



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

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14 March 2019

Dear Graeme,

Outstanding Commitments

I write in relation to the Delegated Powers and Law Reform Committee's recent consideration of two SSIs which both raised questions regarding outstanding Scottish Government commitments.

National Health Service Superannuation and Pension Schemes (Scotland) (Miscellaneous Amendments) Regulations 2019 (SSI 2019/46)

Firstly, at its meeting on 5 March 2019, the Committee considered SSI 2019/46. This instrument amends the following regulations:

- National Health Service Superannuation Scheme (Scotland) Regulations 2011
- National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013
- National Health Service Pension Scheme (Scotland) Regulations 2015
- National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018.

The amendments the instrument makes to the 2011, 2013, and the 2015 Regulations insert updated employee contribution earnings bands for the scheme year 2019-20. The amendments made to those instruments also increase from 14.9% to 20.9% the contributions by employing authorities.

The amendments made to the 2018 Regulations correct four errors previously identified in those Regulations by the Committee in May 2018.

However, there remains an outstanding commitment to rectify an error identified previously by the Committee in its [10th Report \(Session 5\)](#) dated 22 February 2017 (as revised on 8 March 2017). That error is contained in regulation 1(2) of the National Health Service Superannuation Scheme (Miscellaneous Amendments) (Scotland) Regulations 2017 (SSI 2017/27). That instrument amended the 2013 Regulations (referred to above), which the current instrument also amends. In its response to the Committee's report on this error, the Scottish Government committed to rectifying the error when the 2013 Regulations were next amended.

The Committee recognised that a planned instrument to rectify this error has been paused following a recent decision in the English courts. However, given that the error was identified by the Committee as defective drafting, which related to provision that should have been made retrospective, the Committee agreed to encourage the Scottish Government to rectify the error as soon as possible.

I should be grateful if you would be able to advise the Committee of the likely timeframe for this commitment to be met.

Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018 (SSI 2018/391)

Secondly, at its meeting on 22 January 2019 the Committee agreed to draw SSI 2018/391 to the attention of the Parliament on the general reporting ground as it contained some drafting errors. The Committee nevertheless welcomed the Scottish Government's commitment to bring forward amending legislation to correct the error in regulation 10(3) at the earliest possible opportunity.

When the instrument was subsequently considered by the Environment, Climate Change and Land Reform (ECCLR) Committee, it agreed to make no recommendations in relation to the instrument. However, the ECCLR Committee agreed to write to this Committee to ask if a date had been identified by which these errors would be rectified.

I would therefore be grateful if you could provide an update on the potential timeframe for bringing forward the amending legislation which I can subsequently pass on to the Convener of the ECCLR Committee.

Thank you for your consideration of both these issues.

Yours sincerely,



Convener of the Delegated Powers and Law Reform Committee



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14 March 2019

Dear Gillian

SSI 2018/391: Environment, Food and Rural Affairs (Miscellaneous Amendments and Revocations) (Scotland) Regulations 2018

Thank you for your letter of 6 February in which you asked whether a date had been identified by which the drafting error in the above Regulations might be rectified. I'm grateful that the Environment, Climate Change and Land Reform Committee considered the Delegated Powers and Law Reform Committee's report on this instrument and supported the need for the Scottish Government to bring forward amending legislation to correct the drafting error identified in regulation 10(3).

I have this week written to the Minister for Parliamentary Business and Veterans to ask for an update on when this amending legislation might be laid and I will inform you of the Minister's response.

Yours sincerely,

Convener of the Delegated Powers and Law Reform Committee