 June 2018.

22. The Health and Sport Committee recommends to Parliament that the Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2018 [draft] be approved.

ILF Scotland (Miscellaneous Listings) Order 2018 [draft]

The Committee reports to the Parliament as follows—

23. The ILF Scotland (Miscellaneous Listings) Order 2018 [draft] was laid before the Scottish parliament on 10 May 2018 and referred to the Health and Sport Committee.
24. The ILF Scotland (Miscellaneous Listings) Order 2018 [draft] is subject to the affirmative procedure (Rule 10.6). It is for the Health and Sport Committee to recommend to Parliament whether the Regulations should be approved.
25. This Order makes amendments to the Freedom of Information (Scotland) Act 2002 (“the 2002 Act”), the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (“the 2003 Act”), the Equality Act 2010 (“the 2010 Act”), the Public Records (Scotland) Act 2011 (“the 2011 Act”) and the Children and Young People (Scotland) Act 2014 (“the 2014 Act”).
26. On 1 July 2015, Independent Living Fund Scotland (ILF Scotland) was established by Ministers, as a Company limited by guarantee, to administer Independent Living Fund (ILF) financial support packages for disabled people in Scotland. All existing Scottish users of ILF transferred to ILF Scotland from this date. The approach taken to the establishment of ILF Scotland was to meet the tight time frame for delivery and to ensure that payments were protected. At the time of establishment there was insufficient time to list ILF Scotland in various pieces of legislation as a public body.
27. The purpose of this instrument is to list ILF Scotland in:
 - Part 7 of schedule 1 of the 2002 Act;
 - schedule 2 of the 2003 Act;
 - Part 3 of schedule 19 of the 2010 Act;
 - the schedule of the 2011 Act; and
 - schedules 1, 3 and 4 of the 2014 Act.
28. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 22 May 2018. The Committee determined that it did not need to draw the attention of the Parliament to this instrument on any grounds within its remit.

[Subordinate legislation considered by the Delegated Powers and Law Reform Committee on 22 May 2018](#)
29. At the Health and Sport Committee's 18th meeting, on 05 June 2018, the Committee took evidence on the ILF Scotland (Miscellaneous Listings) Order 2018 [draft] from-
 - Shona Robison, Cabinet Secretary for Health and Sport, Scottish Government; and

- Ann Davies, Solicitor, Directorate for Legal Services, Scottish Government.

30. Motion S5M-12404 was lodged by Shona Robison, Cabinet Secretary for Health and Sport. Following the evidence session, Shona Robison moved motion S5M-12402-

That the Health and Sport Committee recommends that the ILF Scotland (Miscellaneous Listings) Order 2018 [draft] be approved.

The motion was agreed to without division.

31. The evidence taken and the debate held can be found in the [Official Report](#) for 05 June 2018.

32. The Health and Sport Committee recommends to Parliament that the ILF Scotland (Miscellaneous Listings) Order 2018 [draft] be approved.

