



The Scottish Parliament  
Pàrlamaid na h-Alba

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

8 November 2017

### **Housing (Amendment) (Scotland) Bill at Stage 1**

The Delegated Powers and Law Reform Committee considered the above Bill on Wednesday 8 November and seeks an explanation of the following matters:

#### **Section 8 – power to modify functions of the Regulator**

**Power conferred on:** the Scottish Ministers

**Power exercisable by:** Regulations

**Parliamentary procedure:** affirmative

The Delegated Powers Memorandum (DPM) indicates that the Scottish Government intends to use the power in this section only for the purpose of providing the Office of National Statistics (ONS) with the basis for classifying RSLs as private sector bodies in the national accounts, if the Bill when enacted does not achieve that.

However section 8(1) enables the modification of the functions of the Regulator which relate to social landlords, which does not limit the powers by reference to the purpose or aim of securing the re-classification of RSLs to the private sector in the national accounts. Section 8(2)(a) also expressly enables different provision for different purposes.

**The Committee therefore asks the Scottish Government to explain why it has considered it appropriate to draw the scope of the power in section 8(1) and (2) in that more general way, or whether the power could be drawn more narrowly while at the same time implementing the policy intentions?**

The DPM indicates that the power in section 8 would be used only for the purpose of providing the ONS with the basis for classifying *RSLs* as private sector bodies.

**The Committee therefore asks the Scottish Government to explain why it is appropriate that section 8(1) enables the modification of the functions of the Regulator which relate to *social landlords*, which includes local authority landlords and local authorities providing housing services, in addition to RSLs. How is it anticipated the power would be used, in relation to social landlords apart from RSLs?**

**Section 9 – power to reduce local authority influence over RSLs**

<b>Power conferred on:</b>	<b>the Scottish Ministers</b>
<b>Power exercisable by:</b>	<b>Regulations</b>
<b>Parliamentary procedure:</b>	<b>affirmative</b>

The DPM indicates how, specifically, the Scottish Government intends to use the power in section 9. In the first instance, it intends to specify in regulations that local authorities may only nominate up to a maximum of 24% of the board members of an RSL, and may not exercise control over RSLs for example through a power to veto changes in an RSL's constitution.

The Scottish Government intends to use the power subsequently if other forms of local authority control that amount to public sector control over RSLs come to light, or if the criteria the ONS applies to determine public sector control changes and such changes require the powers of local authorities to be amended further, to ensure that RSLs can continue to be classified to the private sector.

However section 9(1) enables any provisions for the purpose of limiting or removing the ability of local authorities to exert influence over RSLs, through (a) appointing or removing officers of RSLs, and (b) exercising or controlling voting rights. Section 9(5)(a) enables different provision for different purposes. Similarly to the powers in section 8, the powers are not limited by reference to the purpose or aim of securing the re-classification of RSLs to the private sector in the national accounts.

**The Committee therefore asks why the Scottish Government has considered it appropriate to draw the scope of the powers in section 9 in that more general way, or whether the powers could be drawn more narrowly while at the same time implementing the policy intentions?**

**Furthermore, the Committee asks the Scottish Government why has it been considered not appropriate to set out the initial intentions for the exercise of the power on the face of the bill, i.e., that the regulations may specify that local authorities may nominate up to a maximum of 24% of the board members of an RSL, and may not exercise forms of control over RSLs such as the power to veto changes in an RSL's constitution?**

Please email your response to the Delegated Powers and Law Reform Committee e-mail address above by 5pm on Tuesday 22 November.

Thank you.

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