



The Scottish Parliament  
Pàrlamaid na h-Alba

# **Delegated Powers and Law Reform Committee**

## **15th Report, 2015 (Session 4)**

### **Welfare Funds (Scotland) Bill as amended at stage 2**

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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:**

Nigel Don (Convener)  
John Mason (Deputy Convener)  
Margaret McCulloch  
John Scott  
Stewart Stevenson

**Committee Clerking Team:**

**Clerk to the Committee**

Euan Donald

**Assistant Clerk**

Elizabeth Anderson

**Support Manager**

Daren Pratt



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## **Delegated Powers and Law Reform Committee**

### **15th Report, 2015 (Session 4)**

#### **Welfare Funds (Scotland) Bill as amended at stage 2**

The Committee reports to the Parliament as follows—

1. At its meeting on 24 February 2015, the Delegated Powers and Law Reform Committee considered the delegated powers provisions in the Welfare Funds (Scotland) Bill as amended at Stage 2 (“the Bill”)<sup>1</sup>. The Committee submits this report to the Parliament under Rule 9.7.9 of Standing Orders.
2. In outline, the Bill is designed to make provision for the establishment of welfare funds which will be maintained by local authorities. Welfare funds will operate on a discretionary basis, and are intended to (1) provide a safety net in an emergency when there is an immediate threat to health and safety and (2) enable people to live, or to continue to live, independently preventing the need for institutional care.
3. The Policy Memorandum notes that this Bill, together with associated regulations and guidance which will be produced in due course, are designed to set out arrangements which have been in place on an interim basis since April 2013 (“the interim scheme”). Following abolition by the Department for Work and Pensions of elements of its Discretionary Social Fund covering this type of relief, funding for Scotland was transferred to the Scottish Government to establish systems. This led to the establishment of the interim scheme, currently administered by local authorities under section 20 of the Local Government in Scotland Act 2003.
4. The Scottish Government now wishes to legislate to put the interim scheme on a permanent footing. The Scotland Act 1998 (Modification of Schedule 5) (No. 2) Order 2013 (“the Order”) widened the legislative competence of the Scottish Parliament to enable it to legislate on the provision of local welfare assistance.

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<sup>1</sup> Welfare Funds (Scotland) Bill [as amended at Stage 2] available at:  
[http://www.scottish.parliament.uk/S4\\_Bills/Welfare%20Funds%20\(Scotland\)%20Bill/b51as4-stage2.pdf](http://www.scottish.parliament.uk/S4_Bills/Welfare%20Funds%20(Scotland)%20Bill/b51as4-stage2.pdf)

5. The Scottish Government 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”<sup>2</sup>).

6. The Committee reported on certain matters in relation to the delegated powers provisions in the Bill at Stage 1 in its [57<sup>th</sup> report of 2014](#).

#### DELEGATED POWERS PROVISIONS

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

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

- Section 4(2C) and (5) – Review of decisions by local authority
- Section 5(1) – Further provision
- Section 7(3) – Commencement
- the powers of the Scottish Ministers to issue guidance contained in section 6 as amended
- the powers of the Ombudsman to make rules contained in new section 6D(5) to (7).

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

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<sup>2</sup> Welfare Funds Scotland) Bill Supplementary Delegated Powers Memorandum available at: [http://www.scottish.parliament.uk/S4\\_Bills/Welfare\\_Funds\\_Bill\\_SDPM2.pdf](http://www.scottish.parliament.uk/S4_Bills/Welfare_Funds_Bill_SDPM2.pdf)

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