



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

21st Report, 2014 (Session 4)

Bankruptcy and Debt Advice (Scotland) Bill as amended at stage 2

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Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Remit and membership

Remit:

1. 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.

Membership:

Richard Baker
Nigel Don (Convener)
Mike MacKenzie
Margaret McCulloch
Stuart McMillan (Deputy Convener)
John Scott
Stewart Stevenson

Committee Clerking Team:

Clerk to the Committee

Euan Donald

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Bankruptcy and Debt Advice (Scotland) Bill as amended at stage 2

The Committee reports to the Parliament as follows—

INTRODUCTION

1. At its meeting on 11 March 2014, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Bankruptcy and Debt Advice (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 Bankruptcy and Debt Advice (Scotland) Bill is a Government Bill which was introduced on 11 June 2013. The Bill makes changes to the law of personal insolvency in Scotland. The Bill principally amends the Bankruptcy (Scotland) Act 1985 (“the 1985 Act”). The 1985 Act operates alongside the Bankruptcy and Diligence (Scotland) Act 2007 and the Debt Arrangement and Attachment (Scotland) Act 2002. The Scottish Government intends to consolidate the 1985 Act as amended by this Bill as part of the 2013/14 legislative programme.
3. The Scottish Government has provided the Parliament with a supplementary memorandum on the delegated powers provisions in the Bill, in advance of Stage 3 of the Bill (“the SDPM”²).
4. The Committee reported on certain matters in relation to the delegated powers provisions in the Bill at Stage 1 in its [54th report of 2013](#).

¹ Bankruptcy and Debt Advice (Scotland) Bill as amended at Stage 2 available at: [http://www.scottish.parliament.uk/S4_Bills/Bankruptcy%20and%20Debt%20Advice%20\(Scotland\)%20Bill/b34as4-stage2-amend.pdf](http://www.scottish.parliament.uk/S4_Bills/Bankruptcy%20and%20Debt%20Advice%20(Scotland)%20Bill/b34as4-stage2-amend.pdf)

² Bankruptcy and Debt Advice (Scotland) Bill Supplementary Delegated Powers Memorandum available at: http://www.scottish.parliament.uk/S4_Bills/Bankruptcy_and_Debt_Advice_Bill_SDPM.pdf

DELEGATED POWERS PROVISIONS

5. The Committee considered each of the new or substantially amended delegated powers provisions 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 or substantially amended delegated powers provisions listed below and that it is content with the Parliamentary procedure to which they are subject:

- Section 3 – Debtor’s contribution: common financial tool. Inserted section 5D of the 1985 Act – power to make regulations about the method used to assess debtor’s contribution (common financial tool). Amendment of section 7 of the Debt Arrangement and Attachment (Scotland) Act 2002
- Section 4 – Debtor contribution order. Inserted section 32D(7) of the 1985 Act – provision about deduction from earnings and other income
- Section 21 – Register of insolvencies. Amendment to section 1A of the Bankruptcy (Scotland) Act 1985
- Section 34 – Power to make provision about applications to and decisions of Accountant in Bankruptcy (AiB). Inserted section 71C of the 1985 Act – power to make provisions about applications to and decisions of the AiB
- Section 48A – Debt arrangement scheme: extension to non-natural persons and fees. Amendment of the Debt Arrangement and Attachment (Scotland) Act 2002 – section 7(2)(ub) – the remuneration of payments distributors and money advisers

7. The Committee therefore reports that it is content with the provisions in the Bill which have been amended at Stage 2 to insert or substantially alter provisions conferring powers to make subordinate legislation.

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