

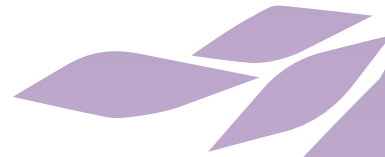


The Scottish Parliament  
Pàrlamaid na h-Alba

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## **Delegated Powers and Law Reform Committee**

# **Legislative Consent Memorandum: delegated powers relevant to Scotland in the Cultural Objects (Protection from Seizure) Bill**



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# Delegated Powers and Law Reform Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1;

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule; and

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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# Committee Membership



**Convener**  
**Stuart McMillan**  
Scottish National Party



**Deputy Convener**  
**Bill Kidd**  
Scottish National Party



**Graham Simpson**  
Scottish Conservative  
and Unionist Party



**Craig Hoy**  
Scottish Conservative  
and Unionist Party



**Paul Sweeney**  
Scottish Labour

# Introduction

1. At its meeting on 18 January 2022, the Committee considered the delegated powers in a UK Bill, the [Cultural Objects \(Protection from Seizure\) Bill](#) ("the Bill") in areas of devolved competence.
2. Paragraph 1(d) of Rule 6.11 of the Standing Orders provides that the Delegated Powers and Law Reform Committee may consider and report on whether proposed delegated powers in any Bill or other legislation should be expressed as a power to make secondary legislation.
3. The Bill is a private Member's Bill introduced in the House of Commons on 18 June 2021 by Mel Stride, MP. The Bill is currently at the Report stage in the House of Commons.
4. A [Legislative Consent Memorandum](#) ("the LCM") for the Bill was lodged by the Scottish Government on 1 December 2021.
5. The lead committee for the LCM is the Constitution, Europe, External Affairs and Culture Committee.

## Overview of the Bill

6. The Bill amends section 134 of the Tribunals, Courts and Enforcement Act 2007, a UK Act which makes provision for automatic protection from seizure or forfeiture of art objects brought into the UK on loan for temporary public exhibition in museums and galleries. Protection from seizure or forfeiture may last for a maximum of 12 months after the date the object entered the UK. The Bill provides that a 'relevant authority' may extend the maximum period of protection for a further three months. The relevant authority in Scotland is the Scottish Ministers.

# Delegated Powers

7. There is only one clause in the Bill which confers a delegated power on the Scottish Ministers which alters their executive competence, clause 1(2).
  8. The Bill makes provision for a new power to extend the twelve month maximum period of protection from seizure for cultural objects on loan to galleries and museums from abroad. The ‘relevant authorities’ in each of the UK territories may extend the period of protection for a further three months. The relevant authority in Scotland is the Scottish Ministers and their power to extend protection relates to an object that is in the United Kingdom for the purpose of public display in a temporary exhibition at a museum or gallery in Scotland or which is in Scotland for the following purposes listed in section 134(7) of the 2007 Act:
    1. public display in a temporary exhibition at a museum or gallery;
    2. going to or returning from public display in a temporary exhibition at a museum or gallery;
    3. related repair, conservation or restoration;
    4. going to or returning from related repair, conservation or restoration; or
    5. leaving the United Kingdom.
  9. The LCM states that the power to extend the period of protection for cultural objects on loan, in certain circumstances, will alleviate concerns of museums and international lenders that protection may expire if loans are delayed within the UK, and increase international lender’s confidence and willingness to lend exhibits thereby providing a boost to the UK exhibitions sector.
  10. The Committee noted that this new power will be exercised by way of administrative decision, rather than secondary legislation. The Committee considered that exercise of the power administratively is a proportionate approach, taking account of the nature of the decision and potential frequency of the need to ensure protection for objects on loan in Scottish institutions.
11. **The Committee finds the power conferred on the Scottish Ministers to extend the protection period for cultural objects on loan in Scottish institutions in clause 1 of the Bill, to be acceptable in principle.**
  12. **The Committee is also content that the Scottish Ministers exercise this power by way of administrative decision.**



