



The Scottish Parliament
Pàrlamaid na h-Alba

Clerk to the Delegated Powers and Law Reform Committee
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Health and Care (Staffing) (Scotland) Bill at Stage 1

The Delegated Powers and Law Reform Committee considered the above Bill on Tuesday 19 June and seeks an explanation of the following matters:

Section 4 – NHS duties in relation to staffing (insertion of section 12IB(4) – duty to follow common staffing method)

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

Section 12IB(4) of the 1978 Act, to be inserted by section 4(2) of the Bill, contains a power enabling the Scottish Ministers to change the description of the common staffing method set out in new section 12IB(2).

The Scottish Government addresses this power at paragraphs 13 to 15 of the Delegated Powers Memorandum (DPM). The DPM explains that the common staffing method is based on the method that has been developed for use with the existing staffing level tools, which, with the exception of a multi-disciplinary emergency care tool, have been developed to inform staffing decisions in relation to nursing and midwifery staff. The DPM suggests that there is an increasing focus on multi-disciplinary working and there is therefore likely to be movement away from tools covering single professions, such as nursing and midwifery, towards tools which encompass the multi-disciplinary team.

The DPM notes that the introduction of tools covering multi-disciplinary teams, including other professions, may require changes in the detailed steps of the

common staffing method that have not yet been anticipated. The Scottish Government provides an example of a change which it does anticipate, namely the inclusion of a step in the common staffing method to consider the input of different staffing groups within the team.

The Committee asks the Scottish Government for a further explanation of why such a wide power is being taken with no provision on the face of the Bill guiding the Parliament as to the circumstances in which the power is expected to be used by Scottish Ministers.

Section 10 – Functions of SCSWIS in relation to staffing methods (insertion of section 82A(3) – development of staffing methods)

Power conferred on: the Scottish Ministers
Power exercisable by: guidance
Parliamentary procedure: not applicable

Section 82A(3) of the 2010 Act, to be inserted by section 10 of the Bill, gives the Scottish Ministers power to issue guidance about the collaboration between SCSWIS and the bodies listed in section 82A(2) in the development of staffing methods under section 82A of the 2010 Act. It contains a corresponding duty for SCSWIS and those that SCSWIS is to collaborate with to have regard to such guidance.

The Committee asks the Scottish Government for an explanation of why it is not considered appropriate or necessary to include a duty on Scottish Ministers to publish the guidance so that it is available to those persons or bodies which SCSWIS considers it appropriate to collaborate with.

Please email your response to the Delegated Powers and Law Reform Committee e-mail address above by 5pm on Friday, 31 July.
Thank you.

Andrew Proudfoot
Clerk to the Delegated Powers and Law Reform Committee