

# **HIGH HEDGES (SCOTLAND) BILL**

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## **SUPPLEMENTARY DELEGATED POWERS MEMORANDUM**

### **PURPOSE**

1. This Memorandum has been prepared by Mark McDonald MSP with the assistance of the Scottish Government to assist the Subordinate Legislation Committee in its consideration of the High Hedges (Scotland) Bill. It describes provisions in the Bill conferring power to make subordinate legislation which were amended at Stage 2. The Memorandum supplements the Delegated Powers Memorandum on the Bill as introduced.

### **PROVISIONS CONFERRING POWER TO MAKE SUBORDINATE LEGISLATION AMENDED AT STAGE 2**

#### **Section 34 – Power to modify meaning of “high hedge”**

**Power conferred on:** The Scottish Ministers  
**Power exercisable by:** Regulations  
**Parliamentary procedure:** Affirmative procedure

#### *Provision*

2. Section 1 defines a high hedge for the purposes of this Bill. Subsection (1) states that the Act only applies to a hedge which is formed wholly or mainly by a row of 2 or more evergreen or semi-evergreen trees or shrubs, which rises to a height of more than 2 metres above ground level and forms a barrier to light. Subsection (3) states that no account is to be taken of the roots of a high hedge in applying this Act.

3. Section 34 of the Bill confers on Scottish Ministers the power to modify by regulations the definition of a high hedge, as set out in section 1.

#### *Reason for taking this power*

4. As set out in the original Delegated Powers Memorandum, the intention is to give the Scottish Ministers flexibility to adjust the coverage of the Bill, given the competing arguments of what should be covered by the definition of a high hedge.

*This document relates to the High Hedges (Scotland) Bill as amended at Stage 2 (SP Bill 16A)*

*Stage 2 amendment*

5. At Stage 2 (see amendment 19, Local Government and Regeneration Committee Official Report, 6 March, col 1805), section 34(1) was amended by specifying that modifications to the definition of a high hedge in section 1 are limited to:

- adding a type of tree or shrub to, or removing a type of tree or shrub from, section 1(1)(a);
- increasing or reducing the height above ground level specified in section 1(1)(b) and (2); and
- modifying or adding to the effect of a high hedge specified in section 1(1)(c).

*Choice of procedure*

6. The section 34 powers remain subject to the affirmative procedure, for the reasons given in the original Delegated Powers Memorandum.

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