

Aggregates and Devolved Taxes Administration (Scotland) Bill

[As amended at Stage 2]

Supplementary Delegated Powers Memorandum

Introduction

1. This supplementary Delegated Powers 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 ("DPLRC") in its consideration of the Aggregates and Devolved Taxes Administration (Scotland) Bill ("the Bill").
2. This memorandum describes provisions in the Bill conferring power to make subordinate legislation which were either introduced to the Bill or amended at Stage 2. It should be read in conjunction with the Delegated Powers Memorandum ("DPM") published to accompany the Bill on introduction.
3. The contents of this memorandum are entirely the responsibility of the Scottish Government and have not been endorsed by the Scottish Parliament.

Outline of Stage 2 amendments to delegated powers provisions

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

Delegated powers

Section 4(4): Power to add or remove items from a list of relevant substances for the purpose of exempt processes

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative (amended from negative)

Revised or new power: Revised

Provision

5. As set out in the DPM accompanying the introduction of this Bill, Section 4 of the Bill defines exempt processes, the products of which are not considered to be aggregate for the purposes of SAT. Included as an exempt process is any process by which a relevant substance is extracted or otherwise separated from aggregate. The Bill sets out a list of relevant substances, generally industrial minerals not used for aggregate purposes. This power allows Scottish Ministers to add or remove a substance from this list.

Reason for taking this power

6. The list of relevant substances set out in the Bill replicates those available for the UK Aggregates Levy. This power allows Scottish Ministers to ensure that the lists of relevant substances is kept up to date and takes account of current circumstances.

Choice of procedure

7. Reflecting the recommendation of the DPLRC, this has been amended from negative to affirmative.

Section 12(3): Power to specify rates and bands

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: First use affirmative, subsequent uses provisional affirmative (amended from provisional affirmative for all uses)

Revised or new power: Revised

Provision

8. As explained in the DPM provided at introduction, this provision allows Ministers to set rates and bands for Scottish Aggregates Tax. This provision provides future flexibility to make further provision concerning tax rates and bands. The Scottish Government may wish to change the tax rate or structure of tax bands or to

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support key government priorities, to reflect changing market conditions or in light of operational experience of collecting and managing the tax.

Reason for taking this power

9. The reason for taking this power is as explained in the DPM supplied on introduction.

Choice of Procedure

10. The first use of this power will now be subject to the affirmative procedure, following recommendations from the DPLRC.

11. For subsequent uses, the provisional affirmative procedure is still considered the most appropriate because, once the tax has been established, it may be necessary to ensure that tax rates can be changed quickly. It is considered that provisional affirmative procedure provides that flexibility while providing an appropriate level of Parliamentary scrutiny afterwards. Provisional affirmative procedure, in this context, is consistent with the approach taken for the existing devolved taxes.

Section 54(2) (newly inserted section 251A(2A): Communications from Revenue Scotland to Taxpayers

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative

Revised or new power: Revised

Provision

12. As outlined in the DPM which accompanied the Bill at introduction, section 54 inserts a new section 251A into the 2014 Act, enabling Scottish Ministers to bring forward regulations about communications from Revenue Scotland to taxpayers, including provisions relating to the use of electronic communications. The affirmative procedure is considered to be appropriate on the basis that the power allows for the amendment of primary legislation.

Reason for taking this power

13. The reason for taking this power is as explained in the DPM supplied on introduction.

Choice of Procedure

14. The newly inserted subsection 251A(2A) requires Scottish Ministers to consult before making any Regulations under this provision. This has been added to provide

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Parliament with additional reassurance about the safeguards in place for making secondary legislation in what is recognised to be a novel area.

Section 55(2) (newly inserted section 251B(1A): Use of Automation by Revenue Scotland

Power conferred on: Scottish Ministers

Power exercisable by: Regulations made by Scottish statutory instrument

Parliamentary procedure: Affirmative

Revised or new power: Revised

Provision

15. As outlined in the DPM which accompanied the Bill at introduction, section 55 inserts a new section 251B into the 2014 Act, enabling Scottish Ministers to bring forward regulations about the use of automation by Revenue Scotland to taxpayers in carrying out functions conferred on either Revenue Scotland itself or a designated Officer. Affirmative procedure is considered to be appropriate on the basis that the power allows for the amendment of primary legislation.

Reason for taking this power

16. The reason for taking this power is as explained in the DPM supplied on introduction.

Choice of Procedure

17. The newly inserted subsection 251B(1A) requires Scottish Ministers to consult before making any Regulations under this provision. As with section 54, this has been added to provide Parliament with additional reassurance about the safeguards in place for making secondary legislation in what is recognised to be a novel area with the potential to be broad in scope.

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