



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

42nd Report, 2014 (Session 4)

Buildings (Recovery of Expenses) (Scotland) Bill

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Delegated Powers and Law Reform Committee

Remit and membership

Remit:

1. The remit of the Delegated Powers and Law Reform Committee is to consider and report on—
 - (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; and
 - (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.

Membership:

Richard Baker
Nigel Don (Convener)
Mike MacKenzie
Margaret McCulloch
Stuart McMillan (Deputy Convener)
John Scott
Stewart Stevenson



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The Committee reports to the Parliament as follows—

INTRODUCTION

1. At its meeting on 17 June 2014, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Buildings (Recovery of Expenses) (Scotland) Bill as amended at Stage 2 (“the Bill”)¹. The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.
2. The Bill is a Member’s Bill, sponsored by David Stewart MSP. On introduction, the Bill was titled the Defective and Dangerous Buildings (Recovery of Expenses) (Scotland) Bill and it made specific provision by way of amendment to the Building (Scotland) Act 2003 (“the 2003 Act”) enabling local authorities to recover expenses incurred in carrying out alterations and repairs to defective and dangerous buildings by way of a charging order, enforceable against anyone deriving title to the property and payable in annual instalments.
3. The Bill has been substantially amended at Stage 2, and is now titled the Buildings (Recovery of Expenses) (Scotland) Bill. It now has a wider application, enabling local authorities to recover expenses incurred by virtue of either Part 3 or Part 4 of the 2003 Act. Part 3 of the 2003 Act deals with compliance and enforcement, and Part 4 relates to defective and dangerous buildings. The Bill enables a local authority to recover not only the cost of the work carried out under either of those Parts of the 2003 Act, but also fees payable in respect of registering a charging order as well as administrative expenses and interest.
4. The member in charge has provided the Parliament with a supplementary memorandum on the delegated powers provisions in the Bill, in advance of Stage 3 of the Bill (“the SDPM”²).

¹ Buildings (Recovery of Expenses) (Scotland) Bill [as amended at Stage 2] available at: http://www.scottish.parliament.uk/S4_Bills/Defective%20and%20Dangerous%20Buildings/b39as4-stage2-amend.pdf

² Buildings (Recovery of Expenses) (Scotland) Bill Supplementary Delegated Powers Memorandum available at: http://www.scottish.parliament.uk/S4_Bills/20140605_SDPM_FINAL.pdf

5. The Committee reported on certain matters in relation to the delegated powers provisions in the Bill at Stage 1 in its [6th report of 2014](#).

DELEGATED POWERS PROVISIONS

6. The Committee considered each of the new, removed or substantially amended delegated powers provisions in the Bill after Stage 2.

7. After Stage 2, the Committee reports that it does not need to draw the attention of the Parliament to the new, removed or substantially amended delegated powers provisions listed below and that it is content with the Parliamentary procedure to which they are subject:

- Section 1(b) (inserting section 46A(1A) (form of charging orders) into the 2003 Act) (*new power*)
- Section 1A – ancillary provision (*new power*)
- Section 1(b) (on introduction inserting section 46D(4) (repayment or early redemption of amounts payable under a charging order) into the 2003 Act) (*removed power*)

8. The Committee reports that it is content with the provisions in the Bill which have been amended at Stage 2 to insert, remove or substantially alter provisions conferring powers to make subordinate legislation and other delegated powers.

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