

RESTRICTED ROADS (20 MPH SPEED LIMIT) (SCOTLAND) BILL

DELEGATED POWERS MEMORANDUM

INTRODUCTION

1. This memorandum has been prepared by the Non-Government Bills Unit on behalf of Mark Ruskell in accordance with Rule 9.4A of the Parliament's Standing Orders, in relation to the Restricted Roads (20 mph Speed Limit) (Scotland) Bill. It describes the purpose of the subordinate legislation provision in the Bill and outlines the reasons for seeking the proposed power. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

OUTLINE OF BILL PROVISIONS

2. This short Bill makes provision to reduce the general speed limit on restricted roads to 20 miles per hour. In Scotland, a road is a "restricted road":

- where it is lit by lamps placed not more than 185 metres apart and the road is either a C road or an unclassified road; or
- where it has been classified as a restricted road by virtue of an order made by the traffic authority (either the council whose area the roads falls within or the Scottish Ministers) under section 82(2)(b) of the Road Traffic Regulation Act 1984 (the "1984 Act").

3. The Bill replaces subsection (1) of section 81 of the 1984 Act with a new subsection which changes the speed limit on a restricted road from 30 mph to 20 mph; ensures that the Scottish Ministers can vary the speed limit on restricted roads by means of an order under section 81(2) of the 1984 Act in future; and provides for a simplified process for the variation or revocation of certain orders which are directly consequential as a result of the new speed limit coming into force.

RATIONALE FOR DELEGATED POWERS

4. The Bill contains one power to make subordinate legislation, which is delegated to the Scottish Ministers. The delegated power is new and is explained more fully in paragraph 6.

5. The Bill also updates an existing delegated power to ensure that Scottish Ministers retain their powers to vary the general speed limit specified in s 81(1) by way of subordinate legislation. As currently framed, section 81(2) of the 1984 Act gives the national authority the power to increase or reduce the rate of speed fixed in subsection (1), "either as originally enacted or as varied under this subsection". The phrase "national authority" is defined in the 1984 Act (as amended by the Scotland Act 2016) as, in relation to a function exercisable within devolved competence within the meaning of the Scotland Act 1998, meaning the Scottish Ministers; in

relation to Wales, meaning the Welsh Ministers and otherwise meaning Secretary of State. The amendments to section 81 will apply to Scotland only; and section 2 of the Bill reflects this by referring to “the Scottish Ministers”, rather than “the national authority”. The current wording “either as originally enacted or as varied under this subsection” raised a doubt as to whether Scottish Ministers would still have the power to vary section 81(1) where it had been amended by primary legislation. The sole purpose of section 2 of the Bill is to ensure that this ability of Scottish Ministers to further amend the speed limit on restricted roads by means of subordinate legislation under subsection (2) of section 81 of the 1984 Act is not restricted by this Bill. Section 2 of the Bill does not change the scope of the current delegated power.

DELEGATED POWER

Section 5 – Commencement

Section 5(1) - power to bring sections 1 and 2 into force at an earlier date

Power conferred on: the Scottish Ministers
Power exercisable by: regulations made by Scottish statutory instrument
Parliamentary procedure: laid, no further procedure

Provision

6. The Bill makes provision for sections 1 and 2 to come into force at the end of a period of 18 months beginning with the day of Royal Assent or, alternatively, on such earlier date as the Scottish Ministers may, by regulations, appoint.

Reason for taking power

7. The main purpose of this Bill is to reduce the general speed limit on restricted roads. It makes provision for sections 1 and 2 of the Bill to be brought into force 18 months after Royal Assent. This time is considered sufficient to allow the necessary practical and legislative arrangements to be made to ensure that the policy operates as intended. However, the power contained within section 5(1) enables the Scottish Ministers to bring these core operative sections into force at an earlier date, should they choose to do so. It is considered appropriate to give the Scottish Ministers flexibility to bring forward commencement if they consider this to be suitable, particularly for stakeholders, and having regard to the need to make any necessary secondary legislation, fulfilling signage requirements and putting all other necessary systems and procedures in place, as the case may be.

Choice of procedure

8. As is usual for commencement regulations, the default laying requirement applies (as provided for by section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010). This is considered appropriate because the policy behind the provisions will have already been considered by the Parliament during the passage of the Bill.

This document relates to the Restricted Roads (20 mph Speed Limit) (Scotland) Bill (SP Bill 39) as introduced in the Scottish Parliament on 21 September 2018

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