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Pàrlamaid na h-Alba

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

## **Delegated powers provisions in the Wildlife Management and Muirburn (Scotland) Bill (as amended at 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.



[dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot)



0131 348 5212

# Committee Membership



**Stuart McMillan**  
Scottish National Party



**Bill Kidd**  
Scottish National Party



**Jeremy Balfour**  
Scottish Conservative  
and Unionist Party



**Oliver Mundell**  
Scottish Conservative  
and Unionist Party



**Foyso Choudhury**  
Scottish Labour

# Introduction

1. At its meeting on 19 March 2024, the Delegated Powers and Law Reform Committee considered the delegated powers contained in the [Wildlife Management and Muirburn \(Scotland\) Bill](#) (as amended at Stage 2).
2. This Scottish Government Bill was introduced on 21 March 2023 and completed Stage 2 on 21 February 2024. The lead committee is the Rural Affairs and Islands Committee.

# Overview of the Bill

3. The delegated powers in the Bill at Stage 1 were considered by the Committee at its meetings on 2 May and 13 June 2023. The Committee's [report](#) was published on 15 June 2023.
4. Following Stage 2, one new delegated power has been added to the Bill. The Scottish Government has therefore produced a [Supplementary Delegated Powers Memorandum](#) ("Supplementary DPM") which sets out the reason for taking the additional delegated power and for the procedure chosen.
5. The Committee is required by Rule 9.7.9(b) of the Standing Orders to consider and report to the Parliament on new or substantially altered delegated powers after Stage 2.

# Review of the additional delegated power

## Section 8A(5): Power to investigate certain wildlife offences

### Power conferred on: The Scottish Ministers

### Power exercisable by: Regulations made by Scottish statutory instrument

### Parliamentary procedure: Affirmative

### Revised or new power: New

#### *Provision*

6. The Animal Health and Welfare (Scotland) Act 2006 (“the 2006 Act”) confers powers on inspectors appointed under that Act to investigate animal welfare offences.
7. Section 8A of the Bill modifies the 2006 Act to confer additional powers on inspectors to investigate certain wildlife offences. The powers may be exercised in connection with a “relevant offence” (which is an offence listed in schedule 1 of the 2006 Act).
8. This new delegated power allows Scottish Ministers, by regulations, to modify the definition of “relevant offence” which inspectors have powers to investigate.

#### *Committee consideration*

9. The Supplementary DPM states that this power is required to enable the Scottish Ministers to make any changes to the list of relevant wildlife offences that inspectors authorised under the 2006 Act can investigate. It will “future proof” the offence provisions and ensure that they can take account of any new offences which may be created. The power will also enable the Scottish Ministers to add current wildlife offences which are not included in the definition, should they deem it appropriate to do so.
10. The Committee considers this power extends no further than is appropriate. It will require to be exercised in accordance with the purpose of schedule 1 of the 2006 Act, which is being amended. This means that it would not, for example, be possible to exercise the power so as to add offences which are not related to wildlife crime.
11. As the power enables the amendment of primary legislation and relates to criminal offences, it is the Committee's view that the affirmative procedure is appropriate.
12. **The Committee accepts the proposed power in principle and is content that it is subject to the affirmative procedure.**



