



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Martin Whitfield MSP

T1.01

Convener of the Standards, Procedures
and Public Appointments Committee

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Dear Martin,

Delegated Powers and Law Reform Committee response to consultation on Standing Order rule changes relating to the refusal of legislative consent

The Delegated Powers and Law Reform (DPLR) Committee considered the Standards, Procedures and Public Appointments Committee's consultation on introducing rule changes to provide for motions refusing legislative consent at its meeting of 31 October 2023.

The Committee agreed to support a change to Standing Orders to provide a new procedure within Charter 9B for a situation where the Scottish Government is proposing refusing legislative consent.

In relation to possible approaches in relation to making lodging a motion mandatory, the Committee considered that introducing an expectation or presumption that the Scottish Government should lodge a motion in such circumstances might be the most appropriate way forward. The Committee considered that while there may be circumstances which would make a requirement to lodge a motion (Option B) too onerous, the wording suggested at Option C (an obligation to endeavour) might provide too much leeway.

The Committee did not have any further comments in relation to the questions regarding wording, or including a change to Standing Orders to provide that a motion refusing legislative consent can only be lodged if a corresponding legislative consent memorandum has been lodged and that this memorandum must include a draft motion.

Additional issue – reporting to lead committees

Finally, the Committee considered an additional issue in relation to Standing Orders and its reports on legislative consent memorandums (LCMs) and supplementary legislative consent memorandums (sLCMs).

When the DPLR Committee is considering delegated powers conferred on Scottish Ministers in UK Parliament Bills under rule 9B.3.6, it must make any reports it wishes to make to a lead committee.

On occasion, the Parliament has had to consider LCMs and sLCMs within short timescales, and there have been recent examples of Parliament suspending Standing Order requirements in relation to lead committee consideration and reporting to allow the LCM/sLCM to be considered directly by the Chamber instead. In cases where an SSI is referred directly to the Chamber rather than to a lead committee, Standing Orders provide that any DPLR report can be directed to Parliament rather than to the lead committee. (Standing Orders rule 10.3.3).

As such, the DPLR Committee invites the SPPA Committee to consider the merits of allowing DPLR Committee to make reports directly to Parliament in cases where there is either no lead committee, or timescales appear so tight as to not allow for lead committee consideration, when it is considering an LCM or sLCM under rule 9B.3.6.

Yours sincerely,

Stuart McMillan MSP
Convener of the Delegated Powers and Law Reform Committee