



The Scottish Parliament
Pàrlamaid na h-Alba

Clerk to the Delegated Powers and Law Reform Committee
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Scottish Government

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Consumer (Scotland) Bill at Stage 1

The Delegated Powers and Law Reform Committee considered the above Bill on 17 September 2018 and seeks an explanation of the following matters:

Section 8(2)(d) – Requirement to provide information to Consumer Scotland

Power conferred on: the Scottish Ministers
Power exercisable by: regulations
Parliamentary procedure: affirmative

Section 8(2)(d) provides that Scottish Ministers may specify any other person or description of persons who can be subject to a notice under section 8(1) to those already in Section 8(2)(a) to (c).

Section 8(2)(a) to (c) covers designated regulators, regulated providers and any other person who supplies goods or services in the course of a business carried on by that person. Section 23(1) defines “business” as including a profession and the activities of any government department, local or public authority or other public body.

The Committee considers that the persons listed in section 8(2)(c) are broad so are not clear on why it would be necessary to specify another person under section 8(2)(d).

Why does the Scottish Government consider it necessary for the Scottish Parliament to delegate the power in section 8(2)(d) to Scottish Ministers when section 8(2)(c) is so broad in scope?

Could the Scottish Government provide detail on what categories of persons Scottish Ministers might want to cover in future using this power?

What consideration has the Scottish Government given to providing criteria on the face of the Bill to be applied by Scottish Ministers when determining whether a person or description of persons should be specified for the purposes of section 8(2)(d)?

Section 8(6)(a) and (b) – Requirement to provide information to Consumer Scotland

Power conferred on: the Scottish Ministers
Power exercisable by: regulations
Parliamentary procedure: negative

Under section 8(6)(a) and (b) the Scottish Ministers can specify, by regulations, which persons are “designated regulators” and “regulated providers” for the purposes of sections 8, 9, 10 and 11, as well as specifying which designated regulator is the relevant designated regulator for each regulated provider.

No information is provided in the Bill, the DPM or the Bill’s accompanying documents on which regulators might be specified as a “designated regulator”.

Could the Scottish Government explain why no regulatory bodies have been specified as designated regulators on the face of the Bill?

Section 20(2) – Duty to have regard to consumer interests

Power conferred on: the Scottish Ministers
Power exercisable by: regulations
Parliamentary procedure: affirmative

Subsection (2) provides for the Scottish Ministers, through regulations, to set out which persons are “relevant public authorities” and therefore to determine which persons are subject to the duty. There are no public authorities currently specified on the face of the Bill

Are there any public authorities that could be specified on the face of the Bill? If not, could the Scottish Government provide examples of which persons might be determined as a “relevant public authority”?

I’d be grateful if you could please email your response to the Delegated Powers and Law Reform Committee e-mail address above by 5pm on Friday 11 October 2019.

Thank you.

Andrew Proudfoot
Clerk to the Delegated Powers and Law Reform Committee