



The Scottish Parliament  
Pàrlamaid na h-Alba

## Justice Committee

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Cabinet Secretary for Justice  
Scottish Government

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Wednesday 27 March, 2019

Dear Cabinet Secretary,

### **Re: Questions on Subordinate Legislation**

On Tuesday 19 March, the Justice Committee considered the purpose and content of three negative instruments. The Committee did not make any formal comment to the Parliament on these instruments and was content for them to come into force. The [Official Report transcript](#) of this meeting is available online.

However, the Committee is seeking further written clarification in relation to the implications of two of these instruments, namely-

- [The Police Pensions \(Miscellaneous Amendments\) \(Scotland\) Regulations 2019 \(SSI 2019/68\)](#), and
- [The Legal Aid and Advice and Assistance \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(SSI 2019/78\)](#).

The Police Pensions (Miscellaneous Amendments) (Scotland) Regulations 2019 (SSI/2019/68)

During the scrutiny of SSI/2019/68, the Committee noted there will be an estimated employer contribution increase to police pensions in Scotland of £40 million. The Policy Note from the Scottish Government, which accompanies the instrument, states-

“This instrument implements an increase in scheme employer contributions from the current rate of 23.9% to 30.2%, which will apply from 1 April 2019. The estimated cost of that increase is £40m for 2019/20 and it is expected HM Treasury will confirm the level of additional funding it will provide towards those costs in the Spring Statement 2019.”

The Committee notes that the Scottish Police Authority (SPA) is the police employer in Scotland and is, amongst other things, responsible for making pension payments for police officers.<sup>1</sup>

**As the SPA is directly funded by Scottish Government, the Committee seeks to establish whether the £40 million cost of this pension contribution will be funded directly from Scottish Government funding to the SPA in 2019/20?**

**If so, would the Government confirm whether the full £40 million cost of this contribution to police pensions will be covered by the UK Treasury, and in what form (i.e. by way of a reimbursement to the Scottish Government)? If the full amount is not covered by the UK Treasury, would the Scottish Government confirm how much it has received in relation to the cost of this contribution?**

The Legal Aid and Advice and Assistance (Scotland) (Miscellaneous Amendments) Regulations 2019 (SSI/2019/78)

The Committee also considered SSI/2019/78 in relation to legal aid in Scotland. The Committee received written submissions on this instrument from the [Edinburgh Bar Association](#) and the [Law Society of Scotland](#).

Both organisations raise a number of concerns with the Committee in relation to the effect of this instrument. For example, these include-

- A 31% reduction in the funding available to criminal legal aid solicitors;
- The renegeing of a Scottish Government commitment that cuts to Legal Aid since 2011 would be reversed;
- A 25% reduction in the number of solicitors registered to provide criminal Legal Aid across Scotland since 2006;
- An estimated underspend of money allocated to police station advice of £2.1 million.

While considering the instrument, Members also expressed concern for the implications of access to legal aid practitioners and the impact this has on the ability of the public to be able to access justice.<sup>2</sup>

The Committee noted the issues raised by the both Edinburgh Bar Association, and the Law Society of Scotland in relation to the provision of legal aid in Scotland and the implications of the changes implemented under this instrument.

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<sup>1</sup> Police and Fire Reform (Scotland) Act 2012, Section 27:  
[http://www.legislation.gov.uk/asp/2012/8/pdfs/asp\\_20120008\\_en.pdf](http://www.legislation.gov.uk/asp/2012/8/pdfs/asp_20120008_en.pdf)

<sup>2</sup> Justice Committee, Official Report 19 March 2019, Cols 7-8:  
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12008&mode=pdf>

**The Committee therefore requests the Scottish Government respond to all of the specific points of concern raised by both the Edinburgh Bar Association and the Law Society of Scotland in their submission on the Instrument.**

Response

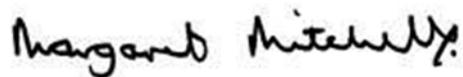
The Committee is mindful of the short timescale for the coming into force of SSI/2019/68 in relation to police pension contributions. Therefore, the Committee asks that the Government responds to questions on this as soon as possible.

In relation to SSI/2019/78 on Legal Aid, the Committee requests a response from the Government by Monday 16 April 2019.

In the meantime, if you require any further information, please contact the Justice Committee clerks.

I look forward to hearing from you.

Best wishes,

A handwritten signature in black ink that reads "Margaret Mitchell". The signature is written in a cursive, slightly slanted style.

Margaret Mitchell MSP  
Convener, Justice Committee

CC: Ash Denham MSP, Minister for Community Safety