Delegated Powers and Law Reform Committee

2nd Report, 2014 (Session 4)

Regulatory Reform (Scotland) Bill as amended at stage 2

Published by the Scottish Parliament on 8 January 2014
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

Assistant Clerk
Elizabeth White

Support Manager
Daren Pratt
INTRODUCTION

1. At its meeting on 7 January 2014, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Regulatory Reform (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 Regulatory Reform (Scotland) Bill is a Government Bill which was introduced on 27 March 2013. The Bill takes forward the 2011 Scottish Government commitment to improve the way regulations are applied in practice across Scotland, and to take forward the Government’s Better Regulation agenda. The primary purpose is described in the Delegated Powers Memorandum as “to improve the way regulation is developed and applied, creating more favourable business conditions in Scotland and delivering benefits for the environment.”

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 40th report of 2013.

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\(^1\) Regulatory Reform (Scotland) Bill as amended at Stage 2 available at: [http://www.scottish.parliament.uk/S4_Bills/Regulatory%20Reform%20(Scotland)%20Bill/b26as4-stage2-amend.pdf](http://www.scottish.parliament.uk/S4_Bills/Regulatory%20Reform%20(Scotland)%20Bill/b26as4-stage2-amend.pdf)

\(^2\) Regulatory Reform (Scotland) Bill Supplementary Delegated Powers Memorandum available at: [http://www.scottish.parliament.uk/S4_Bills/Reg_Reform_SDPM.pdf](http://www.scottish.parliament.uk/S4_Bills/Reg_Reform_SDPM.pdf)
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 delegated powers provisions listed below and that it is content with the Parliamentary procedure to which they are subject:

- Section 7B- meaning of “relevant function”
- Section 7E- Primary authorities: power to make further provision
- Section 7H- Guidance
- Section 32B – Offences relating to supply of carrier bags: fixed penalty notices
- Section 32B(3) (inserting new paragraph 12 of Schedule 1A to the Climate Change (Scotland) Act 2009) – Offences relating to supply of carrier bags: fixed penalty notices
- Paragraph 11(2) of Schedule 3 (amending section 33A(13) and inserting 33A(13A) and (13B) of the Environmental Protection Act 1990 - Minor and consequential modifications
- Paragraph 11(4) of Schedule 3 (amending section 88(10) and inserting 88(10A) and (10B) of the Environmental Protection Act 1990 - Minor and consequential modifications

7. After Stage 2, the Committee reports that it does not need to draw the attention of the Parliament to the substantially amended delegated powers provisions listed below:

- Section 1(5) – Power as respects consistency in regulatory functions
- Schedule 1 (introduced by section 1(5))– Regulators for the purposes of the powers in Part 1
- Section 2(8A) – Regulations under section 1: further provision
- Section 4(3A) – Regulators’ duty in respect of sustainable economic growth
- Section 5(1A) – Code of practice
- Paragraphs 11(7), 11(8) and 28A of Schedule 2 (introduced by section 10)
- Sections 12 to 14 - Fixed monetary penalties
8. 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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