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Economy and Fair Work Committee

Report on the Legislative Consent Memorandum for the Employment Rights Bill



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Economy and Fair Work Committee

To consider and report on matters within the responsibility of the Deputy First Minister and Cabinet Secretary for Economy and Gaelic, with the exception of Gaelic; and on matters relating to just transition.



economyandfairwork.committee@parliament.scot



0131 348 5975

Committee Membership



Convener
Colin Smyth
Scottish Labour



Deputy Convener
Michelle Thomson
Scottish National Party



Willie Coffey
Scottish National Party



Murdo Fraser
Scottish Conservative
and Unionist Party



Jamie Halcro Johnston
Scottish Conservative
and Unionist Party



Daniel Johnson
Scottish Labour



Gordon MacDonald
Scottish National Party



Lorna Slater
Scottish Green Party



Kevin Stewart
Scottish National Party

Introduction

1. The [Employment Rights Bill](#) is a UK Government Bill introduced in the House of Commons on 10 October 2024. Relevant government amendments were tabled on 26 November 2024.
2. A Legislative Consent Memorandum (LCM) was [lodged on 11 December 2024 by Shona Robison, Cabinet Secretary for Finance and Local Government, supported by Ivan McKee, Minister for Public Finance](#).
3. The Parliamentary Bureau referred the LCM to the Economy and Fair Work Committee [on 17 December 2024](#).
4. A supplementary LCM was lodged on 3 April by Neil Gray, Cabinet Secretary for Health and Social Care.
5. This report concerns the LCM referred to the Economy and Fair Work Committee. The Health, Social Care and Sport Committee will report separately on the supplementary LCM.

Provisions of the Employment Rights Bill

6. The Employment Rights Bill aims to modernise and enhance employment rights in the UK. The Bill's [Explanatory Notes](#) state it will—
 - ” “update and enhance existing employment rights and make provision for new rights; make provision regarding pay and conditions in particular sectors; and make reforms in relation to trade union matters and industrial action. It further creates a new regime for the enforcement of employment law.” ¹
7. Employment and industrial relations are reserved to the UK Parliament by Section H1 of Schedule 5 to the Scotland Act 1998.
8. The Bill would make provision for—
 - Improved rights for those on zero hours contracts.
 - Improved rights around flexible working.
 - Removing the three-day waiting period for statutory sick pay as well as the lower earnings limit test for eligibility.
 - Removing the qualifying period for paid family leave and expanding eligibility for bereavement leave.
 - Expanding employers’ duties to prevent harassment of staff.
 - Expanding protection for workers from unfair dismissal by removing the two-year qualifying period, subject to a potential probationary period.
 - Improving employment rights around the practise of “fire and rehire”.
 - Improving sectoral collective bargaining for school staff and adult social care.
 - Introducing rights for trade unions to access workplaces and repealing the Strikes (Minimum Service Levels) Act 2023 and most provisions of the Trade Union Act 2016.
 - Improving enforcement by bringing together powers of existing labour market enforcement bodies, along with some new powers, under the Secretary of State and enforcement officers.

Legislative Consent Memorandum

9. The Sewel Convention provides that the UK Parliament will not normally legislate on matters devolved to the Scottish Parliament without its consent. [Chapter 9B of the Parliament's Standing Orders](#) sets out the rules and procedures for seeking legislative consent under the convention.
10. The Employment Rights Bill, as amended, falls under Rule 9B.1.1 of the Standing Orders, as it alters the executive competence of the Scottish Ministers. As such, an LCM is required for the relevant provisions.
11. Clause 25 of the Bill, as introduced, extended to Scotland but did not apply to the procurement activities of devolved Scottish authorities, other than when devolved Scottish authorities awarded a contract under a reserved procurement arrangement. Government amendments 59-64 to clause 25, alter the executive competence of Scottish Ministers. The clause, as amended, requires Parliament's consent.

Committee Consideration

Economy and Fair Work Committee

12. At its [meeting on 19 March 2025](#), the Committee took evidence on the LCM from Ivan McKee, Minister for Public Finance.
13. The Committee noted the LCM and asked the Minister about the Bill's provisions to expand employers' duties to prevent the harassment of staff. In response, the Committee was advised much of the Bill's detail is expected to be included in secondary legislation. This will be subject to consultation and provide an opportunity for Scottish stakeholders to contribute.

Delegated Powers and Law Reform Committee

14. The Delegated Powers and Law Reform Committee considered the delegated powers in the Bill exercisable within devolved competence at its meeting on 25 February.
15. It reported in its [16th Report, 2025](#). The Committee was content with the powers conferred on Scottish Ministers in principle.

Supplementary Legislative Consent Memorandum

16. A [supplementary LCM was lodged on 3 April](#) by Neil Gray, Cabinet Secretary for Health and Social Care and is expected to be referred to the Health, Social Care and Sport Committee as it relates to provisions for Social Care Negotiating Bodies.

Conclusion

17. **The Committee notes the LCM and is content that the Scottish Government seeks consent to the provisions of amended clause 25, relating to the protection of workers involved in public sector outsourcing, being considered by the UK Parliament.**

- [1] UK Parliament. (2024, October 10). Employment Rights Bill: Explanatory Notes. Retrieved from <https://publications.parliament.uk/pa/bills/cbill/59-01/0011/en/240011en.pdf>

