

# **PUBLIC HEALTH ETC. (SCOTLAND) BILL**

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## **DELEGATED POWERS MEMORANDUM**

### **PURPOSE**

1. This memorandum has been prepared by the Scottish Executive in accordance with Rule 9.4A of the Parliament's Standing Orders, in relation to the Public Health etc. (Scotland) Bill. It describes the purpose of each of the subordinate legislation provisions in the Bill and outlines the reasons for seeking the proposed powers. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

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### **INTERPRETATION**

3. In this Memorandum:

‘The Parliament’ means the Scottish Parliament.

‘The Bill’ means the Public Health etc. (Scotland) Bill

‘The 1990 Act’ means the Environmental Protection Act 1990

‘The 1897 Act’ means the Public Health (Scotland) Act 1897

‘The 2005 Act’ means the Water Services etc. (Scotland) Act 2005

‘The CNE Act’ means the Clean Neighbourhoods and Environment Act 2005

‘IHR 2005’ means the International Health Regulations 2005.

### **GENERAL BACKGROUND**

4. The Bill restates and amends the law and the protection of public health in Scotland. Public health legislation dates in Scotland from the 19th Century. The principal governing statute is the 1897 Act as amended. The Bill repeals that Act and a range of other public health statutes.

5. The Bill is in 10 parts.

- Part 1 sets out general duties of the Scottish Ministers health boards and local authorities to make provision to protect public health and makes provision for the

appointment of competent persons who will be able to exercise certain functions under the Bill.

- Part 2 places duties on registered medical practitioners and directors of diagnostic laboratories to notify health boards of information regarding certain infectious diseases, organisms and health risk states.
- Part 3 sets out the powers available to undertake public health investigations.
- Part 4 confers powers on health boards to take action to avoid and minimise significant public health risks including the powers to seek a court order to medically examine a person, quarantine a person or detain a person or to make an order to exclude persons from any place or restrict a person's movement.
- Part 5 places a duty on local authorities to provide and ensure the provision of facilities and equipment for the disinfection, disinfestation and decontamination of things and premises.
- Part 6 places a duty on health boards to provide or secure the provision of mortuaries for deaths in hospital and places equivalent duties on local authorities in relation to all other deaths.
- Part 7 confers on the Scottish Ministers the power to make regulations to implement the International Health Regulations.
- Part 8 gives the Scottish Ministers the power to regulate for the provision of information on the effect on the health of sun beds.
- Part 9 amends Part III of the 1990 Act to add to the list of matters which may constitute statutory nuisances and to confer on the Scottish Ministers a regulation making power to amend statutory nuisance provision in the future and to enable fixed penalty notices to be served for the offence of failing to comply with an abatement notice.
- Part 10 contains general and miscellaneous provisions in respect of the Bill.

## **APPROACH TO USE OF DELEGATED POWERS**

6. The Bill contains a number of delegated power provisions which are explained in more detail below. The Scottish Government has had regard when deciding where and how provisions should be set out in the subordinate legislation rather than the face of the Bill to:

- the need to strike the right balance between the importance of the issue and providing flexibility to respond to changing circumstances;
- the need to make proper use of valuable Parliamentary time;
- the need to ensure that other areas of regulation can be developed in a coherent and consistent way by other authorities;
- the likely frequency of amendment and the need to anticipate the unexpected which might otherwise frustrate the purpose of the provision in primary legislation approved by the Parliament.

7. Where subordinate legislation implements Scottish Government policy then some form of Parliamentary procedure is appropriate. Balance must be struck between the different levels of scrutiny involved in the negative and affirmative resolution procedures. In the Bill the balance reflects the view of the Government on the importance of the matter delegated by Parliament.

## **GENERAL SUBORDINATE LEGISLATION PROVISION**

8. Section 102 contains the general subordinate legislation provisions. Subsection (1) provides that any powers to make regulations or orders is exercisable by statutory instrument. Subsection (2) allows different provision to be made for different purposes and permits the powers to be used to make such supplementary, incidental, consequential, transitory, transitional or savings provisions as the Scottish Ministers think fit. Subsection (3) provides that all of these powers are subject to negative resolution procedure except for orders made under section 89(1) which is subject to affirmative procedure and the commencement provisions where no procedure is required.

9. Section 102 does not apply to the subordinate legislation powers that are to be inserted into the 1990 Act. Section 161 of that Act sets out the applicable Parliamentary procedure for such provisions.

10. Delegated powers provisions are listed below with a short explanation of what each power allows, why the power has been taken in the Bill and why the selected form of Parliamentary procedure has been considered appropriate.

### **Section 3 - Power to prescribe the person or classes of person who may be designated as health board competent persons**

**Powers conferred on:** Scottish Ministers  
**Power exercisable by:** Statutory Instrument  
**Parliamentary procedure:** Negative resolution of the Scottish Parliament

11. Section 3 of the Bill places a duty on health boards to designate sufficient number of persons for the purpose of exercising certain functions under the Bill and other enactments in each health board areas. These persons are to be known as health board competent persons. Subsection 4 provides that by regulation the Scottish Ministers may prescribe the persons or class of persons who may be designated as competent persons of the health board, the qualifications, training and other requirements to demonstrate competency which must be met and any other matters relating to the terms and conditions of such designation as Scottish Ministers consider appropriate.

#### *Reason for taking power*

12. The position of health board competent person is a new one created by the Bill and every health board must have a number of such competent persons to carry out tasks under the Bill. To ensure a consistent standard of competence across Scotland, Ministers will prescribe the qualifications and experience of such persons. This will be a detailed piece of work which will require additional expert advice from health professionals. Ministers wish to retain some

flexibility to revise the provisions made and to ensure that the appointment of health board competent persons remains appropriate in the face of evolving public health needs.

*Choice of procedure*

13. The order will outline the details of qualifications and training and any other requirements to be met by health board competent person. This will be of a technical nature and will not impact upon the functions of health board competent persons per se. It is considered that negative procedure is appropriate for any order made under this provision balancing speed and flexibility of passage with the need for scrutiny.

**Section 5 - Power to prescribe persons or classes of persons who may be designated as local authority competent persons**

**Power conferred on: Scottish Ministers**  
**Power exercisable by: Statutory Instrument**  
**Parliamentary procedure: Negative resolution of the Scottish Parliament**

14. Section 5 of the Bill places a duty on local authorities to designate a sufficient number of persons for the purpose of exercising certain functions under the Bill and other enactments in each local authority area. These persons are to be known as local authority competent persons. Subsection (4) provides that by regulation the Scottish Ministers may prescribe the persons or class of persons who may be designated as competent persons of the local authority, the qualifications, training and other requirements to demonstrate competency which must be met and any other matters relating to the terms and conditions of such designations as the Scottish Ministers consider appropriate.

*Reason for taking power*

15. As with health board competent persons, the position of local authority competent person is a new one created by the Bill. Every local authority must have a number of such competent persons to carry out tasks under the Bill. To ensure a consistent standard of competence across Scotland, Ministers will prescribe the qualifications and experience of such persons. This will be a detailed piece of work which will require additional expertise from local authority professional officers such as environmental health officers. Ministers wish to retain some flexibility to revise the provisions made and to ensure the appointment of local authority competent persons remains appropriate in the face of evolving public health needs.

*Choice of procedure*

16. The order will outline the details of qualifications and training and any other requirements to be met by local authority competent persons. This will be of a technical nature and will not impact upon the functions of a local authority competent person per se. Negative procedure is considered appropriate for any order made under this provision as it balances speed and flexibility of passage with the need for scrutiny.

## **Section 12 - Power to amend list of notifiable diseases or organisms in schedule 1 to the Bill**

**Power conferred on:** Scottish Ministers  
**Powers exercisable by:** Statutory Instrument  
**Parliamentary procedure:** Negative resolution of the Scottish Parliament

17. Section 12 defines notifiable diseases and notifiable organisms as being diseases and organisms listed respectively in Parts 1 and Part 2 of Schedule 1 to the Bill. Section 12(2) provides that Scottish Ministers may by regulations amend a list in Schedule 1 by adding, removing and varying description of an item in the list.

### *Reason for taking power*

18. It is appropriate in drawing up a new consolidated public health regime that a list of notifiable diseases and health risk states are established within statute for clarity. However, in order to cope with the ever evolving nature of disease it is necessary to be able to amend the list quickly and efficiently so that new diseases and organisms can be dealt with as efficiently as possible. Ministers require to retain flexibility to amend these lists in an efficient and effective manner as possible. If amendment to the list were dependent on an appropriate primary legislative vehicle it could quickly become out of date and accordingly place the public at risk.

### *Choice of procedure*

19. Regulations will amend the list of notifiable diseases or notifiable organisms. This requires to be done quickly to ensure that the restrictions that apply when a notifiable disease or organism is diagnosed can come into place as soon as possible. It is considered that negative procedure is appropriate for any regulations made under this provision again balancing the necessity for speed and flexibility of passage with the need for scrutiny.

## **Section 19 - Power to make provision for the way information may be provided under sections 13, 14, 15 or 16 regarding notification of diseases**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Statutory Instrument  
**Parliamentary procedure:** Negative resolution of the Scottish Parliament

20. Section 19 allows the Scottish Ministers to make provision by statutory instrument relating to the way information is to be provided under sections 13, 14, 15 or 16 concerning the provision of information relating to the duties placed on registered medical practitioners, directors of health boards and directors of diagnostic laboratories with regard to notification of notifiable diseases, notifiable organisms and health risk states. The order may make provision regarding persons who may provide such information, persons to whom the information may be provided, the nature of information that is required to be provided, the form and manner in which it is to be provided and the time by which it is to be provided and regulations may modify any enactment including this Act.

*Reason for taking power*

21. The provisions in the Bill set out in detail the persons responsible for notification of notifiable diseases, organisms or health risk states, the manner in which these notifications should take place and the time within which notification is required. However the nature of notification of disease is such that it is envisaged it could be necessary at short notice to amend the way such notification is provided to take account of the change in nature of the provision of information or the nature of diseases or indeed changes in the establishment of health boards. These regulations would be detailed and technical in nature. The general principle of notification will not be affected by such regulations rather it is the technical aspects of the notification process that would be affected.

*Choice of procedure*

22. Any regulations made under this would be of a technical nature, amending the process for notification rather than the principle of notification itself. However, the fact that the process of notification has of necessity been created in statute means that the power to modify the statute requires to be included in the power to make regulations. Notwithstanding this fact, it is considered that as such regulations would be of a technical nature making changes to process not policy, it is considered that negative procedure is appropriate for any order made under this provision, it balancing the need for flexibility with the need for scrutiny.

**Section 25 – Power to confer on investigators such powers as are considered necessary for the purposes of public health investigations**

**Power conferred on: Scottish Ministers**  
**Power exercisable by: Statutory Instrument**  
**Parliamentary procedure: Negative resolution of the Scottish Parliament**

23. Part 3 of the Bill sets out the circumstances in which a public health investigation may be undertaken. It outlines at sections 22-24 the powers a public health investigator has in undertaking a public health investigation. The provision allows for the Scottish Ministers by Regulations to confer on investigators additional powers as may be necessary for the purposes of public health investigation including the power to modify any enactment, including the Act.

*Reason for taking power*

24. Public health investigations are a new type of investigation and whilst it is hoped that the powers contained in the Bill will cover every scenario there is always the possibility that an investigation may throw up some new issue not provided for in statute that would result in a thwarted investigation because an investigator lacked authority to investigate an area of concern. It would be disproportionate to require any amendment to the public health investigation scheme to be undertaken by statute as this would obviously mean that any amendment required would have to await the appropriate primary legislative vehicle.

*Choice of procedure*

25. These Regulations would confer additional powers on public health investigators and would require to be in keeping with the existing powers. Further, it would require to be demonstrated that they are necessary for public health investigations. It is anticipated that such

new powers may require to be implemented quickly, effectively and efficiently to ensure that public health investigations can be carried out timeously. Negative procedure is considered appropriate for such amending Regulations of this nature.

### **Sections 56 and 57 – Power to make further provision concerning compensation**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Statutory Instrument  
**Parliamentary procedure:** Negative resolution of the Scottish Parliament

26. Section 56 and 57 provide that persons who have complied with a voluntary request or order to be quarantined, excluded from a place or places specified, or to refrain from carrying on specified activities or who are subject to an exclusion, restriction or quarantine order under the Bill may be entitled to compensation for loss caused by complying with the request or order. If the person has voluntarily complied with a health board request the health board is under a duty to compensate the person on loss shown.

#### *Reason for taking power*

27. Quarantine orders are a new regime under the Bill, exclusion and restriction orders are updated forms of existing orders used by health boards at present. It is considered fair and reasonable that where an individual has suffered loss as a result of complying with a request to refrain from attending work for example, even although that individual may be fit and able to work but may be a carrier of an infectious disease, that the individual be compensated for loss on cause shown, where such loss is attributable to compliance with an order or voluntary request. The circumstances in which compensation can or should be paid are clearly set out in the provision, the power will enable the details of such compensation schemes to be established in regulations. It would not be appropriate for such detail to be outlined on the face of primary legislation. Furthermore there is a need for the details of compensation scheme to be able to be amended quickly and easily to cope with changing circumstances of health risks and orders sought. The power to make regulations to further provide for compensation allows this.

#### *Choice of procedure*

28. Given the confines within which regulations regarding compensations can be made, and the administrative detailed nature of any anticipated regulations, it is considered that negative resolution procedure provides the appropriate level of parliamentary scrutiny for any regulations made under these sections.

### **Section 68 - Power to prescribe the form of notice served on an owner or occupier of affected premises or things**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Statutory Instrument  
**Parliamentary procedure:** Negative Resolution of the Scottish Parliament

29. Section 68 applies where a local authority knows or suspects that premises or any thing on premises in its area is infected, infested or contaminated and to prevent the spread of disease

it is necessary to disinfect, disinfest or decontaminate such premises or thing. Subsection (6) provides that the notice served on the owner or occupier of the premises, or the owner of the thing in question, requesting that such disinfection take place, must be in the form prescribed by Ministers.

*Reason for taking power*

30. The form of a notice to be served on an individual is a procedural matter and one that it is appropriate to deal with by subordinate legislation. The power does not extend to altering the position of the local authority in that area in any way

*Choice of procedure*

31. The regulations will prescribe the form which is to be served by the local authority. These regulations will be of a technical nature and will not impact on delivery of the policy. It is considered that negative procedure is appropriate for technical orders of such of this nature.

**Section 71 – Power to prescribe form of notice served on owner or occupier of infected premises or thing where local authority intends to enter and carry out disinfection**

**Power conferred on: Scottish Ministers**  
**Power exercised by: Statutory instrument**  
**Parliamentary procedure: Negative resolution of the Scottish Parliament**

32. Section 71 provides that where a local authority knows or suspects that any premises or thing in its area is infected or contaminated, and that it is necessary to prevent the spread of disease that the premises be disinfected, disinfested or decontaminated, and that it is not reasonably practicable for the owner or the occupier of the premises or thing to carry out the task, then the local authority may do so and serve a notice on the owner or occupier to that effect. Subsection (5) provides that the notice must be in the form prescribed by the Scottish Ministers.

*Reason for taking power*

33. The form of notice to be served on an individual is a procedural matter and one that it is appropriate to deal with by way of subordinate legislation. The power does not affect the position of the local authority in any way.

*Choice of procedure*

34. The regulations will prescribe the form to be served by the local authority on a person. These regulations will be of a technical nature and will not impact on delivery of the policy. Negative procedure is appropriate for technical orders of this kind.

**Section 89 – Power to make decisions in connection with implementing any obligations of the United Kingdom created by or arising under the International Health Regulations insofar as they have effect in others as regards Scotland**

**Power conferred on: Scottish Ministers**  
**Powers exercised by: Statutory instrument**  
**Parliamentary procedure: Affirmative resolution of the Scottish Parliament**

35. Section 89 allows the Scottish Ministers to make Regulations for the purposes of and in connection with the International Health Regulations 2005. Regulations may confer functions on the Scottish Ministers or other persons, create offences, permit persons to charge in respect of functions carried out, and may modify any enactment.

*Reason for taking power*

36. The International Health Regulations are to be implemented throughout the UK in a uniform manner. It is necessary to liaise with colleagues in Department of Health and Department of Transport in the Westminster Government to ensure that the powers relating to implementation of the IHR 2005 are effective in Scotland in the same manner as they are throughout the United Kingdom. To that end it is necessary to have a wide and flexible power to make Regulations to implement the IHR to ensure that changes that the Regulations can be made in a way that incorporates and reflects any changes made in the rest of the UK.

*Choice of procedure*

37. Regulations made under these procedures will be subject to the affirmative procedure within the Scottish Parliament. It is considered that given the wide-ranging nature of the power to make regulations it is appropriate that this increased level of scrutiny, and the opportunity for debate is afforded to the Scottish Parliament.

**Section 90 – Power to provide information on the effects on health of the use of sunbeds**

**Power conferred on: Scottish Ministers**  
**Power exercisable by: Statutory Instrument**  
**Parliamentary procedure: Negative resolution of the Scottish Parliament**

38. Section 90 provides that the Scottish Ministers may, by regulations require operators of sunbed premises to provide information to users of those premises regarding the effects on health of sunbed use. These regulations may specify what information is to be provided, the form and manner in which the information is to be provided or displayed.

*Reason for taking power*

39. There is concern about the increasing use of sunbeds in Scotland and the impact this is having on the health of those persons who use sunbeds. This provision intends to address those concerns by placing a duty on sunbed operators to display information to users. It will be necessary to consult with health professionals to determine the appropriate level of information and the ways in which this will be displayed. This power will ensure such consultation can take

place and the evolving position regarding concerns arising from the use of sunbeds can be taken account of quickly if necessary.

*Choice of procedure*

40. Regulations made under this procedure are likely to be subject to consultation with health professionals. The negative resolution procedure is considered appropriate here given the nature of the regulations, the need for flexibility and the desire to afford the Parliament a chance to scrutinise any regulations made.

**Section 91 – Power to prescribe places to which the amendment to the 1990 Act regarding insect nuisance will not apply**

**Powers conferred on: Scottish Ministers**  
**Power exercisable by: Statutory Instrument**  
**Parliamentary procedure: Negative resolution procedure of the Scottish Parliament**

41. Section 91(2) of the Bill inserts a new section 79(1) (faa) into the 1990 Act to add to the matters that constitute a statutory nuisance, ‘insects emanating from premises and being prejudicial to health or a nuisance’ This amendment ostensibly mirrors the amendment of the 1990 Act made by section 101(2) of the CNE Act as regards England and Wales. The amendment ensures that local authorities in Scotland have access to the same range of powers as are currently available in England and Wales and seek to ensure parity of approach to insect related statutory nuisance across the UK. Section 91(3) of the Bill provides for certain exemptions from the application of the new insect statutory nuisance provisions namely those insects referred to in Schedule 5 to the Wildlife and Countryside Act 1981 and those premises comprising a Site of Special Scientific Interest within the meaning of section 3(6) of the Nature Conservation (Scotland) Act 2004. Section 91(3) also enables the Scottish Ministers by regulations to prescribe other places or types of place which are not included in the definition of premises in the 1990 Act and hence will be exempt from the scope of the insect statutory nuisance provisions in new section 79(1)(faa) of that Act.

*Reason for taking power*

42. The power will enable Scottish Ministers to prescribe certain places or types of place to be excluded from the insect statutory nuisance regime. It is anticipated that the power will be exercised where the regulation of a particular place is found to have an unexpected adverse impact on bio-diversity or on certain persons or activities. It is conceded that in seeking a wide application of the insect statutory nuisance provisions to ‘premises’ there may be instances where this would result in unforeseen or undesirable consequences. Therefore this power will allow specific places to be exempted by regulations.

*Choice of procedure*

43. As a result of section 161(2) of the 1990 Act, regulations under this power will be subject to negative resolution procedure. The negative resolution procedure is considered appropriate as regulations made under this power will only relate to places or types of places to be exempted from the insect statutory nuisance regime and thus will be narrowly drawn. It is important that the scope or application of the insect statutory nuisance regime can be easily amended to respond

to change associated with society or climate and the negative resolution procedure is considered to provide the necessary level of flexibility with the appropriate level of Parliamentary scrutiny.

#### **Section 94 – Power to make further provision regarding statutory nuisances**

**Powers conferred on:** Scottish Ministers

**Power exercisable by:** Statutory Instrument

**Parliamentary procedure:** Affirmative resolution of the Scottish Parliament

44. Section 94 (2) of the Bill inserts a new section 79 (1ZA) into the 1990 Act to provide for Scottish Ministers to make regulations to prescribe additional matters which constitute statutory nuisances for the purposes of Part III of the 1990 Act, to vary the description of any matter which constitutes a statutory nuisance and to amend the 1990 Act and any other enactment to make incidental etc. provision as the Scottish Ministers think fit in consequence of such prescription or variation.

#### *Reason for taking power*

45. The matters which local authorities deal with in the context of the statutory nuisance regime in Part III of the 1990 Act are constantly evolving. When the regime began many of the issues which are now routinely the cause of complaints were unheard of. For some time now there has been a desire to enable local authorities to deal with nuisance complaints associated with water, artificial light and insects but the Scottish Government has been unable to do so until now as no suitable legislative opportunity was available. This has left local authorities powerless to deal with nuisances associated with unregulated matters within their areas. In future, the Scottish Government and local authorities wish to be able to respond to new or emerging matters within their areas which the existing provisions in Part III of the 1990 Act are unable to address. Furthermore, there may be a need to make provision to amend Part III of the 1990 Act in consequence of the addition of a further statutory nuisance or variation of any nuisance such as providing for the exemptions to any nuisance. Accordingly the regulation making power needs to be cast in terms broad enough to allow such amendment of the Part III regime in consequence of the addition or variation of nuisances.

#### *Choice of procedure*

46. Section 94(3) of the Bill inserts a new subsection (2B) into section 161 of the 1990 Act. As a result, regulations under this power will be subject to affirmative resolution procedure. This is considered to provide the appropriate degree of parliamentary scrutiny where primary legislation is being amended in the manner anticipated by this power and will allow the opportunity for parliamentary debate in respect of any such amendment of the Part III regime.

## **Section 95 – Power to make provision regarding fixed penalty notices**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Statutory Instrument  
**Parliamentary procedure:** Negative resolution procedure of the Scottish Parliament

47. Section 95 (3) of the Bill inserts a new section 80ZA into the 1990 Act to make provision in relation to fixed penalty notices ('FPNs') including the amount of penalty, the period for payment and the content of any FPN. Section 80ZA(11) of the 1990 Act provides for a regulation making power for the Scottish Ministers to vary the circumstances associated with FPN's including provision for the form of any FPN, the methods by which penalties may be paid and modification of the amount of any fixed penalty.

### *Reason for taking power*

48. The ability of local authorities to offer FPNs in respect of failure to comply with the requirements of an abatement notice issued under section 80(1) of the 1990 Act is a new concept for Part III of the 1990 Act. It is intended that availability of fixed penalties will assist in ensuring compliance with abatement notices and will provide an effective deterrent to non-compliance. However, as with any new regime, there may be a need to adapt the FPN process in certain circumstances where, for example, the deterrent effect of the fixed penalty regime requires to be supported by increasing the level of penalty (subject to an upper limit of £500).

### *Choice of procedure*

49. The circumstances in which the Scottish Ministers may make regulations are clearly set out in new section 80ZA(11) of the 1990 Act and are exercisable in circumstances intended to ensure the integrity of the FPN regime. As a result of section 161(2) of the 1990 Act, regulations under this power will be subject to negative resolution procedure. The negative resolution procedure is considered to offer an appropriate balance between expedition and convenience and the need for scrutiny of regulations.

## **Section 98 – Disclosure of information-power to modify meaning of relevant authority**

**Power conferred on:** Scottish Ministers  
**Power exercisable by:** Statutory instrument  
**Parliamentary procedure:** Negative resolution of the Scottish Parliament

50. Section 98 outlines the circumstances under which information held under the Bill by a relevant authority may be disclosed. Section 98(7) lists the relevant authorities for the purpose of the section and section 98(8) provides that the Scottish Ministers may by regulations modify the meaning of relevant authority.

### *Reason for taking power*

51. Under this section information of any kind held by a relevant authority may be disclosed to another relevant authority to protect public health or to facilitate a purpose under the Bill. In order to accommodate possible changes in the future to the way purposes under the Bill

are carried out, it is necessary to provide a means for amending the list of relevant persons without recourse to primary legislation.

*Choice of procedure*

52. The power to modify the meaning of relevant authority is a narrow power, which would simply reflect changes that may be made to the way the protection of public health is carried out in general and, in more specific terms, the way purposes under the Bill are carried out. Negative resolution is considered to be appropriate for this type of narrow, technical regulation.

**Section 108 - Short title and commencement**

**Power conferred on: Scottish Ministers**  
**Power exercisable by: Order made by Statutory Instrument**  
**Parliamentary procedure: No Parliamentary procedure**

53. Section 108 provides for the short title and commencement arrangements for the Bill.

*Reason for taking power*

54. Section 108 provides for the Scottish Ministers to determine when the provisions of the Bill are to come into force. It would not, for operational reasons, be appropriate for all the provisions of the Bill to come into force on Royal Assent. The power is therefore being taken to ensure that the provisions of the Bill come into force within the minimum of delay after Royal Assent is received but in an orderly fashion, ensuring that the support required to carry out the provisions of the Bill will be in place. As is usual for commencement orders, no provision is made for parliamentary scrutiny, as the power to commence provisions already agreed to by Parliament is a purely administrative issue.

*This document relates to the Public Health etc. (Scotland) Bill (SP Bill 3) as introduced in the Scottish Parliament on 25 October 2007*

# **PUBLIC HEALTH ETC. (SCOTLAND) BILL**

## **DELEGATED POWERS MEMORANDUM**