



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Derek Mackay MSP
Cabinet Secretary for Finance, Economy
and Fair Work

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14 January 2020

Scottish National Investment Bank Bill

Dear Cabinet Secretary,

The Committee is grateful for the response it received, dated 9 January, to the question it raised in relation to section 14A of the above Bill.

After further consideration of this issue at its meeting on 14 January, the Committee considers the interpretation of “fair work” set out in your response still to be broad in scope. It considers that the definition does not provide the necessary clarity and context to what the Scottish Government would take into consideration when defining “fair work” for the purposes of issuing a direction under section 14A.

The Committee appreciates that a similar power exists in the South of Scotland Enterprise Act 2019, and that it is beneficial to have consistency across the public sector landscape. However, the Committee did not consider the power to issue a fair work direction in the SOSE Bill (section 18 as enacted) as this power was added as an amendment agreed at Stage 3. The Committee does not consider that the benefits of consistency outweigh the need to have clarity on delegated powers and how they will be used.

In relation to section 14A, the Committee is concerned that there remains a lack of clarity about the meaning of the term “fair work”. The Committee are particularly concerned that the Parliament will not be able to scrutinise the definition of fair work that is adopted, as this is to be set in the direction under section 14A.

Does the Scottish Government consider that it is appropriate for the meaning of “fair work” to be set out in a direction without any parliamentary scrutiny of the definition adopted?

While the Committee is keen to consider your response, it has discussed the option of lodging an amendment to insert a regulation making power in section 14A of the Bill to define “fair work”.

Would the Scottish Government consider having this definition set by regulations to be beneficial?

The Committee would be grateful for a response by 9am on Wednesday 15 January to allow for further consideration of this matter in advance of Stage 3.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Graham". The signature is written in a cursive, flowing style.

Convener of the Delegated Powers and Law Reform Committee