



T: 0300 244 4000  
E: scottish.ministers@gov.scot

Graham Simpson MSP  
Convener  
Delegated Powers and Law Reform Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

17<sup>th</sup> January 2020

Dear Graham,

Thank you for your letter of 8 January following my appearance before the Delegated and Law Reform Committee on Tuesday, 17 December 2019.

I would like to take this opportunity to reiterate my appreciation of the role the Committee fulfils in scrutinising the new and existing delegated powers.

### **Budget Bill**

The Cabinet Secretary for Finance, Economy and Fair Work has been liaising with the Finance Committee on proposals for the timing of the Scottish Budget 2020-21. The Government is mindful of the need to ensure appropriate time for parliamentary scrutiny of the Scottish Budget and associated statutory instruments in the exceptional circumstances created by the delayed UK Budget.

### **Recent Increase in Instruments Engaging Significant Reporting Grounds**

I share the Committee's view that the number of instruments being reported under the three most significant grounds being reduced to five during 2018/19 should be welcomed. Particularly with the Scottish Government maintaining the same low 11.5% reporting rate overall as was highlighted in 2017/18.

Mr McMillan mentioned that there had been a slight increase in the number of instruments that had been reported under the three most significant grounds in the weeks preceding my appearance before Committee. I undertook to look into this. There were two such instruments:

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



- The Fishing Boats Designation (EU Exit) (Scotland) Order 2019.
- The Planning (Scotland) Act 2019 (Commencement No.2, Saving and Transitional Provisions) Regulations 2019.

These instruments were both reported on ground (i) as each included a provision that was defectively drafted. The necessary steps are being taken to ensure these provisions are corrected.

I consider that the quality assurance process within the Scottish Government remains robust and the overall standard of drafting remains high. However, we will continue to monitor this carefully and make improvements where that is necessary.

## **Social Security Instruments**

There were two issues raised with me regarding Social Security Instruments:

- How the Government was ensuring that the Social Security Committee had all of the information it requires to scrutinise the increase in the number of instruments stemming from the delegated powers in the Social Security (Scotland) Act 2018.
- Concern regarding the timing of Committee sessions and scrutiny of statutory instruments.

This is the first time any concerns regarding the increase in the number of instruments has been raised with the Government. Social Security officials aim to informally update the Committee Clerks on timings for regulations being laid in order that they can build these into the Committee's work programme. Social Security secondary legislation is subject to independent scrutiny by the Scottish Commission for Social Security. The Commission must submit and publish a report with its view of the regulations with any recommendations for changes, and the Government must prepare and publish a response to that report. The Scottish Government must notify Parliament and publish the draft regulations at the time they are submitted to the Commission for its scrutiny

As regards the direct interaction with Ministers around such SSIs, if the committee wished initial engagement to occur prior to and in advance of the formal consideration state of an SSI then the Government would of course consider any such required. But it is the Scottish Government's understanding that the relationship with the Social Security Committee in this regard is working well.

## **Historic Commitments**

I will be writing to the Committee in February with the next update regards progress in meeting historic commitments.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

The Scottish Parliament, Edinburgh EH99 1SP  
[www.gov.scot](http://www.gov.scot)



## Consolidation of Council Tax Reduction (Scotland) Regulations 2012

The Committee asked which council had provided positive feedback on the steps that the Government had taken to ensure that the regulations are clear and accessible. Officials at Glasgow City Council welcomed the production of the Keeling text.

I hope that this response has been helpful.

Kind regards,



**Graeme Dey**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

The Scottish Parliament, Edinburgh EH99 1SP  
[www.gov.scot](http://www.gov.scot)