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

Social Security Administration and Tribunal Membership (Scotland) Bill: Stage 1



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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>



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Introduction

1. At its meeting on 12 May 2020, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Social Security Administration and Tribunal Membership (Scotland) Bill ("the Bill") at Stage 1.
2. The Committee submits this report to the lead Committee for the Bill under Rule 9.6.2 of the Standing Orders.
3. The Scottish Government has provided the Parliament with a [memorandum on the delegated powers provisions in the Bill](#).

Overview of the Bill

4. This Scottish Government Bill was introduced on 27 April 2020 by the Cabinet Secretary for Social Security and Older People (Shirley-Anne Somerville MSP). The lead Committee is the Social Security Committee.
5. The Scottish Parliament passed the Social Security (Scotland) Act 2018 (the “2018 Act”) following the conferral by the Scotland Act 2016 (the “2016 Act”) of legislative competence in respect of a number of social security benefits.
6. The requirement for this further Bill, as outlined in the Policy Memorandum, has arisen from the identification by the Government of a need to create statutory offences in primary legislation in relation to forms of assistance provided for under section 79 of the 2018 Act (i.e. exercising the power to top-up reserved benefits). The Bill also addresses a small number of other matters relating to social security administration and tribunal membership, which the Scottish Government considers need to be made in order to ensure the continued effective implementation of the 2018 Act. The Policy Memorandum adds that the Bill is bringing these proposed changes together so that the Scottish Parliament might scrutinise them in a single package of measures.

Delegated Powers

7. The Committee considered each of the delegated powers provisions in the Bill. The Committee determined that it did not need to draw the attention of the Parliament to the delegated powers provisions provided in the following sections of the Bill:

- Section 3(2) and (4) – Offences
- Section 4(2) – Assistance given in error: First-tier Tribunal’s jurisdiction
- Section 5(6) – Investigations
- Section 7(2) – Persons who can give diagnosis
- Section 9(5) – Consequential modifications in relation to Tribunal membership
- Section 10(1) – Ancillary provision
- Section 11(2) – Commencement

8. The Committee therefore reports that it is content with the delegated powers provisions contained in the Bill.

