



The Scottish Parliament  
Pàrlamaid na h-Alba

Clerk to the Delegated Powers and Law Reform Committee  
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Scottish Parliament  
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James Hynd  
Head of Cabinet, Parliament and Governance Division  
Scottish Government

27 November 2018

### **South of Scotland Enterprise Bill at Stage 1**

The Delegated Powers and Law Reform Committee considered the above Bill on 27 November 2018 and seeks an explanation of the following matters:

#### **Section 5(3) – Power to amend the aims of SoSE**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

Section 5(3) of the Bill allows the Scottish Ministers to alter the aims of South of Scotland Enterprise (“SoSE”) by modifying section 5. The aims of SoSE are already expressed in broad terms in section 5(1) and (2) of the Bill and it is not clear in that context how these broad aims would need to change.

Furthermore, unlike the power to alter the aims of SoSE in section 5(3) of the Bill, there is no power to modify section 1 of the Enterprise and New Towns (Scotland) Act 1990 (the “1990 Act”), which contains similar “general functions” of Scottish Enterprise (“SE”) or Highlands and Islands Enterprise (“HIE”). The power in section 14A to confer or impose functions on those bodies is limited, insofar as those functions must be in connection with unemployment, training for employment or employment.

**(a) Please explain why, in this bill, a different approach is being taken to the powers that apply to altering the aims of SoSE from those taken in the 1990 Act that apply to confer or impose certain limited functions on SE and HIE.**

**(b) Please provide further detail of the sorts of amendments that may need to be made to the already widely expressed aims of SoSE in section 5 of the Bill.**

**(c) Please also consider whether the power in section 5(3) of the Bill could be expressed more narrowly.**

### **Section 15 – Power to issue direction to SoSE**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Direction**

**Parliamentary procedure: None**

Section 15 provides that SoSE must comply with any direction issued to it by the Scottish Ministers. The DPM does not consider this power.

A similar power is contained in section 14 of the 1990 Act, except that the Secretary of State is required to consult SE or HIE before giving the relevant body a direction. Furthermore, there is no requirement on the face of the Bill to provide reasons in the published direction.

**Please consider whether there should be requirements on the face of the Bill to consult SoSE before giving it a direction under section 15 and to provide reasons in the published direction for making the direction.**

Please email your response to the Delegated Powers and Law Reform Committee e-mail address above by 5pm on Friday 14 December 2018.  
Thank you.

Andrew Proudfoot

**Clerk to the Delegated Powers and Law Reform Committee**