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

Civil Partnership (Scotland) Bill: 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 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 14 January 2020, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Civil Partnership (Scotland) Bill ("the Bill") at Stage 1.ⁱ
2. The Committee submits this report to the lead Committee for the Bill under Rule 9.6.2 of the Standing Orders.
3. The Scottish Government has provided the Parliament with a memorandum on the delegated powers provisions in the Bill.ⁱⁱ

ⁱ The Bill is available [here](#).

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

Overview of the Bill

4. This Government Bill was introduced by the Cabinet Secretary for Social Security and Older People, Shirley-Anne Somerville MSP, on 30 September 2019. The lead committee is the Equalities and Human Rights Committee.
5. The Bill is the Scottish Government's response to the UK Supreme Court's judgement in *R (on the application of Steinfeld and Keidan) v Secretary of State for International Development* that sections 1 and 3 of the Civil Partnership Act 2004 were incompatible with the ECHR to the extent that they precluded mixed sex couples from entering into civil partnerships.
6. The Bill makes civil partnership available to mixed sex couples. It includes provisions on eligibility, registration, dissolution, family law matters, recognition of similar relationships from other jurisdictions, gender recognition, and forced civil partnership.

Delegated Powers

7. The Committee considered each of the delegated powers in the Bill. The Committee determined that it did not need to draw the attention of the Parliament to the delegated powers in the following provisions:
- Section 2(3)(f) (inserted section 213(7) of the Civil Partnership Act 2004 ("2004 Act")) – specification of overseas different sex relationships for the purposes of recognition in Scotland
 - Section 2(4)(b) (inserted section 215(3B) of the 2004 Act) – recognition of overseas mixed sex relationships: date relationship to be treated as having been created – contrary provision
 - Section 3(4) – interim recognition of overseas mixed sex relationships: contrary provision
 - Section 5(2)(b) (inserted section 94A(2A)(a)(i) of the 2004 Act) – registration of civil partnership: power to prescribe religious or belief bodies whose celebrants are authorised to register mixed sex civil partnerships
 - Section 9(2) (inserted section 121A(7) of the 2004 Act) – postponement of decree of dissolution where religious impediment to marriage exists
 - Section 13(1) – ancillary provision
 - Section 14(2) – commencement
8. The Committee therefore reports that it is content with the delegated powers provisions contained in the Bill.

