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Delegated Powers and Law Reform Committee

Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill as amended at Stage 2



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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.



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Introduction

1. At its meeting on 1 March 2016 the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill as amended at Stage 2 (“the Bill”)¹. The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.
2. The Bill was introduced on 4 June 2015, by the Cabinet Secretary for Health, Wellbeing and Sport. The Bill seeks to make provision about tobacco, nicotine and related products, in particular to make provision about retailing, to amend the prohibition on smoking in certain areas and to control advertising and promotion; to make provision about a duty of candour following serious incidents in the course of providing care; to make provision about offences applying to ill-treatment or neglect where care is provided; and for connected purposes.
3. The Scottish Government has provided the Parliament with a supplementary memorandum on the delegated powers provisions in the Bill (“the SDPM”).²
4. The Committee previously reported on the delegated powers provisions in this Bill at Stage 1 in its 56th report of 2015.³

Delegated Power Provision

5. The Committee considered the one new delegated power provision in the Bill after Stage 2.
6. After Stage 2, the Committee reports that it does not need to draw the attention of the Parliament to the new delegated power provision listed below, and that it is content with the parliamentary procedure which the power is subject to:
 - Section 25(2) — Definition of “responsible person” for the purposes of the duty of candour procedure
7. **The Committee therefore reports that it is content with the new delegated power provision in the Bill as amended at Stage 2.**

¹ Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill as amended at Stage 2 (SP Bill 73A, Session 4 (2016)) is available at the following website:

http://www.scottish.parliament.uk/S4_Bills/Health%20Tobacco%20Nicotine%20etc.%20and%20Care%20Scotland%20Bill/SPBill73AS042016.pdf [accessed March 2016]

² Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill. Supplementary Delegated Powers Memorandum (SP Bill 73A, Session 4 (2016)), is available at the following website:

http://www.scottish.parliament.uk/S4_Bills/Health%20Tobacco%20Nicotine%20etc.%20and%20Care%20Scotland%20Bill/SPBill73ADPMS042016.pdf [accessed March 2016]

³ Delegated Powers and Law Reform Committee Report. 56th Report, 2015 (Session 4). *Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill at Stage 1* (SP Paper 802), is available at the following website:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/92746.aspx>
[accessed March 2016]

