



The Scottish Parliament
Pàrlamaid na h-Alba

DELEGATED POWERS AND LAW REFORM COMMITTEE

AGENDA

28th Meeting, 2013 (Session 4)

Tuesday 5 November 2013

The Committee will meet at 11.30 am in Committee Room 5.

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

[Council Tax Reduction \(Scotland\) Amendment \(No. 4\) Regulations 2013 \(SSI 2013/287\).](#)

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

[Act of Sederunt \(Rules of the Court of Session Amendment No. 6\) \(Miscellaneous\) 2013 \(SSI 2013/294\);](#)

[Act of Sederunt \(Summary Applications, Statutory Applications and Appeals etc. Rules Amendment\) \(Miscellaneous\) 2013 \(SSI 2013/293\).](#)

3. **Procurement Reform (Scotland) Bill:** The Committee will consider its approach to the delegated powers provisions in this Bill at Stage 1.
4. **Scottish Independence Referendum Bill:** The Committee will consider the delegated powers provisions in this Bill after Stage 2.

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The papers for this meeting are as follows—

Agenda Items 1 and 2

Legal Brief (private)

DPLR/S4/13/28/1(P)

Agenda Item 2

Instrument Responses

DPLR/S4/13/28/2

Agenda Item 3

[Procurement Reform \(Scotland\) Bill - as introduced](#)

[Procurement Reform \(Scotland\) Bill - Delegated Powers Memorandum](#)

Briefing Paper (private)

DPLR/S4/13/28/3(P)

Agenda Item 4

[Scottish Independence Referendum Bill - as amended at Stage 2](#)

[Scottish Independence Referendum Bill - Supplementary Delegated Powers Memorandum](#)

Briefing Paper (private)

DPLR/S4/13/28/4(P)

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Instrument Responses

INSTRUMENTS NOT SUBJECT TO ANY PARLIAMENTARY PROCEDURE

Act of Sederunt (Rules of the Court of Session Amendment No 6) (Miscellaneous) 2013 (SSI 2013/294)

On 24 October 2013, the Lord President's Private Office was asked:

1. Paragraph 5(1)(b) of the instrument substitutes rule 76.37(3) of the Rules of the Court of Session. The new rule provides that “an application under section 396(4) of the Act of 2002 or article 55(2) of the Proceeds of Crime Act 2002 (supplementary) shall be by motion.” Does the LPPO agree that the reference to the Proceeds of Crime Act 2002 is incorrect, and that the reference should be to the Proceeds of Crime Act 2002 (External Investigations) Order 2013? If so, does the LPPO consider that the provision requires to be corrected?

2. Paragraph 3 of the instrument amends rule 41.57 (permission to appeal against decisions of the Upper Tribunal) to reflect the terms of the enabling legislation, following a commitment given by the LPPO to the Committee in relation to SSI 2013/238. The LPPO indicated that it would also amend an erroneous cross-reference contained in SSI 2013/238 at the same time as making the amendment to rule 41.57. The error was in new rule 104.5(1) (inserted by paragraph 3 of SSI 2013/238) which refers to the parties mentioned in rule 104.3(4)(b) to (d), when the relevant parties are mentioned in rule 104.3(6)(b) to (d). The Committee monitors commitments given to amend instruments in response to points it has raised. It therefore asks whether the LPPO proposes to amend rule 104.5(1), and if so, when?

3. Paragraph 5(2) of the instrument amends rule 76.37A (evidence overseas) to correct an error which was mentioned by the Committee in relation to SSI 2013/162. The error was one of two errors mentioned in relation to that instrument, the other being a reference in rule 24.6(4) to the provision being “subject to paragraph (3)”, which the Committee considered should have read “subject to paragraph (5)”. In that case, the LPPO gave a commitment to amend both typographical errors by correction slip. The error in rule 76.37A is however being amended by the current instrument. Can the LPPO confirm whether the error in rule 24.6(4) is to be amended by correction slip, or otherwise?

The Lord President's Private Office responded as follows:

1. We agree that the reference is incorrect and that the provision requires to be corrected. This will be done when the next Act of Sederunt amending the Rules of the Court of Session is made.

2. We do propose to amend rule 104.5(1) and this will be done when the next Act of Sederunt amending the Rules of the Court of Session is made. We apologise for this oversight standing the commitment given previously to the Committee.

3. We now propose to correct the error in rule 24.6(4) by way of an amending instrument and this will be done when the next Act of Sederunt amending the Rules of the Court of Session is made. We apologise for this oversight standing the commitment given previously to the Committee.