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

Dogs (Protection of Livestock) (Amendment) (Scotland) Bill: 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.



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Introduction

1. At its meeting on 16 March 2021, the Delegated Powers and Law Reform Committee considered the delegated powers in the Dogs (Protection of Livestock) (Amendment) (Scotland) Bill (“the Bill”) as amended at Stage 2ⁱ.
2. The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.
3. The Bill completed Stage 2 on 24 February 2021.

ⁱ The Bill as amended at Stage 2 is available [here](#)

Overview of the Bill

4. This Members' Bill was introduced by the Emma Harper MSP on 14 May 2020. The lead Committee is the Rural Economy and Connectivity Committee.
5. The aim of the Bill is to amend the Dogs (Protection of Livestock) Act 1953 (the "1953 Act") for the purpose of strengthening and updating the law in relation to "livestock worrying", in which sheep or other farmed animals are attacked or chased by dogs.
6. The Bill increases penalties and provides additional powers for the investigation and enforcement of the existing offence of livestock worrying under the 1953 Act. The Bill also brings up to date the definition of livestock in terms of species which are currently farmed in Scotland and renames the offence as that of "attacking or worrying" livestock.

Delegated Powers

7. The Committee considered the two delegated powers in the Bill at Stage 1 at its meetings on 22 September and 6 October 2020. The Committee made recommendations on each of the powers in its Stage 1 report, which was published on 20 October 2020ⁱⁱ.
8. The Member has revised the Delegated Powers Memorandum ("revised DPM") which this Committee considered at Stage 1, to reflect the amendments made to the Bill at Stage 2ⁱⁱⁱ. One of the powers has seen a change in procedure while the other was removed.

Section 6(3) – Inserting new section 3(4) into the 1953 Act (Power to amend definitions)

Power conferred on: the Scottish Ministers

Power exercisable by: regulations made by Scottish statutory instrument

Parliamentary procedure: affirmative

9. The revised DPM explains that there are now many more species of livestock farmed in the UK than there were when the 1953 Act was passed. The Bill updates the definition of "livestock" to include, for example, farmed deer and camelids. However, such definitions may require amending in future to take account of further species or updating as circumstances change. This provision will allow Scottish Ministers to amend these definitions, by regulations, as appropriate.
10. The Committee recommended at Stage 1 that the affirmative parliamentary procedure would be more appropriate than the negative procedure. This was in consideration of the more substantive definitions in the Bill such as "livestock" and "agricultural land" which help to determine the scope of the main criminal offence of livestock worrying.
11. This section was amended at Stage 2 by changing the parliamentary procedure from negative to affirmative.
12. **The Committee is content with the revised delegated powers provisions contained in the Bill in this section and with the choice of procedure applied.**
13. **The Committee welcomes the Member's fulfilment of its commitment to amend the parliamentary procedure from negative to affirmative at Stage 2.**
14. The Committee also noted that provision 'Section 5(1) – Inserting new Section 2C into the 1953 Act (Power to appoint inspecting bodies)' was removed by amendment at Stage 2.

ⁱⁱ The Committee's Stage 1 report is available [here](#)

ⁱⁱⁱ The Revised Delegated Powers Memorandum is available [here](#)

