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

Census (Amendment) (Scotland) Bill: as amended at Stage 2



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Contents

Introduction	1
Overview of the Bill	2
Delegated Powers	3

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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Introduction

1. At its meeting on 4 June 2019, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Census (Amendment) (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. The Bill was introduced by the Cabinet Secretary for Culture, Tourism and External Affairs, Fiona Hyslop MSP, on 2 October 2018. The Bill completed Stage 2 on 2 May 2019. The Culture, Tourism, Europe and External Affairs Committee was the lead Committee.
3. The Delegated Powers and Law Reform Committee published its Stage 1 Report on the Bill on 31 October 2018.ⁱ The Committee reported that it was content with the powers proposed in the Bill.

Overview of the Bill

4. The Bill comprises 3 sections. It makes two, linked amendments to the Census Act 1920 (“1920 Act”).
5. Section 1 of the Bill amends the 1920 Act to add references to “transgender status and history” and “sexual orientation” to the list of matters about which questions may be asked in a census.
6. Section 1 also amends the 1920 Act to put sexual orientation and other particulars, with respect to transgender status and history, as may be prescribed in the same category as religion, so that the questions are voluntary rather than compulsory.
7. Sections 2 and 3 concern commencement and short title.

Delegated Powers

8. The Scottish Government issued a Revised Delegated Powers Memorandum.ⁱⁱ
9. There is one revised delegated power in the Bill as amended at Stage 2-
 - Section 1(3) – particulars about transgender status and history may be gathered in census (new section 8(1A)(b) of the 1920 Act)

Recommendation

10. **The Committee reports that it is content with the amended delegated power in section 8(1A)(b) of the Census Act 1920, as substituted by section 1(3) of the Bill.**

ⁱⁱ The Delegated Powers Memorandum is available [here](#).

