



The Scottish Parliament
Pàrlamaid na h-Alba

Published 17 September 2020
SP Paper 810
51st (Session 5)

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

Travelling Funfairs (Licensing) (Scotland) Bill: Stage 1



Published in Scotland by the Scottish Parliamentary Corporate Body.

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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 15 September 2020, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Travelling Funfairs (Licensing) (Scotland) Bill ("the Bill") at Stage 1.
2. The Committee submits this report to the lead Committee for the Bill under Rule 9.6.2 of the Standing Orders.
3. The Member in Charge has provided the Parliament with a memorandum on the delegated powers provisions in the Bill.

Overview of the Bill

4. This Member's Bill was introduced by Richard Lyle MSP on 29 April 2020. The lead committee is the Local Government and Communities Committee.
5. The Bill seeks to reduce burdens on the operators of travelling funfairs presented by the current licensing regime and thereby improve the financial viability of such businesses.
6. The Bill proposes to achieve this by:
 1. removing travelling funfairs from the public entertainment licensing regime under the Civic Government (Scotland) Act 1982 to which they are currently subject, and
 2. establishing a new licensing regime for travelling funfairs, which is set out in the Bill.

Delegated Powers

7. The Bill confers one power to make subordinate legislation on the Scottish Ministers. The Member has prepared [a Delegated Powers Memorandum](#) (“DPM”) which sets out the reason for taking the delegated power in the Bill and the parliamentary scrutiny procedure that has been chosen.
8. Section 5(6) gives the Scottish Ministers power to amend the £50 application fee for making an application for a licence under the Bill, to take account of inflation.
9. When fees are prescribed in primary legislation, the Committee accepts that it is standard practice to make provision for uprating to allow for inflation.
10. The Committee noted that the power is expressed as allowing Scottish Ministers to “substitute for the amount of the application fee such other amount as they think appropriate but only in order to take account of changes in the value of money.” The Committee questioned which measure of inflation would be used and would be grateful if the Member in Charge could confirm.

Nevertheless, the Committee accepts the proposed power in principle and is content that the exercise of the power will be subject to the negative procedure.

