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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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Committee Membership

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John Mason
Scottish National Party

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Scottish Labour

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Scottish Conservative and Unionist Party

Stewart Stevenson
Scottish National Party
Introduction

1. At its meeting on 16 June 2015, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Mental Health (Scotland) Bill as amended at Stage 2 (“the Bill”). The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.

2. The Bill was introduced by the then Cabinet Secretary for Health and Wellbeing on 19 June 2014. The Bill makes provision in relation to mental health. It makes a large number of technical amendments to the Criminal Justice (Scotland) Act 1995, the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”); and the Criminal Justice (Scotland) Act 2003.

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”).

4. The Committee reported on certain matters in relation to the delegated powers provisions in the Bill at Stage 1 in its 61st report of 2014.

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1 Mental Health (Scotland) Bill as amended at Stage 2 available here: http://www.scottish.parliament.uk/S4_Bills/Mental%20Health%20(Scotland)%20Bill/b53as4-stage2-amend.pdf

II Mental Health (Scotland) Bill as amended at Stage 2 Supplementary Delegated Powers Memorandum available here: http://www.scottish.parliament.uk/S4_Bills/Mental%20Health%20(Scotland)%20Bill/Supplementary_Delegated_Powers_Memorandum.pdf
Delegated Powers and Law Reform Committee
Mental Health (Scotland) Bill as amended at Stage 2, 40th Report, 2015 (Session 4)

Delegated Powers Provisions

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

- Section 11(4A) – inserting section 271A into the 2003 Act – Orders relating to non-state hospitals
- Section 22A – inserting section 291A into the 2003 Act – Conflicts of interest to be avoided
- Section 25(3) – Dealing with absconding patients

7. The Committee approves these powers without further comment.