

GREYHOUND RACING (OFFENCES) (SCOTLAND) BILL

DELEGATED POWERS MEMORANDUM

INTRODUCTION

1. This Delegated Powers Memorandum has been prepared by the Non-Government Bills Unit, on behalf of Mark Ruskell MSP, the Member in Charge of the Bill, in accordance with Rule 9.3.3B of the Parliament’s Standing Orders in relation to the Greyhound Racing (Offences) (Scotland) Bill (“the Bill”). It describes the purpose of each of the subordinate legislation provisions in the Bill and outlines the reasons for seeking the proposed powers.

2. The following other accompanying documents are published separately:

- Explanatory Notes (SP Bill 65–EN);
- a Financial Memorandum (SP Bill 65–FM);
- a Policy Memorandum (SP Bill 65–PM);
- statements on legislative competence made by the Presiding Officer and the Member in Charge of the Bill (SP Bill 65–LC).

3. This Memorandum has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Parliament.

OUTLINE OF BILL PROVISIONS

4. The Bill provides that it is an offence both to race a greyhound and to facilitate that racing by operating a track. The offences are in relation to racing on oval tracks.

5. The Bill provides for enforcement powers, for the levels of fine or imprisonment and for the court to be able to make certain orders following that conviction, namely: deprivation, disqualification and seizure orders.

RATIONALE FOR SUBORDINATE LEGISLATION

6. The Bill contains two delegated powers provisions. One is the ability for Scottish Ministers to modify the definition of “racetrack” so as to cover tracks other than oval tracks should that prove necessary in future. The other is to enable ancillary provision to be made where the Scottish Ministers consider it appropriate to ensure the Bill can be given its full effect.

DELEGATED POWERS

Section 1(5): Power to modify the definition of “racetrack”

Power conferred on:	Scottish Ministers
Power exercisable by:	Regulations made by Scottish statutory instrument
Parliamentary procedure:	Affirmative

Provision

7. Section 1(4) provides that the offences in the Bill of racing a greyhound or of operating a track apply only to an oval track. Section 1(5) provides that Scottish Ministers can modify that definition by regulations to include other categories of premises used for the purposes of greyhound racing.

Reason for taking power

8. Traditionally, and globally, most racetracks used for greyhound racing are oval in shape. There is only one greyhound track currently operating in Scotland and it is oval. The Member considers that, due to the curvature, oval tracks carry an inherent risk to greyhounds of injury and fatality. He is therefore addressing these animal welfare concerns by prohibiting racing greyhounds on an oval track in Scotland. However, it is conceivable that greyhound racing might move to other types of track once this Bill comes into force. The Member wants Scottish Ministers to have the power to be able to make regulations to cover other types of tracks should they come into being and should they pose a risk of injury or fatality to greyhounds.

Choice of procedure

9. Section 1(6) provides that any regulations made under section 1(5) would be subject to the affirmative procedure. As the regulations would in effect be amending the definition of “racetrack” in primary legislation, the use of the affirmative procedure is considered appropriate as it would allow Parliament to debate the impact on the welfare of greyhounds of racing on a different type of track.

Section 11: Ancillary provision

Power conferred on:	Scottish Ministers
Power exercisable by:	Regulations made by Scottish statutory instrument
Parliamentary procedure:	Affirmative if making textual amendments to an Act, but otherwise negative

Provision

10. Section 11 gives the Scottish Ministers power to make regulations to make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with, or for giving full effect to the Bill or any provision of the Bill.

Reason for taking power

11. The Bill may give rise to a need for further provision to make sure that these new offences can operate effectively in practice. This enabling power is sought to provide flexibility to quickly and effectively make any necessary change that might be needed.

12. Whilst the Member has given careful consideration to the provisions of the Bill, given the complex landscape of Scots criminal law, it is possible that ancillary provision may be needed. Without such a power it would be necessary to return to the Parliament with another Bill to deal with any minor matters to properly give effect to a Bill already passed by the Parliament.

Choice of procedure

13. Regulations made under section 11 which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure. Otherwise, regulations made under this section are subject to the negative procedure. That approach is typical for ancillary powers of this type and reflects the fact that the Parliament should be able to carefully scrutinise any amendments to primary legislation, while ancillary changes to subordinate legislation are likely to be of a more technical nature and so merit a lesser degree of parliamentary scrutiny.

This document relates to the Greyhound Racing (Offences) (Scotland) Bill (SP Bill 65) as introduced in the Scottish Parliament on 23 April 2025

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