LEGISLATIVE CONSENT MEMORANDUM

STATUTE LAW (REPEALS) BILL

Draft Legislative Consent Motion

1. The draft motion, which will be lodged by Kenny MacAskill MSP, Cabinet Secretary for Justice, is:

“That the Parliament agrees that the relevant provisions of the Statute Law (Repeals) Bill, introduced in the House of Lords on 10 October 2012, relating to Statute Law Repeals, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by Kenny MacAskill, Cabinet Secretary for Justice, under Rule 9.B.3.1(a) of the Parliament’s standing orders. The Statute Law (Repeals) Bill was introduced in the House of Lords on 10 October 2012. The Bill can be found at:


Content of the Statute Law (Repeals) Bill

3. The Statute Law (Repeals) Bill follows the Statute Law Repeals: Nineteenth Report, a joint project by the Law Commission and the Scottish Law Commission, published in April 2012. The current report is part of the Law Commissions’ ongoing programme on statute law repeals. The purpose of the statute law repeals work carried out jointly by the Law Commissions is to modernise and simplify the statute book, reduce its size and save the time of those who use it. The enactments dealt with in the Bill have been identified, after detailed research and consultation, as being spent, obsolete, unnecessary or otherwise not now of practical utility. The full Report can be found at:


4. The Bill lists over 800 Acts which no longer serve any useful purpose, and will part repeal a further 50 Acts. Most do not relate to Scotland, but some concern matters devolved to the Scottish Parliament. There are Scottish Acts which include 16 Acts passed between 1798 and 1828 to impose duty on every pint of ale, beer, or porter brewed or sold in parts of Scotland. There are also a number of obsolete railway Acts, which concern projects for railways which were never built.

Provisions which relate to Scotland

5. The Scottish Law Commission has identified and agreed with the Scottish Government those elements within the Bill which fall within the legislative competence of the Scottish Parliament. The relevant repeals are listed in the Annex. It is these repeals which the Scottish Parliament is asked to agree should be considered by the UK Parliament.
6. The Bill is an exercise to tidy up the statute book, and has no policy implications. As with the last Statute Law Repeals Act (in 2008), for which an LCM was passed, the current Bill does not in practice make any substantive alteration to the current law of Scotland in relation to devolved matters.

**Reasons for seeking a legislative consent motion**

7. Although it does not substantively alter the current law of Scotland in relation to devolved matters, the Statute Law (Repeals) Bill does contain provisions which fall within legislative competence and could properly be the subject of legislation in the Scottish Parliament. It is therefore a relevant Bill for the purposes of Standing Orders, and an LCM is required. Standing Orders make no exception for specialist legislation of this kind. The formal consent of the Scottish Parliament is therefore required, in accordance with the procedures set out in Chapter 9B.

8. A UK Bill and accompanying LCM provides the most appropriate legislative mechanism in this instance because the overwhelming majority of the changes proposed by the two Law Commissions relate to non-devolved matters. The subject matter is technical in nature and does not raise questions of policy. There are clear benefits for end-users in making a series of technical changes to the statute book by means of a single legislative instrument.

**Consultation**

9. The repeal proposals contained in the Bill were developed by the Law Commissions following a rigorous research and consultation process. The repeals recommended follow detailed research by the Law Commissions team, as being spent, obsolete, unnecessary or otherwise not now of practical utility. The proposals were canvassed across relevant Government departments and other bodies, including the Scottish Government and the departments responsible for reserved matters in relation to Scotland.

10. The repeal proposals which relate to Scotland have been the subject of appropriate consultation with relevant bodies including the First Scottish Parliamentary Counsel, the Office of the Solicitor to the Advocate General for Scotland, the Scotland Office, as well as the Scottish Government.

11. Schedule 1, Part 2 of the Bill covers civil and criminal justice repeals, and consultees included the Crown Office and Procurator Fiscal Service and the Scottish Police Federation. There was consultation with Transport Scotland and with relevant railway societies over the proposals in Schedule 1, Part 9 covering railways. A number of local authorities, HMRC Solicitors in Scotland, and the Institute of Chartered Accountants of Scotland were consulted over proposals in Schedule 1, Part 10 regarding taxation matters. A full list of consultees is provided in Appendix 3 to the Statute Law Repeals Report.

**Financial Implications**

12. There are no financial implications to this Bill.
Conclusion

13. The view of the Scottish Government is that the Statute Law (Repeals) Bill, insofar as its subject matter falls within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

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Provisions on matters devolved to the Scottish Parliament

The following legislation has been identified by the Scottish Law Commission as falling within the legislative competence of the Scottish Parliament. Relevant statutes and provisions are listed under the Part of Schedule 1 to the Bill in which they appear.

Part 2: Civil and Criminal Justice
The following repeals:

- Criminal Law (Scotland) Act 1830 (sections 2 and 6)
- Forgery of Foreign Bills Act 1803 (the whole Act)
- Sale of Offices Acts 1551 and 1809 (the whole Act)
- Common Informers Act 1951 (a reference in its Schedule to the Sale of Offices Act 1809)

Part 9: Railways
The following repeals (whole Act) in Group 1, paragraph 44 (Scottish repeals) of Part 9:

- Glencairn Railway (Abandonment) Act 1881
- Rhins of Galloway Railway (Abandonment) Act 1883
- Clyde Ardrishaig and Crinan Railway (Abandonment) Act 1892
- Muirkirk Mauchline and Dalmellington Railways (Abandonment) Act 1900
- Motherwell and Bellshill Railway (Abandonment) Order Confirmation Act 1904

Part 10: Taxation and Pensions
The following repeals (whole Acts) in Group 2 (Scottish local taxation) of Part 10:

- Edinburgh Two Pennies Scots Act 1798
- Port Glasgow and Newark Two Pennies Scots Act 1799
- Glasgow and Gorbals Two Pennies Scots Act 1799
- Dundee Two Pennies Scots Act 1802
- Kelso Two Pennies Scots Act 1802
- Dalkeith Improvement and Market Act 1804
- Burntisland Two Pennies Scots Act 1807
- Kinghorn Two Pennies Scots Act 1807
- Aberbrothock Two Pennies Scots Act 1808
- Dumfries Two Pennies Scots Act 1811
- Edinburgh Two Pennies Scots Act 1816
- Montrose Two Pennies Scots Act 1816
- Kelso Two Pennies Scots Act 1824
- Dalkeith Two Pennies Scots Act 1825
- Dundee Two Pennies Scots Act 1827
- Aberbrothock Two Pennies Scots Act 1828

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