Delegated Powers and Law Reform Committee

Budget (Scotland) (No.5) Bill at Stage 1

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SP Paper 899
10th Report, 2016 (Session 4)
Web
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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—

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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<td>John Scott</td>
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<td>Lesley Brennan</td>
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Introduction

1. At its meeting on 2 February 2016 the Delegated Powers and Law Reform Committee considered the delegated power provision in the Budget (Scotland) (No.5) Bill at Stage 1 (“the Bill”). The Committee reports to the Parliament on the provision under Rule 9.16.3 of Standing Orders.

2. The Scottish Government has produced a Delegated Powers Memorandum (“DPM”) on the delegated power provision in the Bill.

3. This Bill was introduced by the Deputy First Minister and Cabinet Secretary for Finance, Constitution & Economy on 28 January 2016. The Bill makes provision for the Scottish Administration’s budget for the financial year 2016/17.
Delegated Power Provision

4. The Bill confers one delegated power to make subordinate legislation upon the Scottish Ministers. This power is contained in section 7 of the Bill.

Section 7 – Amendment of this Act

<table>
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<th>Power conferred on:</th>
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5. Section 7 of the Bill provides that the Scottish Ministers may by regulations amend the amounts specified in sections 4(2) and 4(3) and schedules 1-3. Section 7(2) provides that this power is subject to the affirmative procedure.

6. Sections 4(2) and 4(3) of the Bill specify the cash amounts which can be drawn on the Scottish Consolidated Fund by the Scottish Administration and each of the direct-funded bodies respectively. Schedules 1 and 2 of the Bill specify the authorised purposes and the amounts of resources which can be used by the Scottish Administration and the direct-funded bodies in relation to those purposes and schedule 3 provides the amounts of borrowing available to certain specified statutory bodies under the enactments listed in that schedule.

7. The Scottish Government states in its DPM that the power in section 7 of the Bill is necessary in order to permit the Scottish Ministers to amend the Bill in order to take account of inevitable changes to the Scottish Government’s spending plans during the financial year to which the Bill applies. The Scottish Government considers that there is a need for a mechanism to allow Ministers to seek authorisation for such changes. It is further explained that since devolution, the use of subordinate legislation to make refinements to the Scottish Government’s spending plans has become a regular part of the budget process, and that all of the annual budget acts have been subject to at least one revision through secondary legislation.

8. The Committee reports that it is satisfied with the power in section 7 of the Bill, and that its exercise is subject to the affirmative procedure.
Delegated Powers and Law Reform Committee
Budget (Scotland) (No.5) Bill at Stage 1, 10th Report, 2016 (Session 4)

1 Budget (Scotland) (No.5) (Scotland) Bill [as introduced] is available at the following website:
http://www.scottish.parliament.uk/S4_Bills/Budget%20(Scotland)%20(No.5)%20Bill/SPBill86S042016.pdf
[accessed February 2016]

2 Budget (Scotland) (No.5) (Scotland) Bill Delegated Powers Memorandum is available at the following website:
http://www.scottish.parliament.uk/S4_Bills/Budget%20(Scotland)%20(No.5)%20Bill/SPBill86ADS042016.pdf
[accessed February 2016]