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

Delegated powers in the Dog Theft (Scotland) Bill (as amended at 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.

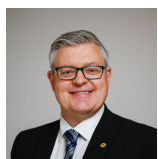


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Introduction

1. This report considers the delegated powers in the [Dog Theft \(Scotland\) Bill](#) (“the Bill”) as amended at Stage 2.
2. The Bill would confer three powers to make subordinate legislation on the Scottish Ministers: a power in section 2(2)(b) to prescribe categories of dog for the purpose of “aggravated” theft; an ancillary power; and a commencement power.
3. The Committee previously considered these delegated powers at Stage 1 on 25 March and 22 April 2025, and published a [report](#) on 23 April 2025. In its report, the Committee recommended that the lead committee consider the procedure applying to the power to prescribe categories of dog. The Committee was content with the ancillary and commencement powers.
4. No new delegated powers have been added at Stage 2, and the ancillary and commencement powers are unchanged. However, the provision containing the power to prescribe categories of dog has been revised. Commentary on the amended power is set out in the last section of the report.

Overview of the Bill

5. This is a Member's Bill which was introduced by Maurice Golden MSP on 17 February 2025. The lead committee was the Rural Affairs and Islands Committee.
6. The [Policy Memorandum](#) accompanying the Bill explains that the Member believes greater recognition is needed of the emotional impact on the owner of the theft of a dog and that this should be an important consideration in sentencing.
7. The Bill creates a statutory offence of dog theft, which currently would be considered under the common law of theft. The Bill provides that the offence of dog theft is aggravated if the dog is a "helper dog" as defined in the Bill (at introduction the term used was "assistance dog", as discussed in the next section of the report).

Review of relevant power

Section 2(2)(b) – Theft of helper dogs – power to prescribe categories of dog

Power conferred on: the Scottish Ministers

Power exercisable by: regulations made by Scottish statutory instrument

Parliamentary procedure: negative

Revised or new power: revised

Provision

8. Section 2 of the Bill provides that the offence of dog theft is aggravated if the dog is an “helper dog”. The aggravation is to be taken into account by the court when determining the appropriate sentence.
9. At introduction, the term used in the Bill was “assistance dog”. This was amended to “helper dog” at Stage 2. There were no other amendments relevant to this power at Stage 2.
10. Regulations made under this power would be subject to the negative procedure.

Committee consideration

11. At Stage 1, the Committee was content in principle with this power.
12. The Committee considers that the change of the term “assistance dog” to “helper dog” does not result in any significant change to the nature or width of the delegated power. The Committee is therefore still content in principle with the power as amended.
13. The amendment is in line with the further explanation given to the Committee by the Member at Stage 1: that the intention was to allow a category of dog to be prescribed that is not trained by a charity, or is a category which assists those with medical conditions rather than a particular disabled group.ⁱ In its Stage 1 report, the Committee highlighted this further explanation to the lead committee.
14. A [Supplementary Delegated Powers Memorandum](#) (“SDPM”) has been produced on behalf of the Member in light of this amendment. The SDPM sets out the justification for the amended power and for the proposed parliamentary procedure. The revised justification in the SDPM is in line with the Member’s further explanation.
15. In its report on the Bill at Stage 1, the Committee also recommended that, in light of the further explanation, the lead committee may wish to give consideration to the affirmative procedure applying to this power rather than the negative procedure.
16. The lead committee has considered this recommendation and decided that it is content with the negative procedure ([Rural Affairs and Islands Committee Stage 1 report on the Dog Theft \(Scotland\) Bill](#), paragraphs 73, 74 and 81).

ⁱ [Delegated Powers and Law Reform Committee Stage 1 report](#), paragraphs 14-15

17. The Committee is therefore content that the procedure has been considered by the lead committee, and that this does not require to be revisited in light of the amendment at Stage 2.

18. **The Committee is content with the revised power in principle. The Committee is also content that regulations made under this power would be subject to the negative procedure, following the lead committee's consideration of the appropriate procedure.**

