Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on—

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; and

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; and

i. any Consolidation Bill as defined in Rule 9.18.1 referred to it by the Parliamentary Bureau in accordance with Rule 9.18.3.

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Introduction

1. At its meeting on 10 November 2015 the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Abusive Behaviour and Sexual Harm (Scotland) Bill at Stage 1 ("the Bill")\(^1\). The Committee submits this report to the lead committee for the Bill under Rule 9.6.2 of Standing Orders.

2. The Scottish Government has provided the Parliament with a memorandum on the delegated powers provisions in the Bill ("the DPM")\(^2\).
Overview of the Bill

3. The Bill was introduced by the Cabinet Secretary for Justice, Michael Matheson MSP, on 8 October 2015. The lead committee for the Bill is the Justice Committee.

4. In broad outline, the Bill—
   - Provides for a new “domestic abuse aggravator”, that an offence may be aggravated by involving abuse of a person’s partner or ex-partner (section 1);
   - Provides a new offence for the non-consensual sharing of private, intimate images - often called “revenge porn” (sections 2 to 4);
   - Contains provision to enable courts to make a non-harassment order, in cases where the court is satisfied that a person harassed another, but there is no criminal conviction owing to the mental or physical condition of the accused person (section 5);
   - Requires juries in sexual offence cases to be given specific directions on certain matters, as to how to consider the evidence (section 6);
   - Contains provision for child sexual offences which are committed in England and Wales by Scottish residents to be capable of being prosecuted in Scotland (sections 7 and 8);
   - Reforms the system of civil orders that are available to protect persons from those who have committed, or may commit, sex offences (sections 9 to 38).
Delegated Powers Provisions

5. The Committee considered each of the delegated powers in the Bill. At its first consideration of the Bill on 10 November, the Committee determined that it did not need to draw the attention of the Parliament to the delegated powers in the following provisions:

- Section 8 (inserting section 54A(4) of the Sexual Offences (Scotland) Act 2009) – Commission of certain sexual offences elsewhere in the UK – time limit for notice to prosecutor
- Section 14(4)(a) – Sexual harm prevention order – Qualifying offender: conviction etc. outside UK
- Section 40 – Ancillary provision
- Section 43 – Commencement

6. The Committee therefore reports that it is content with the delegated powers provisions contained in the Bill.
1 Abusive Behaviour and Sexual Harm (Scotland) Bill [as introduced] is available at the following website:

2 Abusive Behaviour and Sexual Harm (Scotland) Bill Delegated Powers Memorandum is available at the following website: