

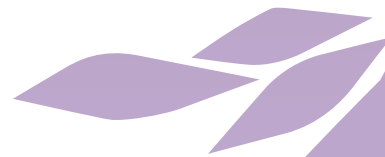


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## **Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee**

# **Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee - Preliminary Stage Report**



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# Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee

To consider matters relating to the Solicitors in the Supreme Courts of Scotland (Amendment)  
Bill



[https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/  
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# Introduction

1. The Solicitors in the Supreme Courts of Scotland (Amendment) Bill <sup>1</sup> was introduced in the Scottish Parliament on 26 September 2019. It is a Private Bill being promoted by the Society of Solicitors in the Supreme Courts of Scotland ("the Promoter") under the procedures set out in Chapter 9A of the Parliament's Standing Orders <sup>2</sup> and the Guidance on Private Bills. <sup>3</sup>
2. The introduction of the Bill was followed by the standard 60-day objection period, during which any person, body corporate or unincorporated association of persons that believed their interests would be adversely affected by the Bill could lodge an objection. The objection period for this Bill concluded on 25 November 2019. No objections were lodged.
3. The Bill and its accompanying documents, as well as links to other relevant documents, such as the SPICe Bill Briefing, can be found on the Bill page of the Parliament's website. <sup>4</sup>

# Objectives of the Bill

4. The Society of Solicitors in the Supreme Courts of Scotland is a voluntary society that solicitors may choose to join. The benefits of membership include access to the Society's premises and legal library at Parliament House in Edinburgh, and membership of a Widows' Fund that pays annuities to surviving dependents of deceased members. The Society has been in existence for over two hundred years. It has introduced this Private Bill in order to update and modernise its statutory constitution, namely the Solicitors in the Supreme Courts of Scotland Act 1871 ("the 1871 Act"), by updating the 1871 Act for modern circumstances and by giving the Society additional powers that it may need in the future.
5. The purposes of the Bill, as set out in the long title, are:
  - to abolish the offices of librarian and fiscal
  - to rename the Widows' Fund as the Dependents' Fund and to make further provision as regards persons entitled to the benefit of that fund
  - to make new provision for members of the Society to resign; and
  - to give the Society new powers including to close the Dependents' Fund completely or close it to new members, to create new categories of membership, or to wind up the Society.

# Background to the Bill

## History

6. The Promoter's Memorandum and Explanatory Notes set out the history and background to the Society. Paragraph 4 of the Promoter's Memorandum states:
  - ” From the sixteenth century the central courts in Scotland began to develop notably and the Faculty of Advocates can trace their origins to the provision made by the courts then for ten practising lawyers to appear before the court of Session in 1532 ... [From the end of the sixteenth century] the developments in commerce and industry, and taken later with the Act of Union in 1707 and the legal business after the Jacobite rebellions, all added to the development of the legal profession in and around the Supreme Courts. <sup>5</sup>
7. The Society of Solicitors in the Supreme Courts of Scotland (SSC Society) was formally constituted in 1784 to represent solicitors practising in and around Scotland's supreme courts in Edinburgh - i.e. the Court of Session (civil court) and the High Court of Justiciary (criminal court). The SSC Society's book on its history, "The SSC Story", <sup>6</sup> indicates that when the Society was formally set up in 1784, a number of solicitors approved a "Contract and Articles of Association and Regulations" which laid down the rules governing the Society (e.g. the setting up of a fund paid for by membership dues; rules on the use of the Society's funds; and rules on membership, the appointment of office bearers and voting).
8. A Royal Charter was granted in 1797 making the SSC Society a body corporate. The Royal Charter also appears to have included similar rules on the governance of the Society to those in the Articles of Association.
9. The Explanatory Notes state that in 1817 some of the Society's members established a scheme for the provision of annuities for the widows and orphans of members. In due course the society made membership of the Widows' and Orphans' Fund compulsory for all members.
10. The Solicitors in the Supreme Courts of Scotland Act 1871 confirmed and amended the Royal Charter and re-incorporated the Society. It included rules governing the Society and transferred the property, investments and monies held by the existing Widows' Fund to a new Widows' Fund. The 1871 Act was amended by the Solicitors in the Supreme Courts of Scotland (Amendment) Order Confirmation Act 1979.

## Current situation

11. The Promoter's Memorandum states that membership of the Society is entirely voluntary, and that the current membership of the Society is "around 220" members. Members pay two fees each year, a contribution for their membership of the Society and a contribution to the Widows' Fund. At present, under the 1871 Act, every new member of the Society must also become a contributor to the Fund.



12. During the evidence session on 17 December 2019, the Promoter confirmed that there are currently 46 beneficiaries of the Widows' Fund each of whom receives an annuity of £3,000.
13. According to its website,<sup>7</sup> the Society elects office bearers to represent its membership, comprising a President, Vice-President, Treasurer and Collector, Secretary and Keeper of the Library. The 1871 Act also lists a "fiscal" as one of the office-bearers, and requires all office-bearers to be members of the Society. The Promoter confirmed during the evidence session that the fiscal would have had powers to discipline members and presented the prosecution case at disciplinary hearings. However, this role became redundant with the establishment of the Law Society of Scotland as a regulatory body for solicitors (and later, the Scottish Legal Complaints Commission).
14. The Society also has a Council comprising six members.

## The need for change

15. Paragraphs 8 to 15 of the Promoter's Memorandum set out why the Promoter believes that change is required in view of recent social changes as well as a decrease in young solicitors joining societies of this type:
  - ” The problem at present is the demographic balance with a predominantly older membership persisting with their membership but not being supplemented by newer and younger members in such numbers as would secure the future of the society. This is believed to be a not uncommon feature of many other societies of wildly different backgrounds today.<sup>5</sup>
16. The Promoter's Memorandum goes on to note that although there is no present wish by any of the members to close the Society down, if the demographic balance continues to trend towards an ageing membership, it may be necessary to close either or both the Society and the Widows' Fund in the future. However, paragraph 12 of the Promoter's Memorandum notes that:
  - ” The founders of the SSC Society seem not to have envisaged a time when the society did not exist ... the Society and the Widows' Fund are linked inextricably when it may be ... that a separation of the two would be for the better. Further, closure of the Widows' Fund might also be considered or at least closure to new members ... Additional powers are necessary before these possibilities might be considered further and realistically.<sup>5</sup>
17. During the evidence session on 17 December 2019, Robert Shiels, the Secretary to the Society, explained that:

” It is a voluntary society; people are not required to join, but join freely. Although the number of members has been stable for some years, the demography of the membership has changed, and younger people are not joining in numbers that suggest that there will be enough people who are fit and able to administer the society in 10 or 20 years’ time. As members might know, the society owns a substantial building and we have financial assets in support of the widows’ fund, but all of that takes administration, which is quite time-consuming. If we do not have people who are fit and able to do that, the society might drift into serious difficulties.<sup>8</sup>

# Parliamentary Procedure

## Private Bill Procedure

18. The definition of a Private Bill is set out in Rule 9A.1.1 of Standing Orders:

” A Private Bill is a bill introduced for the purpose of obtaining for an individual person, body corporate or unincorporated association of persons ("the promoter") particular powers or benefits in excess of or in conflict with the general law, and includes a bill relating to the estate, property, status or style, or otherwise relating to the personal affairs, of the promoter.<sup>2</sup>

19. A Private Bill is subject to the following three-stage process:

- Preliminary Stage: consisting of Committee consideration of the general principles of the bill and whether it should proceed as a Private Bill, plus preliminary consideration of objections, and a decision by the Parliament whether the general principles should be agreed to, and whether the Bill should proceed as a Private Bill;
- Consideration Stage: consisting of consideration and disposal of any remaining objections and consideration of the details of, and any amendments to, the Bill; and
- Final Stage: consisting of consideration by the Parliament of any further amendments to the Bill and a decision whether the Bill should be passed.

## Role of a Private Bill Committee at Preliminary Stage

20. The Committee was established (under Standing Orders Rule 9A.5) on 31 October 2019 to consider the Bill at Preliminary Stage and at Consideration Stage.

21. Since no objections were lodged, the Committee's role at Preliminary Stage has been to consider and report on:

- the general principles of the Bill; and
- whether the Bill should proceed as a Private Bill.

22. If the Parliament approves the general principles of the Bill and agrees that it should proceed as a Private Bill, it progresses to Consideration Stage. Otherwise, the Bill falls.

# Consideration of the general principles of the Bill

23. In considering the general principles of the Bill, the Committee is required to consider the Bill in the round and decide whether it will deliver the Promoter's aims. In order to help inform its scrutiny of the Bill's general principles, the Committee took evidence at its meeting on 17 December 2019, from the Promoter.

## Closure of the Dependents' Fund

24. One of the aims of the Bill is to provide the Society with new powers to either close the Widows' Fund (to be renamed the Dependents' Fund) to new members, or to close the Fund completely.
25. New section 51A of the 1871 Act (inserted by section 1(14) of the Bill) sets out the procedures for decisions on the closing of the Dependents' Fund (either completely or to new members). This involves:
- An actuarial investigation taking place into the Fund, with the results circulated to members (new section 51A(5)).
  - The Council recommending that the Fund be closed (either completely or to new members) and all members being notified in writing or by electronic means of a stated general meeting to consider that recommendation (new section 51A(5)).
  - A resolution by the Society at that meeting agreeing to close the Fund (completely or to new members) (new sections 51A(1) and (2)).
  - If the decision is to close the Fund completely, the offer of "such lump sum or other payment as seems reasonable" to annuitants and potential future annuitants as settlement for the loss of future benefits (new section 51A(3)), followed by the payment of any residual money to the Society (new section 51A(4)).
26. During its evidence session on 17 December, the Promoter suggested that there are 203 potential beneficiaries of the Widows' Fund and that, at the date of the evidence session, the value of the fund was approximately £11million. The Promoter also confirmed that the amount paid in annuities is reviewed every five years, with the assistance of an independent actuary.
27. The Committee asked the office-bearers whether they had taken legal advice as to the duties of the Fund's trustees if the Fund were to be closed in the future. Donald Skinner-Reid, the Treasurer and Collector, explained that it is the Society that holds the assets 'in trust', not the Society's individual members (or office-bearers), and that the Society's obligation is to make sure that there is a balance between generating the income required to provide the annuities, and securing the capital. The Fund is not available to the Society and, as such, is protected.

28. The Committee also asked why the Bill did not include a requirement to notify any beneficiaries of a recommendation to close the Fund completely, prior to any decision being made, given that the Bill contains a provision requiring the Society's members to be notified. Donald Skinner-Reid stated that, in practice and by implication, beneficiaries would be notified as the process for any closure of the Fund would take at least two years.
29. The Committee asked why the decision had been made to return any residual money in the Fund to the Society, after the Fund's closure, and whether all the money should go to the beneficiaries. Donald Skinner-Reid replied that the Society was the most logical place for any surplus to be returned to, and also noted that, looking at the ages of the annuitants and members, the lump sums may be considerable and that any surplus could be much smaller than one might imagine.

The Committee recommends that the Promoter should consider the case for including a provision in the Bill requiring any prospective beneficiaries to be notified in advance of any proposal to close the Dependents' Fund completely.

## Winding up of the Society

30. Another of the Bill's aims is to provide the Society with powers to wind itself up in future, should the demographic balance of the Society continue to be tilted towards an ageing membership, with fewer solicitors applying to be members.
31. New section 52B of the 1871 Act (inserted by section 1(15) of the Bill) sets out the general process for decisions on winding up the Society. This involves:
- The Council agreeing a proposal to wind up the Society
  - The Society determining the procedure for making decisions on the Council's proposal (including voting thresholds) at a general meeting or through bye-laws under section 52 of the 1871 Act (new section 52B(3))
  - The Society's members being given at least 30 days' notice in writing of a special general meeting to consider the Council's proposal
  - The Society deciding by resolution to wind up the Society at the special general meeting – the procedure in this meeting will be the one agreed at the general meeting mentioned above (new sections 52B(1) and (2)) or set out in bye-laws
  - The Council implementing the decision to wind up the Society, either in accordance with arrangements made by the Society (new sections 52B(1)(b) and (5)) or, where no arrangements have been made, "in such manner as it [the Council] considers expedient."
32. During its evidence session on 17 December, the Promoter explained that the wording "in such manner as it considers expedient" was considered necessary due to the possibility of there being very few members involved in the arrangements of the Society, at the point that it is wound up. The Committee questioned whether in a 'worst case scenario' for winding up, these procedures would be detailed or robust

enough to manage any tensions over the disposal of the Society's assets, and whether there needed to be provision in the Bill for the disposal of the Society's assets (similar to the provisions for the disposal of any surplus in the Dependents' Fund). Donald Skinner-Reid explained that how to dispose of the Society's private assets would be a decision for the Society's members, and that they would not want to be constrained by, for example, naming a charity that no longer existed at the point at which the Society is wound up.

33. According to paragraph 24 of the Promoter's Memorandum, the Trustees of the Widows' Fund sought an Opinion of Counsel regarding the most effective means of providing the Society with new powers to close the Fund to new members or to close it completely. A confidential copy of the Opinion was provided to the Committee in advance of the 17 December evidence session. In a letter to the Committee, following the evidence session, the Promoter acknowledged that the Opinion of Counsel had suggested that it would be preferable for the right of Society members to participate in any division of the assets of the Society to be specified in legislation.
34. In the same letter, the Promoter confirmed that it is considering an amendment to the Bill that will ensure that the Society's members are consulted as to how the Society's property is to be distributed in the event of the Society being wound up.

## Quorums and voting thresholds

35. During the evidence session on 17 December, the Committee asked the Promoter about the process of voting at the Society's statutory general meetings, and at any future special general meetings required under the Bill's provisions. Robert Shiels commented that, in general, decisions at meetings are taken based on the spirit of the discussion and that voting does not take place. However, for a decision affecting the future of the Fund or the Society, either voting or a written answer from each member would likely be considered.
36. The Committee noted that the new provision made by section 1(14) of the Bill does not set either a required quorum or voting threshold for the general meeting held to consider the closure of the Dependents' Fund. The Committee also noted that, in relation to a decision to wind-up the Society, the Promoter's Memorandum states that:

” It is envisaged that such a decision would require to be unanimous or nearly so.<sup>5</sup>

However, new section 52B (inserted by section 1(15)), which contains the new power to wind up the Society, does not specify a voting threshold at the required special general meeting. Section 11 of the 1871 Act states that:

” ... any number of members present shall form a quorum.<sup>9</sup>

During the evidence session, the Promoter also confirmed that, typically, only around 10 of the 220 current members attend the statutory general meetings.

37. The Committee therefore questioned whether the Bill should specify a quorum for certain meetings where key decisions about the Society would be made, and whether a higher voting threshold should also be considered. The Promoter

explained that there had never previously been a divergence of views between the members and that the matters to be raised at any meeting are circulated to all the members. It would therefore be likely that if any Society member felt that they were prejudiced by the proposals to close either the Fund, or the Society, they would have the opportunity to raise any concerns.

38. The Promoter also noted that new section 52B(4) would allow a higher voting threshold to be set, if members so choose. Donald Skinner-Reid commented that the Society would not want to be in a position where it is restricted in its ability to manage itself, due to a very limited number of remaining members, and that flexibility is therefore required.
39. Since the evidence session, the Promoter has confirmed in a letter to the Committee that it is considering amending the Bill to state that the procedure for the special general meeting must include a voting threshold for any decision to wind up the Society.

The Committee welcomes the proposed amendment suggested by the Promoter to include a voting threshold for winding-up decisions but invites the Promoter to consider the case for including a provision in the Bill specifying a quorum for meetings that involve such decisions.

## Membership

40. An objective of the Bill is to allow the Society to offer different forms of membership.
41. New section 52A (inserted by section 1(15)) inserts powers to create new forms of membership, including corporate, trainee and associate membership.
42. The Committee asked the Promoter to provide further detail about the reasoning behind these provisions and how the rights of new members would interact with those of full SSC members, particularly in the case of a decision to wind up the Society. The example was raised of a sudden influx of corporate members who, at the point of the Society being wound up, vastly outnumber the full members of the Society.
43. Douglas Thomson, the Society's President, noted that the Bill specified that the rights of new members, under the new types of membership, would be different to the rights of existing or new full members, and that it would be clear from the outset that members under the new categories would not have voting rights. Robert Shiels explained that the new categories of membership would allow trainees, associate members and corporate members to access the library and the building.
44. Section 1(4)(c) of the Bill allows resignation from the SSC unconnected to any disciplinary matters or retirement. The Promoter noted that there were currently no provisions to allow resignation from membership of the Society.

## Updating the 1871 Act for modern conditions

45. The Bill aims to update the 1871 Act for modern conditions, including by: renaming the 'Widows' Fund' the 'Dependents' Fund' and providing for references to widows to include widowers and surviving civil partners and references to marriage to include civil partnerships; abolishing the offices of librarian and fiscal; and removing the word 'lawful' from a reference to 'lawful children'.
46. In addition, Section 1(7) of the Bill gives the Council of the Society a new power to settle annuity claims based on cohabitation, depending on the facts and circumstances of the relationship between the deceased member and the claimant. The Committee asked for clarification as to how including cohabitation claims would work in practice. Donald Skinner-Reid explained that:
- ” We have not fully worked out the mechanics of what would happen if cohabitants are brought in. It is an area where, frankly, the law is continuing to evolve.<sup>10</sup>
- He went on to note that:
- ” The Family Law (Scotland) Act 2006 brought in claims on death for cohabitees. I think that one might have to look at some sort of decision from the court with regard to what entitlement the cohabitee might have. The annuity would be part of the assets of the deceased, who, in those circumstances, would have died intestate. It could be that there is something there that we would have to look at ... At the moment, I do not ask about cohabitees, because I do not have to. However, it would entail asking whether someone has cohabitees and then adding another column on the Excel spreadsheet.<sup>11</sup>
47. The Committee highlighted to the Promoter that sections 1(6) and 1(10) of the Bill change the titles of two sections of the 1871 Act so that the words 'Widows' Fund' are replaced by 'Dependents' Fund'; however, the title of section 34 of the 1871 Act would still include the words 'Widows' Fund'. Gregor Clark, the drafting adviser to the Society, responded that it had probably been missed and that the Promoter would attend to it. The Promoter has subsequently indicated its intention to correct this by amendment.
48. Section 1(3) amends the existing definitions of office bearers and removes the offices of librarian and fiscal. The Promoter explained that the fiscal was an historic office for handling matters of discipline, prior to the role now played by the Law Society of Scotland and the Scottish Legal Complaints Commission. The Society still has a librarian, but that person no longer needs to be a qualified solicitor, and the 1871 Act is therefore being amended to reflect this.
49. Section 1(8) of the Bill repeals the word 'lawful' in section 42 of the 1871 Act. The Explanatory Notes state that this is because “there is no longer any relevant legal distinction between legitimate and illegitimate children.” Section 42 of the 1871 Act states that annuities shall be paid to any child or children of a contributor who are "in minority" if the contributor has died leaving no widow.
50. The Promoter explained that annuities are currently paid up to the age of 21 for children, and one annuity is split between the remaining children. The Committee



asked whether the Society had considered extending the payment up to the age of 25 if the child or children is still in full-time education. Donald Skinner-Reid noted that such changes would require different contributions from members to be considered, and new actuarial calculations would need to be made.

The Committee welcomes the commitment from the Promoter to amend the title of section 34 of the 1871 Act to replace the words 'Widows' Fund' with 'Dependents' Fund'.

## Conclusion on the general principles of the Bill

51. The Committee believes that the purposes of the Bill, as set out in paragraph 5, are appropriate for ensuring that the Society's constitution is updated for modern conditions, and that the Society is equipped to deal effectively with a range of future scenarios.
52. The Committee supports the Society's objectives in trying to update its constitution and better equip it for the future.

The Committee recommends to the Parliament that the general principles of the Bill be agreed to.

# Consideration of whether the Bill should proceed as a Private Bill

## Requirements under Standing Orders

53. The Committee is required to consider and report on whether the Bill should proceed as a Private Bill. This involves the Committee satisfying itself on two points: firstly, that the Bill conforms to the definition of a Private Bill as set out in Rule 9A.1.1 and secondly, that the Bill's accompanying documents conform to Rule 9A.2.3 and are adequate to allow proper scrutiny of the Bill (Rule 9A.8.3).<sup>2</sup>

## Definition of a Private Bill

54. The definition of a Private Bill is set out in Rule 9A.1.1 of Standing Orders:

- ” A Private Bill is a bill introduced for the purpose of obtaining for an individual person, body corporate or unincorporated association of persons ("the promoter") particular powers or benefits in excess of or in conflict with the general law, and includes a bill relating to the estate, property, status or style, or otherwise relating to the personal affairs, of the promoter.<sup>2</sup>

The Committee is satisfied that the Bill complies with the definition of a Private Bill.

## Accompanying documents

55. The relevant documents in this context are the Promoter's Memorandum,<sup>5</sup> Explanatory Notes<sup>12</sup> and the Promoter's Statement.<sup>13</sup>

## Promoter's Memorandum

56. The Promoter's Memorandum must set out:
- the objectives of the Bill;
  - whether alternative ways of meeting those objectives were considered and, if so, why the approach taken in the Private Bill was adopted; and
  - the consultation which was undertaken on those objectives and the ways of meeting them and on the detail of the Private Bill, together with a summary of the outcome of that consultation.

## Objectives

57. The objectives of the Bill, as referred to in the terms of paragraph 14 of the Promoter's Memorandum, have been set out in paragraphs 4 and 5 above.

The Committee is content that the objectives are adequately set out in the accompanying documents.

## Alternative approaches to the Bill

58. The Promoter's Memorandum sets out the alternative approaches considered by the Promoter, before concluding that the Society should proceed with the promotion of a Private Bill.

59. The Promoter's Memorandum states that the Trustees of the Widow's Fund instructed an Opinion of Counsel, and that counsel concluded that:

” The deficiencies in the existing legislation are that it provides no flexibility for different types of membership and that it makes no provision for the orderly winding up and dissolution of the Society or for the distribution of its assets and those of the Widows' Fund should that be necessary.<sup>5</sup>

60. During the evidence session on 17 December, Robert Shiels explained that:

” With the bill, we are anxious to lay out specific powers or authorities in the statute book now, which might be used later ... The alternatives that were considered are reactions to difficulties that have arisen, but we do not want that. If, for example, the society were to close, we would prefer that that was done in an orderly fashion, rather than with urgent action before the Court of Session.<sup>14</sup>

61. The Committee asked what the implications would be if the Bill were not passed and the status quo remained. The Promoter responded that:

” The society would continue as it is just now, but—we think—without the power to close it other than through emergency action before the Court of Session or something along those lines.<sup>8</sup>

The Committee is satisfied that other alternatives were considered and is content with the Promoter's conclusion that promoting a Private Bill in the Scottish Parliament is the most appropriate and best available method of achieving the Promoter's aims.

## Consultation

62. In the Promoter's Memorandum, the Promoter is required to set out and explain the consultation which was undertaken on the Bill's objectives and the ways of meeting them and on the detail of the Private Bill, together with a summary of the outcome

of that consultation. In the context of considering whether the accompanying documents were adequate for scrutiny, the Committee need only satisfy itself that the information about the consultation was sufficient for its scrutiny.

63. The Promoter's Memorandum details the consultation carried out. In the first instance, this involved all members being sent a Strategic Options Paper in October 2017 and a further Options Paper in December 2017, following discussions at the statutory meetings in December 2017, and a draft Bill. The documents were sent out in advance of the meetings at which they were to be discussed and views were invited from those unable to attend the meetings.
64. The Promoter's Memorandum states that, in relation to the proposals to provide the Society with new statutory powers to close the Society at a later date:

” The consultation with the membership of the SSC Society has confirmed the desire to be prepared, even if the event guarded against does not come to pass.<sup>5</sup>

The Committee notes that the Promoter's Memorandum could have provided more detail about whether any negative responses, or comments from members, were received. However, the Committee is content that the information provided regarding the consultation process is sufficiently detailed and clear for the Committee's purposes.

## Explanatory Notes

65. The purpose of the Explanatory Notes is to summarise objectively and clearly what each provision of the Bill does and to give other information necessary or expedient to explain the effect of the Bill.

The Committee is satisfied that the Explanatory Notes are fit for purpose.

## Promoter's Statement

66. The requirements for the Promoter's Statement are set out in Standing Orders Rules 9A.2.3(d). It should detail all the arrangements made by the Promoter with regard to such matters as notification, advertising and distribution of the Bill and accompanying documents.
67. The Promoter's Statement includes:
- detail of the intention to inform the tenants, who let parts of the building owned by the Society, of the Bill and its accompanying documents;
  - details of the notification of, and consent to, the proposed Private Bill obtained from the members of the Society;

- details of the advertisement of the Promoter's intention to introduce the Private Bill;
  - information about where documents relevant to the Bill may be inspected and purchased;
  - an undertaking to pay any costs that may be incurred by the Parliamentary Corporation during the passage of the Private Bill;
  - an assignation of copyright, and licensing agreement.
68. As set out in the Promoter's Statement the members were sent a Strategic Options Paper in October 2017 and a revised version of the Paper in December 2017. The Promoter's Statement goes on to note that:
- ” A full range of papers was sent either by email or by ordinary post on 4 June 2019 for the statutory meeting on 2 July 2019. A supplementary note on the intended SSC Bill was also sent to Members explaining the broad purpose of the additional sections for the 1871 Act. These were considered by the Council of the SSC Society and thereafter the Members Meeting, both on 2 July 2019.<sup>13</sup>
69. The Committee asked how many members attended the meeting on 2 July 2019. The Promoter stated that perhaps 10 or 12 out of the Society's 220 members attended that meeting but noted that:
- ” It is not an unusual number of members to attend a statutory meeting. The meetings take place at 5pm in Parliament House in Edinburgh, so it tends to be Edinburgh members who attend. Everybody receives the information by email, but the number of members who attend in person tends to be quite low.<sup>15</sup>
70. In addition, the Promoter also confirmed that hard copies of the papers were sent to members who prefer to receive them in that format, and that all members were sent copies of the draft Bill and accompanying documents. Robert Shiels commented that:
- ” If members had strong views about their opposition, we would hear from them. There is no doubt about that.<sup>16</sup>
71. In the evidence session on 17 December 2019, the Committee asked whether the Society did follow up on its intention to inform the tenants of the building about the Bill (as set out in paragraph 4 of the Promoter's Statement). The Promoter responded that the Faculty of Advocates was notified but that the tenants in the lower part of the building were not. The Promoter, however, noted that the Bill would not alter the tenants' position:
- ” At the minute, if we chose, we would be free to sell the building subject to leases to anyone we wished, and all that would happen would be that the tenants' landlord would change. It would not significantly alter their position.<sup>17</sup>

The Committee recommends that the Promoter ensures that all tenants have been notified about the Bill and proposed changes to the Society's constitution.

The Committee is satisfied that the Promoter's Statement complies with Standing Order requirements and is sufficient for the Committee's purposes.

## **Conclusion on accompanying documents**

The Committee is of the view that the accompanying documents meet the criteria set out in Standing Orders and are sufficient to allow for scrutiny of the Bill.

## **Conclusion on whether the Bill should proceed as a Private Bill**

On the basis of the requirements set out in Standing Orders, the Committee is content that the Bill should proceed as a Private Bill.

# Recommendation

The Committee recommends that the Parliament agrees to the general principles of the Solicitors in the Supreme Courts of Scotland (Amendment) Bill and that the Bill should proceed as a Private Bill.

# Annexe

## Minutes of meetings and Official Report of evidence session

- [1st Meeting, 2019 \(Session 5\), Tuesday 26 November 2019 - Minutes](#)
- [2nd Meeting, 2019 \(Session 5\), Tuesday 17 December 2019 - Minutes](#)
- [2nd Meeting, 2019 \(Session 5\), Tuesday 17 December 2019- Official Report](#)
- [1st Meeting, 2020 \(Session 5\), Tuesday 14 January 2020- Minutes](#)

## Correspondence

- [Letter from the Convener to the Promoter, 19 December 2019](#)
- [Letter from the Promoter to the Convener, 7 January 2020](#)



- [1] Solicitors in the Supreme Courts of Scotland (Amendment) Bill, as introduced (SP Bill 55). (2019, September 27). Retrieved from [https://parliament.scot/S5\\_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/SPBill55S052019.pdf](https://parliament.scot/S5_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/SPBill55S052019.pdf)
- [2] Standing Orders of the Scottish Parliament, 5th Edition, 7th Revision, Chapter 9A: Private Bill Procedures. (2019, September). Retrieved from <https://www.scottish.parliament.uk/parliamentarybusiness/26513.aspx>
- [3] Scottish Parliament. (2017, May). Guidance on Private Bills. Retrieved from <https://www.scottish.parliament.uk/parliamentarybusiness/Bills/79081.aspx>
- [4] Solicitors in the Supreme Courts of Scotland (Amendment) Bill and accompanying documents. (2019, September 27). Retrieved from <https://parliament.scot/parliamentarybusiness/Bills/112896.aspx>
- [5] Solicitors in the Supreme Courts of Scotland (Amendment) Bill, Promoter's Memorandum (SP Bill 55-PM). (2019, September 27). Retrieved from [https://www.parliament.scot/S5\\_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/SPBillPMS052019.pdf](https://www.parliament.scot/S5_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/SPBillPMS052019.pdf)
- [6] Barclay, J.B. (1984). *The SSC Story, 1784-1984: Two Hundred Years of Service in the College of Justice*. Edinburgh: Society of Solicitors in the Supreme Courts of Scotland.
- [7] Website; The Society of Solicitors in the Supreme Courts of Scotland. (n.d.) Retrieved from <https://www.ssclibrary.co.uk/office-bearers>
- [8] Robert Shiels, Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee, Official Report, 17 December 2019, col. 3. (2020, January 7). Retrieved from <http://parliament.scot/parliamentarybusiness/report.aspx?r=12442&mode=pdf>
- [9] Solicitors in the Supreme Courts of Scotland Act 1871, section 11. (n.d.) Retrieved from [https://parliament.scot/S5\\_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/Solicitors\\_in\\_the\\_Supreme\\_Courts\\_of\\_Scotland\\_1871\\_Act.pdf](https://parliament.scot/S5_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/Solicitors_in_the_Supreme_Courts_of_Scotland_1871_Act.pdf)
- [10] Donald Skinner-Reid, Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee, Official Report, 17 December 2019, col. 14. (2020, January 7). Retrieved from <http://parliament.scot/parliamentarybusiness/report.aspx?r=12442&mode=pdf>
- [11] Donald Skinner-Reid, Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee, Official Report, 17 December 2019, col.15. (2020, January 7). Retrieved from <http://parliament.scot/parliamentarybusiness/report.aspx?r=12442&mode=pdf>
- [12] Solicitors in the Supreme Courts of Scotland (Amendment) Bill, Explanatory Notes (SP Bill 55-EN). (2019, September 27). Retrieved from [https://www.parliament.scot/S5\\_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/SPBill55ENS052019.pdf](https://www.parliament.scot/S5_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/SPBill55ENS052019.pdf)
- [13] Solicitors in the Supreme Courts of Scotland (Amendment) Bill, Promoter's Statement (SP Bill 55-PS). (2019, September 27). Retrieved from [https://www.parliament.scot/S5\\_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/SPBill55PSS052019.pdf](https://www.parliament.scot/S5_Bills/Solicitors%20Supreme%20Courts%20of%20Scotland%20Bill/SPBill55PSS052019.pdf)
- [14] Robert Shiels, Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee, Official Report, 17 December 2019, col. 2. (2020, January 7). Retrieved from <http://parliament.scot/parliamentarybusiness/report.aspx?r=12442&mode=pdf>

- [15] Douglas Thomson, Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee, Official Report, 17 December 2019, col. 8. (2020, January 7). Retrieved from <http://parliament.scot/parliamentarybusiness/report.aspx?r=12442&mode=pdf>
  
- [16] Robert Shiels, Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee, Official Report, 17 December 2019, col. 9. (2020, January 7). Retrieved from <http://parliament.scot/parliamentarybusiness/report.aspx?r=12442&mode=pdf>
  
- [17] Donald Skinner-Reid, Solicitors in the Supreme Courts of Scotland (Amendment) Bill Committee, Official Report, 17 December 2019, col. 7. (2020, January 7). Retrieved from <http://parliament.scot/parliamentarybusiness/report.aspx?r=12442&mode=pdf>

