



The Scottish Parliament
Pàrlamaid na h-Alba

Clerk to the Delegated Powers and Law Reform Committee
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By email

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Period Products (Free Provision) (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 2(1) – power to make the period products scheme

Power conferred on:	the Scottish Ministers
Power exercisable by:	regulations made by statutory instrument
Parliamentary procedure:	affirmative if making the scheme or replacing it, negative for other changes to the scheme.

Section 2(1) of the Bill requires the Scottish Ministers to make a “period products scheme”.

Section 2(2) requires that the scheme must oblige any or all of the bodies specified in the scheme to make period products available (or secure that they are made so available).

The scheme will be set out in regulations which will be subject to the affirmative procedure when the scheme is set out for the first time or when a scheme is replaced but any other changes to the scheme are to be subject to the negative procedure.

It would appear that it is possible to specify an additional body or person under section 2(2)(b) or (c) at a later stage after a scheme has been made, making this subject to the negative procedure.

Why is the negative procedure considered appropriate for subsequent changes to a period products scheme which might include adding a further specified public-facing body or other specified person to the scheme under section 2(2)(b) or (c)?

There could be significant impact on a body or person specified in the scheme. Unlike a similar provision specifying bodies for the purpose of Part 2 of the Bill (section 6), there is no requirement to consult any body or person before being specified in a period products scheme under section 2 of the Bill.

Why is it not considered necessary to consult a body or person before specifying them in the period products scheme which is to be made under the powers in section 2 of the Bill?

Section 2(2)(b) makes reference to “specified public-facing bodies”. Section 10(2) defines “public-facing bodies” as bodies or other organisations appearing to the Scottish Ministers:

- (a) to be bodies or other organisations to the premises of which the public or a section of the public has frequent access, and
- (b) to be otherwise suitable to be specified.

Why does this definition not set out in more detail the types of body that the Scottish Ministers might specify in regulations under section 2?

Could examples be provided of the type of body that it is anticipated would be specified? Could this, for example, include coffee shops and cafes?

Section 6(1) – power to specify particular public service bodies required to make products available in their premises

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

Section 6(1) is a power delegated to the Scottish Ministers to specify public service bodies which will be subject to the duty to provide free period products on their premises.

Section 10(4) of the Bill restricts the definition of “public service body” to those bodies that are constituted by or under an enactment and which have functions that consist of or include providing public services or otherwise serving the public interest.

Why does the definition of “public service body” in section 10(4) not list the specific bodies (as constituted by or under an enactment) that should be subject to the duty to make period products available free of charge?

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 25 October 2019.

Thank you.

Andrew Proudfoot
Clerk to the Delegated Powers and Law Reform Committee