



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Douglas Ross MSP
via email

27 September 2024

Dear Douglas

Right to Addiction Recovery (Scotland) Bill at Stage 1

The Delegated Powers and Law Reform Committee considered the above Bill at its meeting on Tuesday, 24 September, and agreed to write to you to ask the following questions in relation to delegated powers contained in the Bill.

Section 1(6): Right to recovery; and Section 3(3): Provision of treatment

In relation to the power at **section 1(6)**, the Delegated Powers Memorandum (“DPM”) states that you consider it is important to have the main types of treatment that may be considered appropriate to treat drug and alcohol addiction set out on the face of the Bill. These are set out in a non-exhaustive list of examples of “treatment” which may be deemed appropriate. The DPM further states that new treatments may come to the fore in future and that you consider that the power to add (but not subtract) from the list is important in keeping the treatment options up-to-date and transparent.

In relation to the power at **section 3(3)**, the DPM states that you consider it appropriate that the common reasons for which treatment has been denied are set out on the face of the Bill. These are also set out in a non-exhaustive list. The DPM further states that although the right to treatment is absolute under this Bill, it is necessary to include the power in case another reason for refusing treatment arises in the future.

While it is not uncommon for Bills to give such non-exhaustive lists, which may be helpful for users of the legislation, it appears to the Committee that they have little legal or practical effect in this case, given that the decision with regards to treatment will always be left to a health professional who is not bound by the list and that the right to treatment would be made absolute.

As such, the Committee questions whether the power to make incidental, supplementary, consequential, transitional, transitory or saving provision and to make different provision for different purposes is strictly necessary in these circumstances.

Contact: Delegated Powers and Law Reform Committee, The Scottish Parliament, Edinburgh, EH99 1SP.

Email: dprr.committee@parliament.scot.

We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

As such, in relation to sections 1(6) and 3(3), the Committee asks (in responding, it would be helpful if you could respond with an individual answer for each power)—

- **for further explanation as to why you consider it necessary that the powers in sections 1(6) and 3(3) include the power to make incidental, supplementary, consequential, transitory or saving provision and to make different provision for different purposes;**
- **for examples of scenarios whereby the exercise of these powers may be used to make such provision; and**
- **whether there is anything further that could be added to the face of the Bill to clarify or emphasise that the lists are non-exhaustive?**

Section 4(2): Duty to secure delivery

Section 6: Code of practice

Finally, in relation to section 6, as you are aware, it provides that the Scottish Ministers must prepare a code of practice to be laid in Parliament in draft at the same time as the draft regulations under section 4 are laid. The code of practice will cover the discharge of functions by the public bodies mentioned above, as imposed on them by regulations made under section 4. Section 6(5) states that the public bodies mentioned in section 4(2) must comply with the code of practice.

As it is currently unclear what regulations under section 4 will look like, it is difficult to say how significant the information included in the code of practice is likely to be. However, it is clear to the Committee that it will make further provision about the functions placed on them in connection with securing the delivery of the rights in the Bill, and that public bodies will be legally required to comply with the code.

While there will be an opportunity for scrutiny of the code of practice when it is laid in draft alongside regulations made under section 4, the Committee asks **whether the intention is that there will be an opportunity for Members of the Parliament to make representations on the code of practice when it is laid in draft?**

I would be grateful if you could please email your response to these questions to: dplr.committee@parliament.scot, by **Monday, 14 October**.

Yours sincerely

Stuart McMillan MSP
Convener