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

Hate Crime and Public Order (Scotland) Bill: 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.



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Introduction

1. At its meeting on 2 March 2021, the Delegated Powers and Law Reform Committee considered the delegated powers in the Hate Crime and Public Order (Scotland) Bill (“the Bill”) as amended at Stage 2.ⁱ
2. The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.
3. The Committee published its Stage 1 Report on the Bill on 27 August 2020ⁱⁱ; it reported it was content with the delegated powers provisions contained in the Bill.
4. The Bill completed Stage 2 on 16 February 2021.

ⁱ The Bill as introduced is available [here](#)

ⁱⁱ [Delegated Powers and Law Reform Committee, 46th Report 2020 \(Session 5\): Hate Crime and Public Order \(Scotland\) Bill: Stage 1](#)

Overview of the Bill

5. This Scottish Government Bill was introduced by the Cabinet Secretary for Justice, Humza Yousaf MSP, on 23 April 2020. The lead committee is the Justice Committee.
6. The Bill implements recommendations made by Lord Bracadale in his 2018 review to modernise, consolidate and extend hate crime legislation in Scotland.
7. Part 1 of the Bill makes provision relating to the aggravation of existing statutory offences by prejudice and Part 2 creates offences relating to the stirring up of hatred against particular groups. The Bill also abolishes the common law offence of blasphemy.

Delegated Powers

8. The Scottish Government has produced a Revised Delegated Powers Memorandumⁱⁱⁱ which describes provisions in the Bill conferring power to make subordinate legislation which were introduced at Stage 1.
9. The Memorandum revises the Delegated Powers Memorandum on the Bill as introduced.^{iv}
10. The Committee considered the revised delegated powers in Section 15 of the Bill, which provides that Scottish Ministers may by regulations add the characteristic of sex to the list of characteristics in either or both of section 1(2) and section 3(3).

11. **The Committee is content with the revised delegated powers provisions in Section 15 of the Bill to add sex to the list of characteristics.**
12. **The Committee is also content that the revised delegated power is subject to the affirmative procedure, and that the additional requirements of the “super-affirmative” procedure will apply to regulations made under this provision.**

iii The Revised Delegated Powers Memorandum is available [here](#)

iv The Supplementary Delegated Powers Memorandum, as introduced, is available [here](#)

