

Health, Social Care and Sport Committee
Tuesday, 2 September 2025
21st Meeting, 2025 (Session 6)

Employment Rights Bill: Supplementary Legislative Consent Memorandum (LCM-S6-53b) - Note by the Clerk

Background

1. The [Employment Rights Bill](#) is a UK Government Bill introduced in the House of Commons on 10 October 2024.
2. 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.
3. An 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](#).
4. 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.
5. 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 Committee noted that:
 - The Bill is mainly dealing with wholly reserved matters such as employment law, industrial relations and employer equality duties.
 - Clause 25 seeks to confer a power on Ministers of the Crown to make regulations to protect workers in public sector outsourcing contracts by inserting a new section 14A into the Procurement Act 2023. This clause has been amended by the UK Government to extend this power to Scottish and Welsh Ministers.
 - Procurement is considered a devolved matter, and the UK 2023 Act has limited application in Scotland, extending only to procurements by the UK

Government, UK-wide or public bodies with cross-border functions and to Scottish public authorities with reserved functions.

- DPLRC considered three powers that the bill would confer on Scottish Ministers, and concluded it was content with these powers.
6. [A further 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 supplementary LCM and to report its views to the Parliament.
 7. The Committee requested written views from a number of organisations on the supplementary LCM(a) and received the following submissions:
 - COSLA - [Employment Rights Bill supplementary LCM - COSLA Response](#)
 - Glasgow City HSCP - [Employment Rights Bill supplementary LCM - Glasgow City HSCP Response](#)
 - Scottish Care: [Employment Rights Bill supplementary LCM - Scottish Care Response](#)
 - Scottish Social Services Council - [Employment Rights Bill supplementary LCM - SSSC Response](#)
 - Social Work Scotland: [Employment Rights Bill supplementary LCM - SWS Response](#)
 8. The Coalition of Care and Support Providers in Scotland did not provide a written submission, but instead sent the Committee a briefing published in February in relation to the original LCM: [Briefing-Potential-Impacts-of-the-Employment-Rights-Bill-on-the-Not-For-Profit-Social-Care-Workforce-in-Scotland.pdf](#)
 9. The Committee took oral evidence from stakeholder organisations on the supplementary LCM(a) 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](#).
 10. The Committee published its report on the supplementary LCM(a) on [10 June 2025](#), recommending that Parliament agree to a legislative consent motion in similar terms to the draft motion included in supplementary LCM(a).

LCM-S6-53b

11. A further Supplementary Legislative Consent Memorandum ([LCM-S6-53b](#)) was lodged with the Scottish Parliament on 14 August 2025 by Tom Arthur MSP, Minister for Social Care and Mental Wellbeing.
12. This sLCM is intended to be read in conjunction with the Scottish Government's previous memorandum on the Bill (LCM-S6-53) and aforementioned supplementary memorandum (LCM-S6-53a).
13. This third LCM recommends consent for amendments tabled on 7 July 2025 to clauses 44 to 46, and 49.

14. The amendments to clauses 44 and 45 are intended to prevent the renumeration 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.
15. 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.
16. 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.
17. It should be noted that there has been no specific Scottish Government consultation on the areas requiring legislative consent as a consequence of the new supplementary legislative consent memorandum (LCM-S6-53b). However, the Committee has written to a number of stakeholders seeking their views. Any responses received will have been published on the relevant section of the Committee webpages prior to today's meeting.

Employment Rights Bill

18. 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](#).
19. 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.”
20. 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.

21. 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.

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

Today's Meeting

23. At the meeting today, the Committee will take evidence on LCM-S6-53b from the Minister for Social Care and Mental Wellbeing, Tom Arthur MSP, and supporting officials.

Clerks to the Committee
August 2025