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Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh

Referendums (Scotland) Bill: as amended at Stage 2



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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 the following (and any additional matter added under Rule 6.1.5A)—

- (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;
- (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.
- (i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/delegated-powers-committee.aspx>



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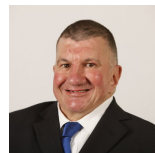
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Introduction

1. At its meetings on 10 and 17 December 2019, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Referendums (Scotland) Bill as amended at Stage 2. The Committee submits this report to the Parliament under Rule 9.7.9 of the Standing Orders.
2. This Bill provides a generic framework of rules to apply to referendums within the legislative competence of the Scottish Parliament. The Delegated Powers and Law Reform Committee published its Stage 1 report on the Bill on 17 September 2019.ⁱ The Committee made several recommendations on the delegated powers provisions to the lead Committee. The delegated powers that were of concern to the Committee have been removed at Stage 2. The delegated powers in the Bill are discussed further below.

ⁱ Delegated Powers and Law Reform Committee. 39th Report, 2019 (Session 5). Referendums (Scotland) Bill: Stage 1 (SP Paper 577)

Delegated Powers Scrutiny

3. Sections 1 and 2 of the Bill, as introduced, contained significant delegated powers. Those provisions would have allowed the Scottish Ministers, by regulations, to provide for a referendum to be held throughout Scotland. The Committee's Stage 1 report focused on those powers and made a number of recommendations. However, at Stage 2 both sections were removed. The Bill now requires any future referendum to be established by primary legislation.
 4. In addition to the delegated powers in sections 1 and 2 being removed, the following powers were revised at Stage 2:
 - Section 37 – Power to modify this Act
 - Schedule 1, paragraph 17(4) - Alterations in the register of local government electors
5. The Committee is content with the revisions to these powers and therefore with all of the delegated powers in the Bill as amended at Stage 2.

