

Social Justice and Social Security Committee
Thursday 29 January 2026
4th Meeting, 2026 (Session 6)

Note by the Clerk on the Bankruptcy and Diligence etc. (Decrees for Removing from Heritable Property) (Scotland) Amendment Order 2025 (SSI 2025/403)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to annulment by resolution of the Parliament until 11 February 2026. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.
2. More information about the instrument is summarised below:

Title of instrument: [The Bankruptcy and Diligence etc. \(Decrees for Removing from Heritable Property\) \(Scotland\) Amendment Order 2025](#)

Laid under: Bankruptcy and Diligence etc. (Scotland) Act 2007

Laid on: 18 December 2025

Procedure: Negative

Deadline for committee consideration: 9 February 2026

Deadline for Chamber consideration: 11 February 2026

Commencement: 1 August 2026

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered the instrument on [13 January 2026](#) and reported on it in its [6th Report, 2026](#). The Committee made no recommendations in relation to the instrument.

Purpose of the instrument

8. This Order adds a warrant of ejection obtained in connection with an order for termination of a tenant's interest in a tenancy under section 22(4) of the Domestic Abuse (Protection) (Scotland) Act 2021 to the list of summary cause decrees for recovery of possession already listed in section 214(2) of the Bankruptcy and Diligence etc. (Decrees for Removing from Heritable Property) Act 2007.
9. The [Policy Note](#) accompanying the instrument is included in Annexe A. No formal consultation was required to be carried out in relation to these Regulations.

Committee consideration

10. So far, no motion recommending annulment has been lodged.
11. The Cabinet Secretary for Housing is attending the meeting to give evidence on this instrument.
12. Members are invited to consider the instrument and decide whether there are any points they wish to raise. If there are, further options include:
 - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
 - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.

It would then be for the Committee, at the next meeting, to consider the additional information gathered and decide whether to make recommendations in relation to the instrument.

13. If Members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).

14. However, should a motion recommending annulment be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

Clerks to the Committee
January 2026

POLICY NOTE

THE BANKRUPTCY AND DILIGENCE ETC. (DECREES FOR REMOVING FROM HERITABLE PROPERTY) (SCOTLAND) AMENDMENT ORDER 2025

SSI 2025/403

The Scottish Ministers make the following Order in exercise of the powers conferred by section 214(4) of the Bankruptcy and Diligence etc. (Scotland) Act 2007¹ and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

This Order adds a warrant of ejection obtained in connection with an order for termination of a tenant's interest in a tenancy under section 22(4) of the Domestic Abuse (Protection) (Scotland) Act 2021 to the list of summary cause decrees for recovery of possession already listed in section 214(2) of the Bankruptcy and Diligence etc. (Decrees for Removing from Heritable Property) Act 2007.

Policy Objectives

The overarching policy objectives of Part 2 of the Domestic Abuse (Protection) (Scotland) Act 2021 are to improve the immediate and longer term housing outcomes of domestic abuse victims living in social housing who wish to continue living in the family home, including through helping to avoid homelessness.

This Order adds a warrant of ejection obtained in connection with an order for termination of a tenant's interest in a tenancy under section 22(4) of the Domestic Abuse (Protection) (Scotland) Act 2021 to the list of summary cause decrees for recovery of possession already listed in section 214(2) of the Bankruptcy and Diligence etc. (Decrees for Removing from Heritable Property) Act 2007. This is designed to ensure that the general procedures for removing from heritable property will apply to such warrants.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Bankruptcy and Diligence etc. (Decrees for Removing from Heritable Property) (Scotland) Amendment Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

¹ 2007 asp 3; section 214 was relevantly amended by S.S.I. 2019/51.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

There has been engagement with the Scottish Courts and Tribunals Service on whether an action seeking warrant of ejection alongside termination of a joint tenant's interest can be described as an action of ejection. Following this engagement and to remove any doubt, this Order amends section 214(2) of the 2007 Act to provide that a warrant of ejection obtained in connection with an order for termination of a joint tenant's interest is a decree for removing from heritable property.

Impact Assessments

A range of impact assessments were carried out for the Domestic Abuse (Protection) (Scotland) Bill 2020 including an Equality Impact Assessment and a Child Rights and Wellbeing Impact Assessment. The impacts as set out in these assessments remain relevant and we are not publishing updated assessments, other than for Child Rights and Wellbeing Impact Assessment at this time.

Financial Effects

The Cabinet Secretary for Housing confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Better Homes Directorate

9 December 2025