This Memorandum has been prepared by the Scottish Executive in accordance with Rule 9.4A of the Parliament’s Standing Orders, in relation to the Prostitution (Public Places) (Scotland) Bill. It describes the purpose of the subordinate legislation provision in the Bill and outlines the reasons for seeking the proposed powers. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

2. The contents of this Memorandum are entirely the responsibility of the Scottish Executive and have not been endorsed by the Scottish Parliament.

3. This Memorandum describes the provision of the Prostitution (Public Places) (Scotland) Bill which confers power to make subordinate legislation. It sets out:
   - the persons upon whom power to make subordinate legislation is conferred and the form in which the power is to be exercised;
   - why it is considered appropriate to delegate the power to make subordinate legislation and the purpose of the provision.

OUTLINE OF BILL PROVISIONS

4. The Bill provides that it shall be an offence for a person to solicit or loiter in a relevant place for the purpose of engaging in prostitution, or for the purpose of obtaining the services of someone engaged in prostitution, in such manner as to be likely to cause nuisance, alarm or offence to a reasonable person who might witness it. The provisions replace the current offence of soliciting or importuning by a prostitute found in section 46 of the Civic Government (Scotland) Act 1982.
DELEGATED POWER

Section 4 – Short title and commencement

Power conferred on: Scottish Ministers
Power exercisable by: Order made by statutory instrument
Parliamentary procedure: No parliamentary procedure

Provision

5. Subsection (2) provides that the provisions of the Bill shall come into force on a date set by the Scottish Ministers by order. Subsection (3) provides that an order made under subsection (2) may include transitional and saving provisions. Power to make such provision is, however, restricted to that considered by the Scottish Ministers to be necessary or expedient in connection with the coming into force of provisions commenced in the order.

Reason for taking power

6. This is a standard order-making power to allow flexibility in commencement of the provisions of the Bill. The power at subsection 4(3) to include transitional or saving provisions could, for example, be used to ensure that ongoing prosecutions under section 46 of the Civic Government (Scotland) Act 1982, which is repealed by section 3 of the Bill, are not affected.

Choice of procedure

7. As is usual for commencement orders, no provision is made for parliamentary scrutiny, as the power to commence provisions that the Parliament has already agreed to is effectively an administrative issue.
PROSTITUTION (PUBLIC PLACES) (SCOTLAND) BILL

DELEGATED POWERS MEMORANDUM