



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Clare Adamson MSP
Convener of the Constitution, Europe,
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Via email

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28 September 2023

Dear Clare,

Scotland Act Orders

The Delegated Powers and Law Reform Committee has recently provided lead committee scrutiny to legislation relating to Moveable Transactions, and Trusts and Succession law. Both of these Bills (one of which is now an Act) were based on reports from the Scottish Law Commission.

A theme arising in Committee scrutiny in relation to both of these Bills was 'section 104 Orders'. A section 104 Order (under the Scotland Act 1998) is used to make consequential modifications to reserved law, in consequence of legislation passed by the Scottish Parliament. It means that changes can be made to reserved legislation that reflect changes in legislation in Scotland.

The Scottish Government is pursuing these orders with the UK Government to make changes related to both of these pieces of legislation. In the Moveable Transactions Bill (now Act), this was in relation to financial collateral arrangements, and in the case of Trusts and Successions, in relation to bringing pensions trusts into the ambit of the new trust law.

The Delegated Powers and Law Reform Committee is concerned that the length of time it may take for one of these orders to be made may result in unwelcome outcomes, such as a delay in the commencement of legislation, or having to retain old legislation for longer than desirable to provide a fall-back for certain provisions.

Given the frequency with which these orders have to be made, relating to a wide range of issues, the Committee felt it might be more appropriate to ask the Constitution, Europe, External Affairs and Culture Committee to take forward this

issue in future work in relation to intergovernmental relations, and perhaps ask the Scottish and UK Government how, in their view, the process for obtaining such an order could be more streamlined.

The Committee would be grateful if you would keep it apprised of further work undertaken on this issue.

Yours sincerely,

Stuart McMillan MSP

Convener of the Delegated Powers and Law Reform Committee