

GREYHOUND RACING (OFFENCES) (SCOTLAND) BILL

[AS AMENDED AT STAGE 2]

SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

INTRODUCTION

1. This supplementary Delegated Powers Memorandum has been prepared by Scottish Parliament officials, on behalf of Mark Ruskell MSP (the Member who introduced the Bill), in accordance with rule 9.7.9 of the Parliament’s Standing Orders to assist the Delegated Powers and Law Reform Committee in its consideration of the Greyhound Racing (Offences) (Scotland) Bill (“the Bill”).

2. This memorandum describes two amendments made at Stage 2: one clarification of a power in section 1(5) and the addition of regulation making powers in the commencement provision in section 13. It should be read in conjunction with the Delegated Powers Memorandum (“DPM”) published to accompany the Bill on introduction.

PROVISION CONFERRING POWER TO MAKE SUBORDINATE LEGISLATION AMENDED AT STAGE 2

3. The one revised and the one new delegated power in the Bill are set out below, with a short explanation of what the powers allow, why the powers have been taken in the Bill and why the selected forms of Parliamentary procedure have been considered appropriate.

DELEGATED POWERS

Section 1(5): Power to amend the definition of “racetrack”

Power conferred on:	Scottish Ministers
Power exercisable by:	Regulations made by Scottish statutory instrument
Parliamentary procedure:	Affirmative
Revised or new power:	Revised

Provision

4. Section 1 creates a new offence of racing a greyhound on a racetrack. The section defines key terms within the offence, including the term “racetrack”. Section 1(4) defines a “racetrack” as a track that is oval in shape. Section 1(5) provides that the Scottish Ministers can modify this definition to include other categories of premises used for the purpose of racing greyhounds.

5. The new subsection (5A) specifies that the power of amending the definition of “racetrack” may only be exercised for the purpose of preventing harm to greyhounds.

Reason for revising power

6. The reason for taking the power, as explained by the Member in the DPM, is that at present most racetracks used for greyhound racing are oval in shape and carry an inherent risk to greyhounds of injury and fatality, therefore raising animal welfare concerns. The Member noted in the DPM that there is a conceivable possibility that greyhound racing might move to other types of tracks once the Bill comes into force. By taking this power, the Member intended for Scottish Ministers to have the ability to make regulations should the shape of racetracks change and pose a risk of injury or fatality to greyhounds.

7. As amended, section 1 provides explicitly that the power in subsection (5) may only be exercised for the purpose of preventing harm to greyhounds. It expressly sets out that the exercise of the power is conditional on there being an animal welfare basis, ensuring that the purpose of the power's exercise is clear on the face of the Bill and consistent with the aims of the Bill.

Choice of procedure

8. Section 1(6) provides that any regulations made under section 1(5) would be subject to the affirmative procedure. As stated in the DPM, given that the regulations would in effect be amending the definition of "racetrack" in primary legislation, the use of the affirmative procedure is considered appropriate as it would allow Parliament to debate the impact on the welfare of greyhounds of racing on a different type of track.

Section 13: Commencement

Power conferred on:	Scottish Ministers
Power exercisable by:	Regulations made by Scottish statutory instrument
Parliamentary procedure:	Laid, no procedure
Revised or new power:	New

Provision

9. As amended, section 13 makes the following provisions: sections 13, 11 and 14 come into force on the day after Royal Assent. The other provisions of this Bill come into force on such day as the Scottish Ministers may by regulations appoint. Regulations under this section may include transitional, transitory or saving provisions, and make different provision for different purposes.

Reason for taking power

10. The Bill at introduction provided for the Act to come into force at the end of the period of 12 months beginning with the day of Royal Assent.

11. The Bill, as amended, enables the Scottish Ministers to have control over the commencement of the Bill so that it can be brought into force. The amended approach to commencement enables the Scottish Ministers to commence the Bill taking into account views as to implementation of key stakeholders such as Police Scotland and the Crown Office and Procurator Fiscal Service. This approach would also provide the necessary flexibility to ensure that the Scottish Ministers can commence the substantive provisions when appropriate and to make transitional, transitory or saving provision. Allowing for different provision to be made for

different purposes in the commencement regulations allows for flexibility in the approach to commencing the substantive provisions of the Bill.

Choice of procedure

12. As is usual for commencement regulations, the default laying requirement applies (as provided for by section 30(2) of the Interpretation and Legislative Reform (Scotland) Act 2010). This is considered appropriate because the policy behind the provisions will have already been considered by the Parliament during the passage of the Bill.

This document relates to the Greyhound Racing (Offences) (Scotland) Bill (SP Bill 65A) as amended at Stage 2

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