

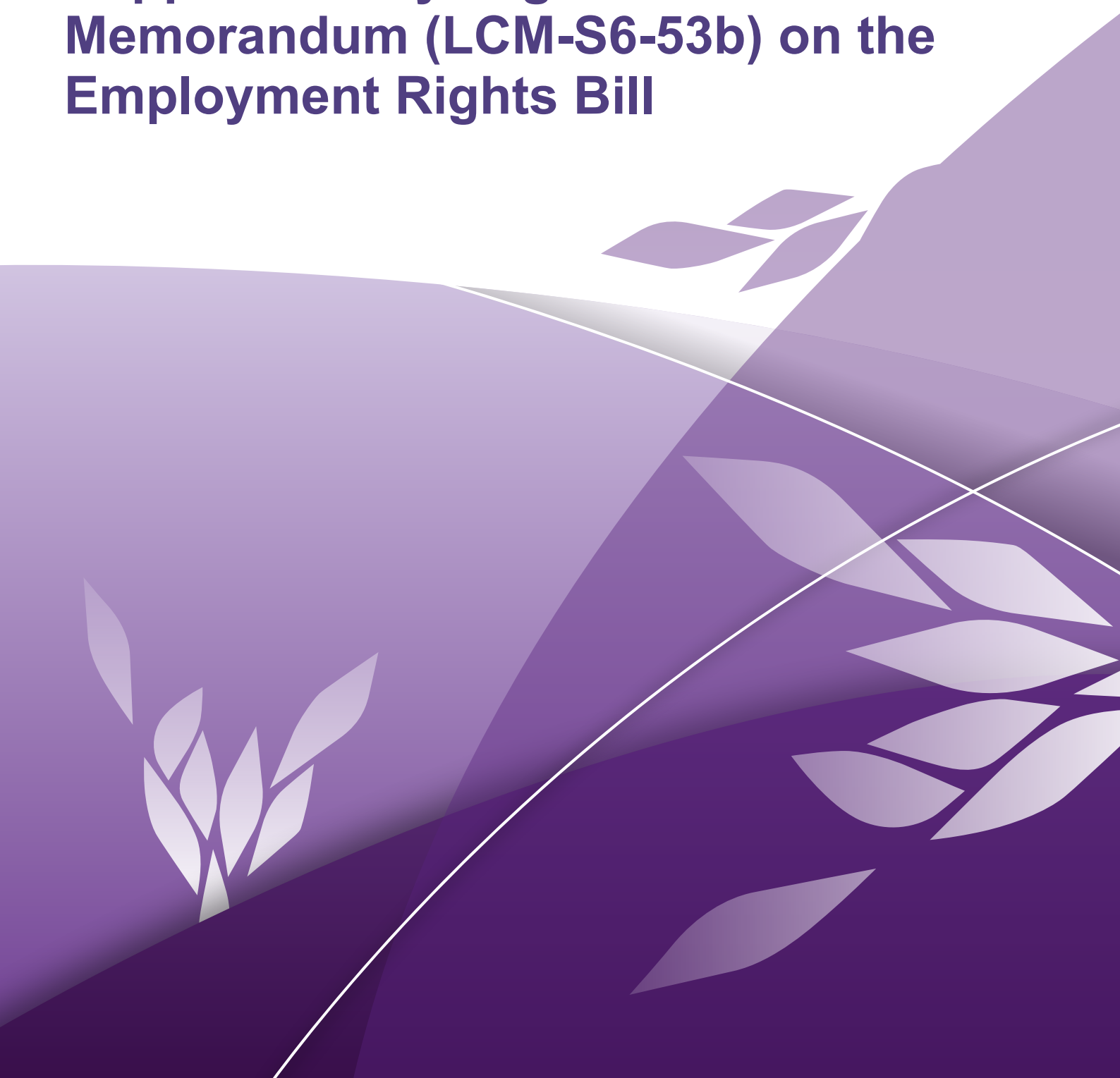


The Scottish Parliament
Pàrlamaid na h-Alba

Published 3 September 2025
SP Paper 850
6th Report, 2025 (Session 6)

Health, Social Care and Sport Committee

Supplementary Legislative Consent Memorandum (LCM-S6-53b) on the Employment Rights Bill



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish
Parliament website at:
<https://www.parliament.scot/documents>

For information on the Scottish Parliament contact
Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
Committee consideration	4
Delegated Powers and Law Reform Committee consideration	4
Health, Social Care and Sport Committee consideration	4
Conclusion	6

Health, Social Care and Sport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Social Care.

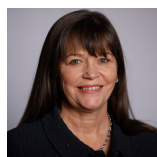


hscs.committee@parliament.scot

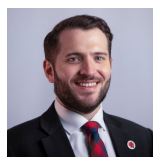


0131 3485979

Committee Membership



Convener
Clare Haughey
Scottish National Party



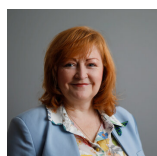
Deputy Convener
Paul Sweeney
Scottish Labour



Joe FitzPatrick
Scottish National Party



Sandesh Gulhane
Scottish Conservative
and Unionist Party



Emma Harper
Scottish National Party



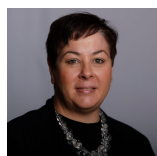
Patrick Harvie
Scottish Green Party



Carol Mochan
Scottish Labour



David Torrance
Scottish National Party



Elena Whitham
Scottish National Party



Brian Whittle
Scottish Conservative
and Unionist Party

Introduction

1. At its meeting on 2 September 2025, the Committee considered the second [Supplementary Legislative Consent Memorandum](#) ("sLCM") lodged by the Scottish Government in respect of the [Employment Rights Bill](#) ("the Bill").
2. This Supplementary Legislative Consent Memorandum, LCM-S6-53b, is intended to be read in conjunction with the Scottish Government's [previous memorandum](#) on the Bill (LCM-S6-53 dated 11 December 2024), and first [supplementary Legislative Consent Memorandum](#) (LCM-S6-53a dated 3 April 2025).

The Employment Rights Bill

3. The Employment Rights Bill is a UK Government Bill introduced in the House of Commons on 10 October 2024. The Bill committee stage in the House of Commons began on 26 November 2024, report stage began on 11 March 2025, and it received its third reading on 12 March 2025. The Bill is currently at the committee stage in the House of Lords.
4. The purpose of the Employment Rights Bill is to deliver the key legislative reforms set out in the UK Government's [Plan to Make Work Pay](#). The Bill's Explanatory Notes state its purpose is to:
 - ” 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.
5. The Bill consists of six parts:
 - Part 1 provides for reform of employment rights including zero-hour contracts, flexible working, statutory sick pay and entitlements to leave.
 - Part 2 includes wider employment law reform of the procedure for handling redundancies, public sector outsourcing and employer equality duties.
 - Part 3 relates to the pay and conditions of school support staff in England, and the establishment of the Adult Social Care Negotiating Body.
 - Part 4 makes provisions in relation to trade unions and industrial action, including a right to a statement of trade union rights and the right for trade unions to access workplaces.
 - Part 5 provides for the Secretary of State to have the function of enforcing labour market legislation.
 - Part 6 sets out general provisions including extent and commencement.
6. 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.

Employment and industrial relations are reserved to the UK Parliament by section H1 of Schedule 5 to the Scotland Act 1998.

The original LCM

7. The [original 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. This original LCM related to the devolvement of public procurement powers and covered provisions and powers relating to the contracting out of staff.
8. On 17 December 2025, the Economy and Fair Work Committee was [designated by the Parliamentary Bureau](#) as lead committee to consider the LCM and report its views to the Parliament. The Committee took evidence on the LCM from Ivan McKee, Minister for Public Finance, and supporting officials, on [19 March 2025](#). During that evidence session, the Committee noted that, since the LCM was lodged, amendments had been tabled to the Bill in the UK Parliament which would broaden the potential impact of the Bill on areas of devolved competence, and that, as a result, the Scottish Government intended to lodge a supplementary LCM. The Committee agreed to note the LCM, in anticipation of a supplementary LCM being lodged.

The Committee published its [report on the LCM](#) on 16 May 2025.

9. The Delegated Powers and Law Reform Committee (DPLRC) considered the original LCM on [25 February 2025](#) and published its report on [4 March 2025](#).

The first supplementary LCM

10. A [supplementary LCM](#) (LCM-S6-53a) was lodged by Neil Gray MSP, Cabinet Secretary for Health and Social Care, on 3 April 2025. The Health, Social Care and

Sport Committee was designated, by the Parliamentary Bureau, as lead committee to consider the sLCM.

11. The DPLRC considered the supplementary LCM on [13 May 2025](#) and published its report on [14 May 2025](#). The Committee noted that “the exercise of the powers conferred on Scottish Ministers by chapter 2 of the Bill may not be exercised without the agreement of the Secretary of State”. The Committee draws this to the attention of the Health, Social Care and Sport Committee as follows:
 - ” The Committee draws the attention of the lead committee to the requirement for the agreement of the Secretary of State in the exercise of the delegated powers conferred on Scottish Ministers. It suggests to the lead committee it may wish to consider further how the agreement process will operate in practice in the developing of the Negotiating Body and its policies.
12. The Health, Social Care and Sport Committee took oral evidence from stakeholder organisations regarding LCM-S6-53a on [20 May 2025](#). The Committee then took evidence from the Minister for Social Care, Mental Wellbeing and Sport, and supporting officials, on [27 May 2025](#). The Committee then published its report on the supplementary LCM on [10 June 2025](#), recommending that the Parliament agree to a legislative consent motion in similar terms to the draft motion included in the supplementary LCM.

The second supplementary LCM

13. A further supplementary Legislative Consent Memorandum (LCM-S6-53b) was lodged in the Scottish Parliament on 14 August 2025 by Tom Arthur MSP, Minister for Social Care and Mental Wellbeing.
14. This supplementary LCM recommends consent for amendments tabled to the Employment Rights Bill on 7 July 2025 to clauses 44 to 46, and 49.
15. The amendments to clauses 44 and 45 are intended to prevent the remuneration of workers being adversely affected by an agreement of any Social Care Negotiating Body for Scotland, and do not prevent an employer from offering more favourable terms and conditions than those provided for by any such agreement.
16. The amendments to clause 46 are intended to ensure that, where regulations are made by the Scottish Ministers under clause 46 providing for a failure to comply with guidance or a code of practice issued in terms of those regulations, the guidance or code of practice must be laid before the Scottish Parliament and subject to the procedure specified in the regulations.
17. The amendment to clause 49 is described as consequential to the second amendment to clause 45. The amendment omits subsections (2) to (4) of clause 49 and the reference to subsection (2) in clause 49(1). These subsections are deemed to be no longer required due to the effect of the second amendment to clause 45.
18. As with the previous supplementary LCM, the memorandum states that there has been no broad consultation on the areas requiring legislative consent, but the Scottish Government has continually engaged with the Scottish Government Legal Directorate, UK Government and Welsh Government Officials throughout the development of the Bill.

Committee consideration

Delegated Powers and Law Reform Committee consideration

19. The DPLRC considered the second supplementary LCM at its meeting on [2 September 2025](#) and published its [report](#) on the same day.

Health, Social Care and Sport Committee consideration

20. Ahead of oral evidence, the Committee sought written views on the sLCM from selected stakeholders and received the following responses from:
 - [Scottish Social Services Council](#)
 - [Scottish Care](#)
21. The Scottish Social Services Council reiterated its position that establishing a social care negotiating body is a welcome development - particularly for social work, social care, and children and young people's workforce in Scotland. The Council further stated:
 - ” We welcome any measures designed to make sure this body works to secure better pay and conditions for the sector but does not prevent employers from going above and beyond any prescribed minimum employment conditions.
22. Scottish Care similarly welcomed the introduction of a Social Care Negotiating Body, stating it has the potential to deliver meaningful improvements in pay, terms and working conditions for social care but emphasised the importance of the Body being supported by a structure and constitution which enables implementation.
23. Scottish Care further indicated its support of the specific amendments to clauses 44, 45, 46 and 49. It concluded:
 - ” In summary, Scottish Care supports the amendments to the Employment Rights Bill as described in the Supplementary Legislative Consent Memorandum. We agree that these measures represent an opportunity to strengthen employment rights and protections for social care workers in Scotland. We agree that the Committee should support the LCM while continuing to press for thorough impact assessment and ongoing engagement with all parties as implementation proceeds
24. The Committee then took oral evidence from Tom Arthur MSP, Minister for Social Care and Wellbeing, at its meeting on 2 September 2025.
25. The Minister reiterated the point that this further supplementary LCM should be read in conjunction with the previous memoranda on the Employment Rights Bill

dated 11 December and 3 April 2025.

26. He stated that the Scottish Government continues to work closely with care providers, trade unions, local government and regulators to deliver Fair Work in the social care sector - but that the Scottish Government's ability to act in this area is constrained. However, he highlighted that the Employment Rights Bill and subsequent amendments now confer some powers on the Scottish Ministers, and therefore a supplementary LCM is required for these provisions.
27. The Minister also highlighted progress with stakeholders in establishing a sectoral bargaining model, stating:
 - ” A lot of work has also been carried out to develop and design a process for delivering a voluntary Sectoral Bargaining model for Scotland, which I am pleased to say the Scottish Government, trade unions and providers are very close to concluding.
28. Speaking to the amendments contained in the supplementary LCM, the Minister clarified that negotiating bodies can only set minimum terms and conditions of employment for social care workers, cannot adversely affect those workers' existing terms and conditions, or prevent employers from offering better terms and conditions than those agreed by the negotiating body. The amendments, he stated, will also establish the Parliamentary procedure for approving codes and guidance.
29. The Minister concluded his evidence by stating:
 - ” Together, these measures protect social care workers from being forced onto worse contracts, safeguard fair pay and conditions and help maintain a competitive and sustainable workforce across the sector.

Conclusion

30. The Committee recommends that the Parliament agree to a legislative consent motion in similar terms to the draft motion included in the supplementary LCM.

