



OFFICIAL REPORT  
AITHISG OIFIGEIL

# Delegated Powers and Law Reform Committee

Tuesday 29 March 2022

Session 6



The Scottish Parliament  
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.parliament.scot](http://www.parliament.scot) or by contacting Public Information on 0131 348 5000

---

**Tuesday 29 March 2022**

**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE</b> .....	1
<b>EUROPEAN UNION (WITHDRAWAL) ACT 2018</b> .....	2
Crime (International Co-operation) Act 2003 (Freezing Order) (EU Exit) (Scotland) Regulations 2022 (SS1 2022/95) .....	2
<b>INSTRUMENTS SUBJECT TO NEGATIVE PROCEDURE</b> .....	3
National Health Service Pension Schemes (Scotland) Amendment Regulations 2022 (SSI 2022/100) .....	3
Police Pensions (Scotland) Amendment Regulations 2022 (SSI 2022/101) .....	3
Teachers' Pension Scheme (Scotland) Amendment Regulations 2022 (SSI 2022/102).....	3
Firefighters' Pension Scheme (Scotland) Amendment Regulations 2022 (SSI 2022/103).....	3
National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2022 (SS1 2022/114) .....	4
Electronic Monitoring (Relevant Disposals) (Modification) (Scotland) Regulations 2022 (SSI 2022/93).....	5
Crime (International Co-operation) Act 2003 (Freezing Order) (EU Exit) (Scotland) Regulations 2022 (SS1 2022/95) .....	5
<b>INSTRUMENT NOT SUBJECT TO PARLIAMENTARY PROCEDURE</b> .....	6
Management of Offenders (Scotland) Act 2019 (Commencement No 6 and Saving Provisions) Regulations 2022 (SSI 2022/94 (C 7)) .....	6

---

**DELEGATED POWERS AND LAW REFORM COMMITTEE**  
**11<sup>th</sup> Meeting 2022, Session 6**

**CONVENER**

\*Stuart McMillan (Greenock and Inverclyde) (SNP)

**DEPUTY CONVENER**

\*Bill Kidd (Glasgow Anniesland) (SNP)

**COMMITTEE MEMBERS**

\*Craig Hoy (South Scotland) (Con)

\*Graham Simpson (Central Scotland) (Con)

\*Paul Sweeney (Glasgow) (Lab)

\*attended

**CLERK TO THE COMMITTEE**

Andrew Proudfoot

**LOCATION**

The Adam Smith Room (CR5)



## Scottish Parliament

### Delegated Powers and Law Reform Committee

*Tuesday 29 March 2022*

*[The Convener opened the meeting at 10:01]*

### Decision on Taking Business in Private

**The Convener (Stuart McMillan):** Welcome to the Delegated Powers and Law Reform Committee's 11th meeting in 2022. Before we move to the first item on the agenda, I remind everyone present to switch mobile phones to silent mode.

The first item of business is to decide whether to take items 5 and 6 in private. Is the committee content to take those items in private?

**Members** *indicated agreement.*

## European Union (Withdrawal) Act 2018

10:01

**The Convener:** Under agenda item 2, we are considering an instrument that has been laid under the European Union (Withdrawal) Act 2018. The committee is considering whether the appropriate scrutiny procedure and the appropriate categorisation have been applied to the following instrument.

### Crime (International Co-operation) Act 2003 (Freezing Order) (EU Exit) (Scotland) Regulations 2022 (SSI 2022/95)

**The Convener:** The instrument relates to orders to preserve evidence. When the United Kingdom was a member of the EU, an EU Council framework decision established the rules under which EU member states would recognise and execute in their territory a freezing order issued by a judicial authority of another member state in the context of criminal proceedings.

The instrument has been laid under the negative procedure and is considered by the Scottish Government to be of low significance.

Is the committee content that the appropriate scrutiny procedure and categorisation have been applied to this instrument?

**Members** *indicated agreement.*

## Instruments subject to Negative Procedure

10:02

**The Convener:** Under agenda item 3, we are considering seven instruments that are subject to the negative procedure.

Issues have been raised in relation to five of the instruments for failure to lay them in accordance with the requirements under section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010. The 2010 act requires that instruments that are subject to the negative procedure be laid at least 28 days before they come into force, not counting recess periods of more than four days.

The following four instruments that are in breach of the 28-day rule are laid under the Public Service Pensions Act 2013.

### National Health Service Pension Schemes (Scotland) Amendment Regulations 2022 (SSI 2022/100)

### Police Pensions (Scotland) Amendment Regulations 2022 (SSI 2022/101)

### Teachers' Pension Scheme (Scotland) Amendment Regulations 2022 (SSI 2022/102)

### Firefighters' Pension Scheme (Scotland) Amendment Regulations 2022 (SSI 2022/103)

**The Convener:** The Public Service Pensions Act 2013 introduced reforms to public service pension schemes, including those in the devolved nations. Transitional protections were provided for some scheme members, which were found in the court of appeal to be discriminatory against younger members. The Public Service Pensions and Judicial Offices Act 2022 was passed, containing the provision that was necessary to remedy the discrimination that was caused by the transitional protections. The 2022 act received royal assent on 10 March 2022.

The instruments close the existing legacy pension schemes, except for limited purposes, to the accrual of pension benefits on and after 1 April 2022. Members who are treated as being in pensionable service under the existing pension schemes will, on that date, begin accruing benefits in the relevant scheme established by existing regulations.

In correspondence with the Presiding Officer, the Scottish Government explained that the

regulations are a consequence of the 2022 act and are required to come into force immediately to ensure legal certainty and fairness. If there is a delay, there will be a period in which certain members can no longer accrue pension in the legacy scheme, but scheme rules would prevent those members from joining the new scheme.

Does the committee wish to draw the four instruments to the attention of the Parliament on reporting ground (j), for failure to comply with laying requirements?

**Members indicated agreement.**

**The Convener:** At the same time, is the committee content with the explanation that the Scottish Government has provided for the breaches of the laying requirements?

**Members indicated agreement.**

**The Convener:** The fifth instrument for which there has been a failure to lay in accordance with the requirements under section 28(2) of the 2010 act is the following.

### National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2022 (SSI 2022/114)

**The Convener:** The instrument allows overseas visitors who are lawfully in Scotland from Ukraine and who have been displaced as a result of the on-going conflict with Russia to receive relevant healthcare services, provided by NHS Scotland, at no charge.

In correspondence with the Presiding Officer, the Scottish Government explained that the regulations are required to come into force immediately to provide clarity to those who are responsible for making and recovering charges, and to provide assurance to displaced people from Ukraine that they are entitled to receive any treatment and care that they require from NHS Scotland, at no charge, while they are lawfully present in Scotland.

Does the committee wish to draw the instrument to the attention of the Parliament on reporting ground (j), for failure to comply with laying requirements?

**Members indicated agreement.**

**The Convener:** At the same time, is the committee content with the explanation that the Scottish Government has provided for the breach of the laying requirements?

**Members indicated agreement.**

**The Convener:** Also under this agenda item, no points have been raised on the following instruments.

**Electronic Monitoring (Relevant Disposals)  
(Modification) (Scotland) Regulations 2022  
(SSI 2022/93)**

**Crime (International Co-operation) Act  
2003 (Freezing Order) (EU Exit) (Scotland)  
Regulations 2022 (SSI 2022/95)**

**The Convener:** Is the committee content with the instruments?

**Members** *indicated agreement.*

**Instrument not subject to  
Parliamentary Procedure**

10:06

**The Convener:** Under agenda item 4, we are considering an instrument that is not subject to any parliamentary procedure, on which no points have been raised.

**Management of Offenders (Scotland) Act  
2019 (Commencement No 6 and Saving  
Provisions) Regulations 2022  
(SSI 2022/94 (C 7))**

**The Convener:** Is the committee content with the instrument?

**Members** *indicated agreement.*

10:06

*Meeting continued in private until 10:36.*





This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

---

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

---

All documents are available on  
the Scottish Parliament website at:

[www.parliament.scot](http://www.parliament.scot)

Information on non-endorsed print suppliers  
is available here:

[www.parliament.scot/documents](http://www.parliament.scot/documents)

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)

---

