

House of Lords (Hereditary Peers) Bill

Second Reading House of Lords

11 December 2024



Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

We welcome the opportunity to consider and comment on the House of Lords (Hereditary Peers) Bill¹ (“the Bill”) ahead of the second reading in the House of Commons scheduled for 15 October 2024.

General Comments

The Bill seeks to remove the right of hereditary peers to sit and vote in the House of Lords.

Following previous reforms under the House of Lords Act 1999, there are currently 90 hereditary peers, in addition to the hereditary peers holding the offices of the Earl Marshal and Lord Great Chamberlain. The Bill is the first proposed reform to the House of Lords for 15 years. We do not oppose this bill but removing the right of hereditary peers to sit and vote will have consequences which could affect independent scrutiny of legislation and loss of expertise in analysis of topics subject to debate.

Under the Bill as introduced, the remaining hereditary peers would no-longer be members of the House of Lords.

The Earl Marshal and Lord Great Chamberlain would retain ceremonial functions.

The *Ceremonial in the House of Lords Library Note (2010 Paragraph 6, page 19)* explains these Offices of State:

“The Earl Marshal is head of the College of Arms, which comprises the Kings of Arms, Heralds and Pursuivants, and is responsible for ceremonial involving the Sovereign, such as State Openings of Parliament, coronations, royal weddings and royal funerals.

The Lord Great Chamberlain was formerly responsible on behalf of the Sovereign for the Palace of Westminster (deriving from his duty of personal attendance on the Sovereign on great occasions of State ceremony). However, on 26th April 1965, with the consent of the Queen, control of the Palace passed to the two

¹ <https://bills.parliament.uk/bills/3755>



Houses, except that control of Westminster Hall was vested jointly in the Lord Great Chamberlain as representing the Queen and in the two Speakers on behalf of the two Houses. The Lord Great Chamberlain retains his functions on Royal occasions, and control of Her Majesty's Robing Room (and the staircase and ante-room adjoining), the Royal Gallery and the Chapel of St Mary Undercroft remains in his hands".

The Bill would also abolish the jurisdiction of the House of Lords in hereditary peerage claims. Any complex or disputed peerage claims will instead be determined by the Judicial Committee of the Privy Council (JCPC) which exercises the judicial functions of the Privy Council. The JCPC is the court of final appeal for the Crown Dependencies, the UK's Overseas Territories and for those Commonwealth Realms that have retained the right of appeal to the King in Council or, in the case of Commonwealth republics, to the Judicial Committee.

As well as removing the final link between hereditary peerage and membership of the House of Lords, the Bill also abolishes the jurisdiction of the House of Lords in hereditary peerage claims. The Explanatory notes state that the Government's intention is that any complex or disputed peerage claims that would have otherwise been referred to the House of Lords will instead be referred to the Judicial Committee of the Privy Council by way of section 4 of the Judicial Committee Act 1833. Judicial Committee Act 1833 provides "His Majesty may refer any other Matters to Committee. It shall be lawful for His Majesty to refer to the said Judicial Committee for hearing or consideration any such other matters whatsoever as His Majesty shall think fit; and such Committee shall thereupon hear or consider the same, and shall advise His Majesty thereon in manner aforesaid."

The Bill relates to the reserved matter of the Parliament of the United Kingdom in respect of Scottish. As such, a legislative consent motion is not required.

We hope that the above comments are helpful. We would be happy to discuss further, and to share our experience of engagement with hereditary peers in the context of scrutinising legislation.



For further information, please contact:

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