



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 28 November 2017  
SP Paper 238  
56th Report, 2017 (Session 5)

# **Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh**

## **Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 28 November 2017**



**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](mailto:sp.info@parliament.scot)

# Contents

<b>Introduction</b>	<b>1</b>
<b>Points raised: Instruments subject to negative procedure</b>	<b>2</b>
Purpose	2
Discussion	2
Recommendations	2
<b>No points raised</b>	<b>3</b>
<b>Annex</b>	<b>4</b>

# Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/delegated-powers-committee.aspx>



[dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot)



0131 348 5212

# Committee Membership



**Alison Harris**  
Scottish Conservative  
and Unionist Party



**Monica Lennon**  
Scottish Labour



**Deputy Convener**  
**Stuart McMillan**  
Scottish National Party



**Convener**  
**Graham Simpson**  
Scottish Conservative  
and Unionist Party



**David Torrance**  
Scottish National Party

# Introduction

1. At its meeting on 28 November 2017 the Committee agreed to draw to the attention of the Parliament the following instrument:

Police Pension Scheme (Scotland) Amendment Regulations 2017 (SSI 2017/387).

2. The Committee's recommendations and conclusions in relation to this instrument are set out in the following section of this report.
3. The Committee determined that it did not need to draw the Parliament's attention to the instruments set out by the relevant lead committee at the end of this report.

# Points raised: Instruments subject to negative procedure

[Police Pension Scheme \(Scotland\) Amendment Regulations 2017 \(SSI 2017/387\)](#)  
(Justice)

## Purpose

4. The Regulations make amendments to the Police Pension Scheme (Scotland) Regulations 2015 (SSI 2015/142). They come into force on 21 December 2017 but, as permitted by provision in the Public Service Pensions Act 2013, regulations 3(a) and 16, have effect from 1 April 2015.

## Discussion

5. The new regulation 17A(1) of the Police Pension Scheme (Scotland) Regulations 2015, which is inserted by regulation 6 of the instrument, should have specified "automatic enrolment date" rather than "enrolment date", which would have attracted the definition stated in regulation 4.
6. Correspondence with the Scottish Government on this matter is set out in the Annex to this report.

## Recommendations

7. The Committee draws the Regulations to the attention of the Parliament on the general reporting ground as they contain a drafting error.
8. The Committee notes that the Scottish Government has undertaken to correct the error at the first legislative opportunity.

# No points raised

## **Health and Sport**

Alcohol (Minimum Pricing) (Scotland) Act 2012 (Commencement) Order 2017 (SSI 2017/402 (C.29))

## **Justice**

First-tier Tribunal for Scotland General Regulatory Chamber Charity Appeals Cases and Upper Tribunal for Scotland (Composition) Regulations 2018 [draft]

Criminal Legal Assistance (Miscellaneous Amendments) (Scotland) Regulations 2017 [draft]



# Annex

## **Police Pension Scheme (Scotland) Amendment Regulations 2017 (SSI 2017/387)**

### **On 15 November 2018, the Scottish Government was asked:**

1. Regulation 4 inserts a definition of "automatic enrolment date" in regulation 16 (interpretation of Chapter) of the Police Pension Scheme (Scotland) Regulations 2015. Regulation 6 inserts a new regulation 17A(1) of the 2015 Regulations, which makes provision in relation to circumstances when the employer may choose not to enrol an officer on that person's "enrolment date" or automatic re-enrolment date.

Is there an error so far as it may have been intended in new regulation 17A(1) to specify "automatic enrolment date" rather than enrolment date, which would attract the definition stated in regulation 4? Otherwise please explain why it is considered appropriate to state "enrolment date" in new regulation 17A(1).

2. Is corrective action proposed?

### **The Scottish Government responded as follows:**

The Scottish Government accepts that there is an error so far as new regulation 17A(1) should have specified "automatic enrolment date" rather than enrolment date, which would attract the definition stated in regulation 4.

The Scottish Government considers that a person reading the amended legislation will construe enrolment date as automatic enrolment date. The Scottish Government nevertheless undertakes to correct the error at the first legislative opportunity.

