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

Children (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 12 November 2019, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Children (Scotland) Bill ("the Bill") at Stage 1.ⁱ
2. The Committee submits this report to the lead Committee for the Bill (the Justice Committee) 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 Justice, Humza Yousaf MSP, on 2 September 2019. The lead committee is the Justice Committee.
5. The policy objectives of the Bill are:
 - to ensure the views of the child are heard in contact and residence cases;
 - to further protect victims of domestic abuse and their children;
 - to ensure the best interests of the child are at the centre of contact and residence cases and Children’s Hearings; and
 - to further compliance with the United Nations Convention on the Rights of the Child (UNCRC) in family court cases.
6. The Bill amends the Children (Scotland) Act 1995, the Adoption and Children (Scotland) Act 2007, the Vulnerable Witnesses (Scotland) Act 2004, the Children’s Hearings (Scotland) Act 2011, and the Matrimonial Proceedings (Children) Act 1958.
7. It adds provision to this legislation in relation to regard being had to a child’s view in certain proceedings; the deeming of a witness in certain proceedings as a vulnerable witness and the special measures available to the court in order to ensure the protection of that witness in the proceedings; registers for child welfare reporters and curators ad litem, regulation of contact centres; the promotion of contact between looked after children and their siblings; and the explanation of decisions in certain court proceedings to a child.
8. The Bill also makes provision to update the appeals provisions in the Children’s Hearings (Scotland) Act 2011 to include appeals to the Sheriff Appeal Court. It also provides the Scottish Ministers with the power to make regulations for the conferral of parental responsibilities and rights on a person whose child was born outside the UK and has not acquired those responsibilities and rights under the Children (Scotland) Act 1995.

Delegated Powers

9. 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 4(3) (section 11A(3) of the Vulnerable Witnesses (Scotland) Act 2004): Power to modify the list of conduct for the purposes of deeming a person to be a vulnerable witness in relevant proceedings under the Children’s Hearings (Scotland) Act 2011 or to make other modifications to this section**
- **Section 4(3) (section 11B(6) of the Vulnerable Witnesses (Scotland) Act 2004): Power to modify the list of relevant offences for the purposes of deeming a person to be a vulnerable witness in proceedings concerning orders under section 11(1) of the Children (Scotland) Act 1995 or make other modifications to this section**
- **Section 6(2): Power to make provisions in relation to the register of solicitors who may be appointed by a court under section 22B(6) of the Vulnerable Witnesses (Scotland) Act 2004**
- **Section 7(2) (section 11B(6)(d) of the Children (Scotland) Act 1995) – Power to prescribe special measures for the purpose of reducing distress to vulnerable parties**
- **Section 8(2) (section 101A(3) of the Children (Scotland) Act 1995) – Power to make provision for or in connection with the register of child welfare reporters**
- **Section 9(3) (section 101C(1) of the Children (Scotland) Act 1995) - Power to make provision about the regulation of contact services**
- **Section 13(3) (section 101B(2) of the Children (Scotland) Act 1995) - Power to make provision for or in connection with the register of curators ad litem**
- **Section 15(2) (section 11E(6) of the Children (Scotland) Act 1995) – Power to modify the list of persons who can give an explanation of court decisions to the child**
- **Section 19(2) (section 4B(1) of the Children (Scotland) Act 1995) – Power to make provision for the conferral of Parental Responsibilities and Parental Rights where birth is registered outwith the United Kingdom**
- **Section: 22(1) - Power to replace descriptions with actual dates**
- **Section 23(1) - Ancillary Provision**
- **Section 24(2): Commencement**

10. The Committee therefore reports that it is content with the delegated powers provisions contained in the Bill.

