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Delegated Powers and Law Reform Committee

Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh

Budget (Scotland) Bill at Stage 1



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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:

- (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 31 January 2017 the Delegated Powers and Law Reform Committee considered the delegated power provision in the Budget (Scotland) Bill at Stage 1 ("the Bill") ¹ . The Committee reports to the Parliament on the provision under Rule 9.16.3 of Standing Orders.
2. The Bill was introduced by the Cabinet Secretary for Finance and the Constitution, Derek Mackay MSP, on 26 January 2017. The Bill makes provision for the Scottish Administration's budget for the financial year 2017/18. In particular, it authorises the use of resources by the Scottish Ministers and bodies whose expenditure is funded directly out of the Scottish Consolidated Fund ("SCF"). Those bodies are the Forestry Commissioners, the Scottish Parliamentary Corporate Body and Audit Scotland.

Delegated Power Provision

3. The Bill confers one delegated power to make subordinate legislation upon the Scottish Ministers. This power is contained in section 7 of the Bill.
4. The Scottish Government has produced a Delegated Powers Memorandum (“DPM”) ². It sets out the reasoning for taking the delegated power and for the procedure chosen. Comment on the power, along with the Committee's recommendation on that power, is set out below.

Section 7 – Budget revision regulations

- **Power conferred on: Scottish Ministers**
 - **Power exercisable by: regulations**
 - **Parliamentary procedure: affirmative**
5. Section 7 of the Bill provides that the Scottish Ministers may by regulations amend the amounts specified in section 4(2) and 4(3) and schedules 1 to 3. Section 7(2) provides that this power is subject to the affirmative procedure.
 6. Sections 4(2) and 4(3) of the Bill specify the cash amounts which can be drawn on the SCF by the Scottish Administration and each of the direct-funded bodies respectively. Schedules 1 and 2 of the Bill specify the authorised purposes and the amounts of resources which can be used by, respectively, the Scottish Administration and the direct-funded bodies in relation to those purposes. Schedule 3 provides the amounts of borrowing available to certain specified statutory bodies under the enactments listed in that schedule.
 7. The Scottish Government states in its DPM that the power in section 7 of the Bill is necessary in order to permit the Scottish Ministers to amend the Bill to take account of inevitable changes to the Government's spending plans during the financial year to which the Bill applies. The Scottish Government considers that there is a need for a mechanism to allow Ministers to seek authorisation for such changes. It is further explained that since devolution, the use of subordinate legislation to make refinements to the Government's spending plans has become a regular part of the budget process. It states that all of the annual budget acts have been subject to at least one revision through secondary legislation.

The Committee reports that it is satisfied with the power in section 7 of the Bill, and that its exercise is subject to the affirmative procedure.

- 1 The Budget (Scotland) Bill as introduced is available here: [http://www.parliament.scot/Budget%20\(Scotland\)%20Bill/SPBill04S052017.pdf](http://www.parliament.scot/Budget%20(Scotland)%20Bill/SPBill04S052017.pdf)
- 2 The Delegated Powers Memorandum on the Budget (Scotland) Bill is available here: <http://www.parliament.scot/SPBILL04S052017DPM.pdf>

