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The Scottish Parliament
Pàrlamaid na h-Alba

Subordinate Legislation Committee

Remit and membership

Remit:

The remit of the Subordinate Legislation Committee is to consider and report on—

- (a)
 - (i) subordinate legislation laid before the Parliament;
 - (ii) any Scottish Statutory Instrument not laid before the Parliament but classed as general according to its subject matter;

and, in particular, to determine whether the attention of 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;

(Standing Orders of the Scottish Parliament, Rule 6.11)

Membership:

Nigel Don (Convener)
Jim Eadie
Mike MacKenzie
Hanzala Malik
John Pentland
John Scott
Stewart Stevenson (Deputy Convener)

Committee Clerking Team:

Clerk to the Committee

Euan Donald

Assistant Clerk
Elizabeth White

Support Manager
Daren Pratt



The Scottish Parliament
Pàrlamaid na h-Alba

Subordinate Legislation Committee

7th Report, 2013 (Session 4)

Forth Road Bridge Bill at Stage 1

The Committee reports to the Parliament as follows—

INTRODUCTION

1. At its meeting on 22 January 2013, the Subordinate Legislation Committee considered the delegated powers provisions in the Forth Road Bridge Bill (“the Bill”) at Stage 1. The Committee submits this report to the Infrastructure and Capital Investment Committee as lead committee for the Bill under Rule 9.6.2 of Standing Orders.

OVERVIEW OF THE BILL

2. The Forth Road Bridge Bill¹ is a Scottish Government Bill which was introduced to Parliament on 11 December 2013.

3. The Bill forms part of the Scottish Government’s strategy to upgrade the Forth crossing network. The primary function of this Bill is to dissolve the Forth Estuary Transport Authority (“FETA”), the public authority currently responsible for the management and oversight of the Forth Road Bridge. The Bill transfers all of FETA’s property, rights and liabilities to the Scottish Ministers. Staff who are currently employed by FETA are to be transferred to a new “bridge operator”, a person to be appointed by the Scottish Government to manage and maintain the Forth Road Bridge. The Bill also provides that the roads leading up to, across and leaving the Forth Road Bridge for which FETA are currently the roads authority will become trunk roads, making the Scottish Government the roads authority responsible for their maintenance and oversight.

4. The Scottish Government has provided a Delegated Powers Memorandum (“DPM”)² setting out the need for the delegated powers, how they may be exercised and the choice of procedure applicable to their exercise.

¹ Forth Road Bridge Bill is available here:
<http://www.scottish.parliament.uk/parliamentarybusiness/Bills/57376.aspx>

DELEGATED POWERS PROVISIONS

5. The Committee considered each of the delegated powers in the Bill.

Section 5 – Byelaws

Power conferred on:	The Scottish Ministers
Power exercisable by:	Order
Parliamentary procedure:	No procedure and not laid before the Parliament.

6. The Forth Estuary and Transport Authority Order 2002 (“the 2002 Order”) enables FETA to make byelaws in respect of the Forth Road Bridge. Such byelaws are made and varied by FETA following the same procedures used by local authorities prescribed by section 202 of the Local Government (Scotland) Act 1973. Under the 2002 Order byelaws may be made by FETA to, amongst other things, prevent injury or damage to the bridge, regulate the conduct of persons using the bridge and to prohibit certain classes of vehicle from using the bridge.

7. This section of the Bill preserves any byelaws made by FETA under the 2002 Order once the 2002 Order is revoked and FETA abolished. References to “the Authority” (FETA) made in any such byelaws are to be read as references to the Scottish Ministers. The section also extends the power of the Scottish Ministers to make traffic regulation orders under section 1 of the Road Traffic Regulation Act 1984 (c.27) (“RTRA”) to include a power to revoke any byelaw which continues to have effect by virtue of this section.

8. In the DPM the Scottish Government explains that relevant provision to replace some of the matters regulated by the byelaws will be made by Scottish Ministers using their existing powers under section 1 of the RTRA. It is suggested that once such provision has been made, the byelaws which have been saved by this section will no longer be required to remain in force.

9. The Committee is content with the power in section 5 which would allow the Scottish Ministers to revoke byelaws made by the Forth Estuary Transport Authority under the Forth Estuary Transport Authority Order 2002 by extending their existing power to make traffic regulation orders under section 1 of the Road Traffic Regulation Act 1984 and for such orders not to require to be laid before the Parliament nor to be subject to any parliamentary procedure in terms of section 30(4) of the Interpretation and Legislative Reform (Scotland) Act 2010.

Section 7 – Commencement

Power conferred on:	The Scottish Ministers
Power exercisable by:	Order
Parliamentary procedure:	Laid only

² Forth Road Bridge Delegated Powers Memorandum is available here:
http://www.scottish.parliament.uk/S4_Bills/FRB_Final_DPM.pdf

10. This section allows the Scottish Ministers to appoint a day on which the provisions in the Bill (other than sections 6, 7 and 8 which will come into force on the day after Royal Assent) come into force.

11. Orders made under this power only require to be laid before the Parliament. There is no further form of Parliamentary control over the Order.

12. The Committee is content with the power in section 7 which would allow the Scottish Ministers to commence the provisions in the Bill (except for sections 6, 7 and 8, which will come into force the day after Royal Assent) and for that power to be subject to the default laying requirement in section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010.

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