

WILDLIFE MANAGEMENT AND MUIRBURN (SCOTLAND) BILL

[AS AMENDED AT STAGE 2]

SUPPLEMENTARY DELEGATED POWERS MEMORANDUM

PURPOSE

1. This memorandum has been prepared by the Scottish Government in accordance with rule 9.7.9 of the Parliament’s Standing Orders to assist the Delegated Powers and Law Reform Committee in its consideration of the Wildlife Management and Muirburn (Scotland) Bill following Stage 2.
2. This memorandum describes provisions in the Bill conferring power to make subordinate legislation which were introduced, amended or removed from the Bill at Stage 2.
3. The contents of this memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by the Scottish Parliament. This supplementary memorandum should be read in conjunction with the Delegated Powers Memorandum published to accompany the Bill on introduction.

PROVISIONS CONFERRING POWER TO MAKE SUBORDINATE LEGISLATION AMENDED AT STAGE 2

4. The new delegated power in the Bill is listed below, with a short explanation of what the power allows, why the power has been taken in the Bill and why the selected form of Parliamentary procedure has been considered appropriate.

Section 8A(5): Power to investigate certain wildlife offences

Power conferred on: The Scottish Ministers
Power exercisable by: Regulations made by Scottish statutory instrument
Parliamentary procedure: Affirmative

Provision

5. At Stage 2, amendments were agreed to that inserted new Section 8A that modifies the Animal Health and Welfare (Scotland) Act 2006 (the “2006 Act”) to confer additional powers on inspectors appointed by the Scottish Ministers under section 49(2)(a) of the 2006 Act to investigate certain wildlife offences. Those powers may be exercised in connection with a “relevant offence”. Section 8A(4) amends schedule 1 of the 2006 Act by inserting a new paragraph 5A into that schedule (“supplementary powers of inspectors; evidence gathering in connection with wildlife offences”). Sub paragraph 5A(2)(a) and (b) set out the list of relevant offences.

6. Paragraph 5A(3) sets out that “the Scottish Ministers may by regulations modify the definition of ‘relevant offence’ in sub-paragraph (2).” Section 51(3) of the 2006 Act, when read together with the amendment made by section 8A(4) of the Bill, provides that any regulations to modify the definition of ‘relevant offence’ is subject to the affirmative procedure.

7. As a consequence of this amendment, Section 8 (Power to investigate certain wildlife offences) of the Bill was removed, thereby removing the enabling power contained at Section 8(1).

Reason for taking power

8. This power is required to enable the Scottish Ministers to respond quickly should it becomes necessary to make any changes to the list of relevant wildlife offences that inspectors authorised under the 2006 Act can investigate and for the purpose of future-proofing.

9. This regulation-making power enables modification of the definition of relevant offence which will ensure that the provisions remain aligned with any new offences which may be created by future legislation as well as removal of offences if these are no longer required. The power will also enable the Scottish Ministers to add current wildlife offences which are not included in the definition should they deem it appropriate to do so.

Choice of procedure

10. As this provision enables amendment of a provision of primary legislation, so far as the provision enables amendment of the definition of “relevant offence” in paragraph 5A(2) of schedule 1 of the 2006 Act, the Scottish Government believes that it is appropriate that this power is subject to the affirmative procedure.

This document relates to the Wildlife Management and Muirburn (Scotland) Bill (SP Bill 24A) as amended at Stage 2

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