



The Scottish Parliament
Pàrlamaid na h-Alba

DELEGATED POWERS AND LAW REFORM COMMITTEE

AGENDA

6th Meeting, 2020 (Session 5)

Tuesday 18 February 2020

The Committee will meet at 10.00 am in the Adam Smith Room (CR5).

1. **Decision on taking business in private:** The Committee will decide whether to take items 5 and 6 in private.
2. **Instruments subject to affirmative procedure:** The Committee will consider the following—

[First-tier Tribunal for Scotland Social Security Chamber \(Procedure and Allocation of Functions\) Amendment Regulations 2020 \(SSI 2020/draft\);](#)
[Energy Efficiency \(Domestic Private Rented Property\) \(Scotland\) Regulations 2020 \(SSI 2020/draft\);](#)
[Public Services Reform \(Registers of Scotland\) Order 2020 \(SSI 2020/draft\);](#)
[Direct Payments to Farmers \(Legislative Continuity\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2020 \(SSI 2020/draft\);](#)
[Social Security \(Advocacy Service Standards\) \(Scotland\) Regulations 2020 \(SSI 2020/draft\);](#)
[Human Tissue \(Authorisation\) \(Specified Type A Procedures\) \(Scotland\) Regulations 2020 \(SSI 2020/draft\);](#)
[Budget \(Scotland\) Act 2019 Amendment Regulations 2020 \(SSI 2020/draft\);](#)
[Land and Buildings Transaction Tax \(Tax Rates and Tax Bands\) \(Scotland\) Amendment Order 2020 \(SSI 2020/24\);](#)
[Right to Buy Land to Further Sustainable Development \(Eligible Land, Specified Types of Area and Restrictions on Transfers, Assignations and Dealing\) \(Scotland\) Regulations 2020 \(SSI 2020/draft\);](#)
[National Bus Travel Concession Scheme for Older and Disabled Persons \(Scotland\) Amendment Order 2020 \(SSI 2020/draft\)](#)

3. **Instruments subject to negative procedure:** The Committee will consider the following—

[Personal Injuries \(NHS Charges\) \(Amounts\) \(Scotland\) Amendment Regulations 2020 \(SSI 2020/16\);](#)
[Right to Buy Land to Further Sustainable Development \(Applications, Written Requests, Ballots and Compensation\) \(Scotland\) Regulations 2020 \(SSI 2020/21\)](#)

4. **Instruments not subject to any parliamentary procedure:** The Committee will consider the following—

[Land Reform \(Scotland\) Act 2016 \(Commencement No. 10\) Regulations 2020 \(SSI 2020/20 \(C.1\)\);](#)
[Lands Tribunal for Scotland Amendment \(Fees\) Rules 2020 \(SSI 2020/22\)](#)

5. **Budget (Scotland) Bill:** The Committee will consider the delegated powers provisions in this Bill at Stage 1.

6. **Scottish Law Commission Bills Working Group:** The Committee will consider a report from the Scottish Law Commission Bills Working Group.

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Instrument Responses

Energy Efficiency (Domestic Private Rented Property) (Scotland) Regulations 2020 (SSI 2020/draft)

On 31 January, the Scottish Government was asked:

The preamble states that the Regulations are made in exercise of the powers conferred by section 55 of the Energy Act 2011.

The Regulations contain further provision and sanctions under sections 56 and 57 of the 2011 Act respectively. Section 57 in particular is substantive insofar as it states that the Scottish domestic energy efficiency regulations may include provision for the purpose of securing compliance with requirements imposed on landlords by or under the regulations, including enforcement, sanctions and provision for appeal requirements.

Please explain why sections 56 and 57 of the 2011 Act are not referenced in the preamble, and why it is considered sufficient in the preamble to make reference only to section 55 (as well as the general enabling words)?

On 4 February, the Scottish Government responded as follows:

The regulations are made under section 55 of the Energy Act 2011. In terms of section 55(3) regulations under section 55 are referred to as “Scottish domestic energy efficiency regulations”. The power to make Scottish domestic energy efficiency regulations is contained in section 55 and this is therefore the provision cited. The reference in the preamble to other powers enabling the Scottish Ministers to make regulations under section 55 is considered sufficient to include further provisions of sections 56 and 57, and indeed section 64, in respect of regulations under section 55.



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30 January 2020

**THE DIRECT PAYMENTS TO FARMERS (LEGISLATIVE CONTINUITY) (SCOTLAND)
(MISCELLANEOUS AMENDMENTS) REGULATIONS 2020 - MADE AFFIRMATIVE PROCEDURE**

The above regulations have been made under section 3(3)(a) and (9) of the Direct Payments to Farmers (Legislative Continuity) Act 2020 ("the 2020 Act"). These regulations have been made today, and laid before the Parliament before they come into force at 11pm on 31st January ("exit day").

The regulations have been made using the made affirmative procedure as required by paragraph 2(1) of schedule 2 of the of the 2020 Act. They will cease to have effect at the end of the period of 28 days beginning with the date on which they are made, unless within that period the regulations are approved by a resolution of the Scottish Parliament.

As you know, it is critical that Scottish Ministers have a legal basis to make direct payments to Scottish farmers for the scheme year 2020. This instrument is needed to fix deficiencies that would arise in EU-derived domestic SSIs which regulate the direct payments scheme, and will ensure that, following the UK's exit from the EU, our legislation will operate effectively for the 2020 claim year.

The 2020 Act obtained Royal Assent today so I regret that it was not possible to make and lay these regulations earlier.

I am copying this letter to the convener of the DPLR Committee.

FERGUS EWING

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

