



Clerk to the Delegated Powers and Law Reform Committee
Room T1.01
Scottish Parliament
0131 348 5212
DPLR.Committee@scottish.parliament.uk

James Hynd
Head of Cabinet, Parliament and Governance Division
Scottish Government

17 November 2015

Lobbying (Scotland) Bill at Stage 1

1. The Delegated Powers and Law Reform Committee considered the above Bill on Tuesday 17 November and seeks an explanation of the following matters:

Section 15(1) – Power to specify requirements about the register

Power conferred on:	the Scottish Parliament
Power exercisable by:	resolution by Parliament
Parliamentary procedure:	resolution by Parliament

2. Section 15(1) confers power on the Parliament, by resolution, to make provision about Part 2 of the Bill and sets out a non-exhaustive list of the types of provision which may be made in exercise of the power.

3. Section 15(2) provides that a resolution under subsection (1) may modify sections 4 to 14 of the Bill.

4. **The Committee asks the Scottish Government for an explanation of the following:**

5. **The Delegated Powers Memorandum (“DPM”) explains that the purpose of the power in section 15(1) is to provide flexibility in order to ensure the effective operation of the registration regime. A non-exhaustive list provides an illustration of the circumstances in which the power may be exercised. The power also includes, by virtue of section 15(2), the ability to modify sections 4 to 14 of the Bill. Can the Scottish Government explain further why it is considered appropriate for the Parliament to have a delegated power to modify provisions of the Act as passed?**

6. Regarding the choice of procedure, why is it considered appropriate that the power in section 15(1) is exercised by parliamentary resolution notwithstanding that it includes provision to modify primary legislation?
7. What further procedural provision is envisaged to be required in the Parliament's Standing Orders? Why is it considered appropriate that these matters are subject to provision made in the Standing Orders, rather than set out on the face of the Bill?
8. Section 47(2)(b) confers power on the Parliament to make the full range of ancillary provision in a resolution under the Bill. Why is that considered appropriate? Can the Scottish Government give an example of the sort of provision it is envisaged might be made under the ancillary powers?
9. Section 47(4) of the Bill provides that Part 1 of the Interpretation and Legislative Reform Act 2010 ("ILRA") is to apply to a resolution as if it were a Scottish instrument. Can the Scottish Government explain the purpose of this provision?

Section 20(1) – Power to make further provision about information notices

Power conferred on:	the Scottish Parliament
Power exercisable by:	resolution by Parliament
Parliamentary procedure:	resolution by Parliament

10. Section 20(1) provides that the Parliament may, by resolution, make further provision about information notices issued by the Clerk under section 17 of the Bill.
11. As regards the choice of procedure, the questions raised in relation to section 15 apply equally here. **Accordingly the Committee asks the Scottish Government for an explanation of the following:**
12. What further procedural provision is envisaged to be required in the Parliament's Standing Orders? Why is it considered appropriate that these matters are subject to provision made in the Standing Orders, rather than set out on the face of the Bill?
13. Section 47(2)(b) confers power on the Parliament to make the full range of ancillary provision in a resolution under the Bill. Why is that considered appropriate? Can the Scottish Government give an example of the sort of provision it is envisaged might be made under the ancillary powers?
14. Section 47(4) of the Bill provides that Part 1 of ILRA is to apply to a resolution as if it were a Scottish instrument. Can the Scottish Government explain the purpose of this provision?

Section 31 – Directions to the Commissioner

Power conferred on:	the Scottish Parliament
Power exercisable by:	direction by Parliament
Parliamentary procedure:	direction by Parliament

15. Part 3 of the Bill makes provision for the investigation of complaints and reporting to Parliament by the Commissioner as part of the oversight of the registration regime. Section 31(1) provides that the Commissioner, in carrying out these functions, must comply with any direction given by the Parliament.

16. Section 24(5)(a) empowers the Parliament to specify in a direction classes of case in relation to which the Commissioner is required to report to Parliament in these circumstances.

17. **The Committee asks the Scottish Government for an explanation of the following:**

18. **In relation to the power in section 31, why is it considered appropriate that provision regarding the handling of complaints is dealt with in directions, rather than set out on the face of the Bill?**

19. **Further, can you give examples of the sorts of cases under which it is envisaged the Parliament might direct the Commissioner not to carry out an assessment of a complaint, or an investigation into a complaint?**

20. **In relation to section 24(5)(a), in what sorts of cases where a complaint is inadmissible by virtue of the rules in section 23(3) is it envisaged that the Scottish Parliament would direct the Commissioner to report? Why is it considered appropriate to specify these classes of case in directions, rather than on the face of the Bill?**

21. **What further procedural provision for directions under the Bill, including as regards publication, is envisaged to be required in the Parliament's Standing Orders? Why is it considered appropriate that these matters are subject to provision made in the Standing Orders, rather than set out on the face of the Bill?**

Section 41 – Power to make further provision about the Scottish Parliament's procedures etc.

Power conferred on:	the Scottish Parliament
Power exercisable by:	resolution by Parliament
Parliamentary procedure:	resolution by Parliament

22. Section 41(1) provides that the Parliament must, by resolution, make provision about procedures to be followed when the Commissioner submits a report to the Parliament under Part 3 of the Bill. Part 3 of the Bill sets out the framework for investigation of complaints and reporting to Parliament by the Commissioner.

23. As regards the choice of procedure the questions raised in relation to section 15 apply equally here. Accordingly the Committee asks the Scottish Government for an explanation of the following:

24. What further procedural provision is envisaged to be required in the Parliament's Standing Orders? Why is it considered appropriate that these matters are subject to provision made in the Standing Orders, rather than set out on the face of the Bill?

25. Section 47(2)(b) confers power on the Parliament to make the full range of ancillary provision in a resolution under the Bill. Why is that considered appropriate? Can the Scottish Government give an example of the sort of provision it is envisaged might be made under the ancillary powers?

26. Section 47(4) of the Bill provides that Part 1 of ILRA is to apply to a resolution as if it were a Scottish instrument. Can the Scottish Government explain the purpose of this provision?

Section 44 – Code of Conduct published by the Parliament, for persons lobbying MSPs

27. Section 44(1) provides that the Parliament must publish a code of conduct for persons lobbying members of the Parliament.

28. The Committee asks the Scottish Government for an explanation as to –

(a) why it has been considered appropriate that the section does not include requirements for persons to comply with the Code or have regard to the Code; and

(b) why it has been considered appropriate that the section does not contain any sanction or enforcement provision in relation to a breach of the Code?

29. Please email your response to the Delegated Powers and Law Reform Committee e-mail address above by **5pm on Tuesday 24 November**.

Deborah Cook
Assistant Clerk to the Committee