Parliamentary Bureau – Bill at Reconsideration Stage

European Charter of Local Self-Government (Incorporation) (Scotland) Bill

Introduction

1. Mark Ruskell MSP, member in charge of the European Charter of Local Self-Government (Incorporation) (Scotland) Bill ("the European Charter Bill") has lodged a motion proposing that the Parliament resolves to reconsider the Bill (S6M-20525). It is understood that the Scottish Government will be proposing that the debate on the motion be scheduled for 4 February. This is the second time the Parliament has been asked to reconsider a Bill.

2. This paper provides information about the anticipated process, including drawing on the experience of Reconsideration of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill ("the UNCRC Bill") earlier this session.

Background

Referral of European Charter Bill to Supreme Court

3. The Scottish Parliament passed the European Charter Bill on the 23 March 2021. Once a Bill is passed, the Scotland Act 1998 provides that the Presiding Officer cannot submit the Bill for Royal Assent for a 4-week period. During this time, the Bill can be subject to legal challenge by the Advocate General, the Lord Advocate or the Attorney General under section 32A (protected subject matter) or section 33 (legislative competence) of the Scotland Act 1998.[1]

4. The European Charter Bill (along with the UNCRC Bill) was referred to the Supreme Court by the Advocate General and Attorney General under section 33. The Supreme Court handed down its judgment on 6 October 2021. It found that certain provisions[2] would be outside the legislative competence of the Scottish Parliament. As such, the Presiding Officer cannot submit the Bill for Royal Assent in its unamended form.[3]

Reconsideration Stage procedure

5. Section 36(4)(a) of the Scotland Act 1998 provides that Standing Orders must allow for the reconsideration of a Bill if the Supreme Court decides that a Bill or any provision of it would not be within the legislative competence of the Scottish Parliament.

6. Rule 9.9 of Standing Orders sets out the procedure for Reconsideration Stage.

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[1] The Secretary of State also has a separate power during the 4-week period to make an order under section 35 of the Scotland Act 1998 prohibiting the Presiding Officer from submitting the Bill for Royal Assent.

[2] Sections 4(1A) and section 5(1) of European Charter Bill.

[3] Section 32(3) Scotland Act 1998.

Motion for Reconsideration

7. Under Standing Orders, it is for the member in charge of the Bill to initiate Reconsideration Stage proceedings following a decision of the Supreme Court that the Bill or any provision of it would not be within legislative competence. The member in charge does this by lodging a motion proposing that the Parliament resolve to reconsider the Bill (see Rule 9.9.2(a)).

8. If Parliament agrees to the motion, then the Parliament can move to reconsider the Bill. It is for the Bureau to propose a time for Reconsideration Stage proceedings to take place at a meeting of the Parliament. Standing Orders do not provide a timescale within which Reconsideration Stage proceedings must take place after the motion has been agreed to.

9. If the Parliament does not agree to the motion, then the Bill cannot be reconsidered. As noted above, this means that the Bill could not be submitted for Royal Assent in its unamended form.

Reconsideration Stage proceedings

10. Rule 9.9.3 provides that proceedings at Reconsideration Stage will be taken at a meeting of the Parliament.

11. Under Rule 9.9.4, a Bill may be amended at Reconsideration Stage. **Amendments must be for the purpose of resolving the problem which is the subject of the Supreme Court decision.** This requirement is in addition to the normal rules of admissibility in Rule 9.10.5 (so amendments would still need to be relevant and consistent with the general principles of the Bill). In the case of any dispute, it would be for the Presiding Officer to decide on the admissibility of the amendment (Rule 9.10.4).

12. Members can lodge amendments as soon as the Parliament has agreed to a motion to reconsider the Bill. The deadline for lodging amendments is 12 noon, four sitting days before Reconsideration Stage is due to take place (Rule 9.10.2). Any amendments lodged will appear on a Daily List in the normal way and, following the deadline for amendments, a Marshalled List and Groupings of amendments will be circulated.

13. There is no selection of amendments at Reconsideration Stage, so all admissible amendments lodged may be moved.

14. Section 36(5) of the Scotland Act 1998 requires that any Bill amended on reconsideration must be subject to a final stage at which it can be approved or rejected.

Amendments

15. The Cabinet Secretary for Finance and Local Government wrote to the member in charge (copying in the Local Government, Housing and Planning Committee) on 15 January 2026[4] setting out the Scottish Government's steps in

[4] European Charter of Local Self-Government (Incorporation) (Scotland) Bill - Cab Sec FLG to Mark Ruskell 15 January 2026

relation to the proposed Reconsideration Stage of this Bill and attaching the draft amendments that the Scottish Government intends to take forward once the member in charge has lodged the motion to move the Bill to Reconsideration Stage and Parliament has agreed to reconsideration being undertaken. It is understood that if the motion to reconsider the Bill is agreed to on 4 February, the Scottish Government intends to lodge its amendments on 5 February.

Committees

16. As noted above, Rule 9.9.3 provides that Reconsideration Stage proceedings are to be taken at a meeting of the Parliament. Although Standing Orders do not require any committee consideration, there is nothing which would preclude a committee from considering matters within its remit relating to the reconsideration of a Bill. For example, the Equalities, Human Rights and Civil Justice Committee took evidence on the proposed amendments to the UNCRC Bill at Reconsideration Stage.[5]

17. The subject matter of the European Charter Bill falls within the remit of the Local Government, Housing and Planning Committee. It will be for the Committee to decide on any action it wishes to take.

Timing of Reconsideration Stage

18. A further paper will be brought back to the Bureau if the motion to reconsider the Bill is agreed to setting out a proposed timetable and next steps, including any proposed Committee activity.

Recommendation

19. The Bureau is invited to note information about Reconsideration Stage of the European Charter Bill.

Business Team
January 2026

[5] United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill | Scottish Parliament Website