

Parliamentary Bureau – Designation of Bill at Stage 1

Leases (Automatic Continuation etc.) (Scotland) Bill

Introduction

1. The Leases (Automatic Continuation etc.) (Scotland) Bill was introduced in the Parliament on 11 December 2024 by the Cabinet Secretary for Justice and Home Affairs, Angela Constance MSP.
2. The Leases (Automatic Continuation etc.) (Scotland) Bill is based on recommendations from the Scottish Law Commission's [Report on Aspects of Leases: Termination](#). The Bill seeks to improve, simplify and update aspects of the Scots law of commercial leases, including by implementing a statutory replacement of the common law of tacit relocation, providing for certain leases to automatically continue on past their termination date unless notice is served.

Discussion

3. The Bill appears to engage the remits the following committees:

Delegated Powers and Law Reform Committee (DPLRC)

The Bill is considered to meet the definition of a Scottish Law Commission Bill set out in Rule 9.17A (further detail on this is provided in the Annex). As such, the Bills fall within the remit of the DPLRC, which is set out in Rule 6.11.1 of Standing orders (paragraph (g) of that Rule refers specifically to Scottish Law Commission (SLC) Bills).

Economy and Fair Work Committee

The remit of the Economy and Fair Work Committee includes to consider and report on matters relating to within the responsibility of the Deputy First Minister and Cabinet Secretary for Economy and Gaelic, with the exception of Gaelic. A key purpose of the reforms in the Bill is to modernise the law in relation to commercial leases. The remit of this committee is also engaged.

Equalities, Human Rights and Civil Justice Committee

The remit of the Equalities, Human Rights and Civil Justice Committee includes to consider and report on matters relating to civil justice within the responsibility of the Cabinet Secretary for Justice and Home Affairs. The Bill was introduced by the Cabinet Secretary for Justice and Home Affairs, and relates to a matter of civil justice reform. The remit of this committee is also engaged.

4. The Bill is considered to meet the criteria set out in Rule 9.17A and the Presiding Officer's determination under Rule 9.17A(b). Therefore, it is recommended that the DPLRC be designated as lead committee.
5. We are not aware of any interest on the part of the Economy and Fair Work Committee or Equalities, Human Rights and Civil Justice Committee in being formally designated as a secondary committee. Lack of formal designation does not, of course, prevent any committee from considering the Bill if it subsequently decides to do so.

Recommendation

6. The Bureau is invited to consider recommending to the Parliament by motion that it agrees, under Rule 9.6.1, to designate the Delegated Powers and Law Reform Committee as the lead committee for consideration of the Leases (Automatic Continuation etc.) (Scotland) Bill at Stage 1.

7. A draft motion can be found below—

Designation of Lead Committee: That the Parliament agrees that the Delegated Powers and Law Reform Committee be designated as the lead committee in consideration of the Leases (Automatic Continuation etc.) (Scotland) Bill at Stage 1.

Parliamentary Business Team
December 2024

Annex

ASSESSMENT OF THE BILL AGAINST STANDING ORDERS RULE 9.17A AND THE CRITERIA AS DETERMINED BY THE PRESIDING OFFICER FOR QUALIFICATION AS A “SCOTTISH LAW COMMISSION BILL”

(a) The Bill must implement all or part of a report of the Scottish Law Commission

The Bill seeks to implement recommendations of the Scottish Law Commission contained in its [Report on Aspects of Leases: Termination](#), and very closely follows the form of a draft Bill published by the SLC.

Minor changes to the Bill relate to allowing the Act to be brought into force by the Scottish Ministers by regulations, rather than a fixed commencement date.

The Standing Orders require an SLC Bill to implement all or part of a report. As such, it is considered that this requirement is met.

(b) The Bill must comply with such criteria as are determined by the Presiding Officer

The current determination of the Presiding Officer was published in the Scottish Parliament’s Business Bulletin on 24 March 2021. The key elements of this are addressed in turn below.

A Bill, the primary purpose of which is to (a) simplify, modernise or improve the law to—

(i) ensure it is fit for purpose, (ii) respond to developments, or address deficiencies, in the common law, or (iii) respond to other developments in the law

It is understood that the primary purpose of the Bill is to clarify and modernise the law in relation to certain elements of commercial leases. As set out in more detail in the SLC report and in the Policy Memorandum accompanying the Bill, the current law in relation to tacit relocation and other elements of the termination of leases lacks certainty for parties.

The Bill seeks to bring clarity and efficiency to this area of the law. As such, it is considered that this requirement is met.

A Bill, the primary purpose of which is to (b) make provision which is not likely to generate substantial controversy among stakeholders

The SLC first published a Discussion Paper on this topic in 2018 and invited comments on a draft Bill in December 2021. The changes being brought forward by the Bill had widespread support, and while there were some issues on which there were a range

of views, it is nonetheless considered that the provision of the Bill will not be controversial.

Wider legislative proposals within two years (or the end of the session if sooner) which relate closely to the same particular aspect of law as the Bill

The Scottish Government has confirmed that it is not expecting to bring forward any wider legislative proposals on this topic within the relevant time frame.

(c) The Bill must not be a Consolidation, Codification, Statute Law Repeals or Statute Law Revision Bill

The Bill is not any of the Bill types listed above.