



The Scottish Parliament
Pàrlamaid na h-Alba

**HUTCHESONS' HOSPITAL TRANSFER AND DISSOLUTION (SCOTLAND) BILL
COMMITTEE**

AGENDA

1st Meeting, 2018 (Session 5)

Tuesday 30 October 2018

The Committee will meet at 12.15 pm in the Sir Alexander Fleming Room (CR3).

1. **Declaration of interests:** Members of the Committee will be invited to declare any relevant interests and to make declarations of impartiality.
2. **Choice of Convener:** The Committee will choose its Convener.
3. **Choice of Deputy Convener:** The Committee will choose its Deputy Convener.
4. **Decision on taking business in private:** The Committee will decide whether to take item 5 in private.
5. **Work programme:** The Committee will consider its approach to the scrutiny of the Bill at Preliminary Stage.

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The papers for this meeting are as follows—

Agenda item 1

Committee member declaration HH/S5/18/1/1

Agenda items 2 & 3

Choice of Convener and Deputy Convener HH/S5/18/1/2

Agenda item 5

Briefing on Private Bill procedure HH/S5/18/1/3

Work programme HH/S5/18/1/4

**HUTCHESONS' HOSPITAL TRANSFER AND DISSOLUTION (SCOTLAND) BILL
COMMITTEE**

1st Meeting, 30 October 2018, (Session 5)

Declarations at first meeting

Introduction

1. It is established practice with all new committees to invite members, at the first Committee meeting, to make an initial declaration of any interests which are relevant to the remit of the Committee.
2. In addition, members of newly-established Private Bill Committees are required to make a declaration to act impartially, under Rule 9A.5.4A.

Declaration of interests

Declarable interests

3. If a member has a registrable interest in any category of the register (apart from the voluntary category), this is also potentially a declarable interest. Declaring relevant interests before participating in Parliamentary proceedings is a statutory requirement under the Interests of Members of the Scottish Parliament Act 2006 and failure to do so is a breach of the Code of Conduct and also a criminal offence.
4. Section 3 of the Code of Conduct for MSPs explains in detail the rules on declaration of interests.
5. It is the responsibility of the individual Member to be aware of the rules on the declaration of interests and to judge whether a registered interest is sufficiently relevant to particular proceedings to require a declaration. The Standards Clerks can provide further advice on this.

Declaration at first committee meeting

6. At the first Committee meeting, all members will be invited to declare any registrable interests which are relevant to the remit of this Committee. The declaration can be brief but should be sufficiently informative to enable a listener to understand the nature of the Member's interest. **It is not sufficient simply to refer to the register entry but nor is it necessary to rehearse all the details of an interest as it appears in the Register.**
7. If Members have any questions about what might constitute a declarable interest, they can contact the Committee clerks prior to the meeting. The Standards Clerks are also happy to provide advice.

Declaration at subsequent committee meetings

8. Members are also required to declare any relevant registrable interests at subsequent committee meetings if they are relevant to the business under discussion. Such a declaration has to be made at each meeting where it is relevant and before participating in those proceedings. This allows the public attending or reading the report of any Committee meeting to understand the nature of the member's interest.
9. Although this is not a registrable interest, the Code also advises Members, as good practice, to declare any business or personal relationships they might have with any advisers or witnesses to the Committee.

Declaration of impartiality

10. Members of a Private Bill Committee are required to make a declaration of impartiality at the first meeting they attend.
11. To do this, the following form of words should be used:

“I declare that I will act impartially, in my capacity as a member of the Hutchesons’ Hospital Transfer and Dissolution (Scotland) Bill Committee, and will base decisions solely on the evidence and information provided to the Committee.”

Clerk to the Hutchesons’ Hospital
Transfer and Dissolution (Scotland) Bill Committee

**HUTCHESONS' HOSPITAL TRANSFER AND DISSOLUTION (SCOTLAND) BILL
COMMITTEE**

1st Meeting, 30 October 2018, (Session 5)

Choice of Convener and Deputy Convener

Purpose of paper

1. This paper explains the procedure for choosing a Convener and Deputy Convener at the first meeting of the Committee.

Oldest Member

2. Standing Orders oblige all committees to choose a Convener at their first meeting. Rule 12.1.6 states that the meeting is to be chaired by the Oldest Committee member until a Convener is chosen. The "Oldest Committee Member" is defined as the oldest member of the Committee present at the meeting who has indicated to the Clerk that he or she agrees to chair the meeting.

Choice of Convener

3. When the Parliament agreed on 12 September 2018 to motion S5M-13864, establishing the Committee, it decided that the Convener is to be a member of the Scottish Labour Party. The Committee has four members, including only one from the Scottish Labour Party. The Oldest Committee Member will therefore invite the Committee to choose that member as its Convener. There is no requirement for anyone to be nominated for the post at, or in advance of, the meeting.
4. On being chosen by the Committee, the Convener will immediately take the chair and will chair the rest of the meeting.

Choice of Deputy Convener

5. Motion S5M-13864 also stated that members of the Scottish National Party are eligible to be chosen as Deputy Convener of the Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill Committee. Two SNP members have been appointed to the committee.
6. The Convener will invite nominations from members of that party for the deputy convenership. There is no requirement for nominations to be submitted in advance of the meeting or to be seconded.
7. Where only one nomination is received, Members will be asked to choose the person concerned as Deputy Convener.

Clerk to the Hutchesons' Hospital Transfer and
Dissolution (Scotland) Bill Committee

Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill Committee

1st Meeting, 30 October 2018 (Session 5)

Background paper – Private Bill procedure

Purpose

1. Private Bills differ significantly from Public Bills in a number of important respects, and this changes the nature of the scrutiny to which they are subject. Understanding Private Bill procedure is therefore essential context for any Private Bill Committee.

About Private Bills

2. Most Bills considered by the Parliament are “Public Bills” which aim to change the public and general law in order to give effect to the policy choices of the Scottish Government, a committee or an individual MSP. All Public Bills are introduced by an MSP (whether a Government minister, a Committee convener, or an individual MSP) and are subject to a 3-stage scrutiny process usually involving a number of different committees, together with Chamber proceedings. The procedure for Public Bills is set out in Chapter 9 of standing orders.

3. Private Bills, by contrast, are introduced by an external person or organisation – the promoter – in order to secure a specific departure from the general law. A Private Bill, by its nature, is liable to have a direct effect on some private individuals, in ways that separate them out from other individuals in the same category or class. Such individuals, if they consider that the Bill would affect their interests adversely, have the right to lodge “objections” to the Bill, and to make representations to the Parliament directly.

4. Because of these differences, Private Bill procedure is governed by separate rules from Public Bills, and these are set out in Chapter 9A of standing orders. There is still a 3-stage scrutiny process, but in other respects the procedure is quite distinct. The main features of the Chapter 9A process are set out below.

Pre-introduction requirements

5. Before a Private Bill can be introduced, the promoter must prepare a set of accompanying documents. Some of these documents are similar to those required for a Public Bill, but additional documents are also required, in which the promoter is required to document certain steps that must have been taken prior to introduction – particularly in relation to consultation on the proposed Bill, and notification of those whose interests may be affected.

6. The main accompanying documents for a Private Bill are—

- statements on legislative competence by the Presiding Officer and the promoter (equivalent to the statements required for a Public Bill);
- Explanatory Notes (equivalent to those required for a Public Bill);

- a Promoter’s Memorandum, explaining the objectives of the Bill, what alternatives were considered, and the consultation undertaken (similar to the Policy Memorandum for a Public Bill); and
- a Promoter’s Statement, giving details of notification given to persons likely to be affected (depending on the nature of the Bill), advertisement of the Bill (in newspapers, public libraries etc.) and other procedural requirements.

7. Private Bills which authorise the construction of “works”, or the compulsory acquisition or use of land or buildings, are subject to additional requirements – for example, they must be accompanied by maps, plans etc. and by an Environmental Statement. However, such “works” Bills are now relatively uncommon, now that there is an alternative mechanism under the Transport and Works (Scotland) Act 2007 for giving statutory authorisation for major infrastructure projects.

8. The Hutchesons’ Hospital Transfer and Dissolution (Scotland) Bill is not a “works” Bill.

Objections

9. When a Private Bill is introduced, a 60-day “objection period” begins, during which any person who considers their private interests to be adversely affected can lodge an objection. At the end of the period, a list of the people who have lodged admissible objections is printed in the Business Bulletin. Objections can be to the whole Bill or to particular aspects of it.

10. The objection period for the Hutchesons’ Hospital Transfer and Dissolution (Scotland) Bill ended on Friday 24 August 2018. No objections were lodged.

Private Bill Committees

11. As with Public Bills, most of the detailed scrutiny is undertaken by a committee. However, there are various important differences—

- Private Bill Committees are always ad hoc committees set up to scrutinise that particular Bill, and the existing committees have no role
- Private Bill Committees have only three, four or five members, and there are some restrictions on who can serve on Private Bill Committees (see Rule 9A.5.3 of the Parliament’s Standing Orders)
- members of Private Bill Committees must make a declaration that they will act impartially, basing decisions solely on the evidence and information provided to the Committee
- members of Private Bill Committees must normally attend every meeting, and committee substitutes are not permitted.

Preliminary Stage

12. This first stage is roughly equivalent to Stage 1 of a Public Bill. The Committee takes evidence and prepares a report to the Parliament, which then holds a Chamber debate on the Bill, informed by the report. The question for Preliminary Stage, however, is not just whether to approve the general principles of the Bill, but also whether the Bill should proceed as a Private Bill.

13. For the Committee, there are three aspects to its task at Preliminary Stage—

- taking evidence and reaching a view on whether the general principles of the Bill should be approved;
- reaching a view on whether the Bill should proceed as a Private Bill – including by satisfying itself that primary legislation is required, that the provision made is of a private rather than public nature, and that the pre-introduction requirements have been carried out correctly; and
- giving preliminary consideration to any objections, rejecting any, where in the Committee’s view, the objector’s interests are not “clearly adversely affected”.

14. If any of the objections that pass this “clear adverse effect” test are whole-Bill objections, it is normal practice for the Committee to consider them in full at Preliminary Stage, so that the objectors’ views can be taken into account in reaching a view on whether to recommend approval of the general principles.

15. If the Parliament approves the general principles of the Bill and agrees it should proceed as a Private Bill, the Bill goes on to Consideration Stage; otherwise it falls.

Consideration Stage

16. This second stage is roughly equivalent to Stage 2 of a Public Bill. It is taken entirely by the Private Bill Committee, which has two main tasks to fulfil.

17. The first is to give full consideration to any remaining objections. This usually involves taking oral evidence from the objectors and the promoter – with the Committee acting in a quasi-judicial capacity as arbiter between them. The Committee may, if it wishes, publish a report setting out its conclusions on the objections – indicating whether it upholds them in whole or in part, or rejects them.

18. The second task is to consider any amendments to the Bill that may be lodged. Only Private Bill Committee members may lodge amendments at Consideration Stage, and they may include amendments to give effect to objections, or to make changes sought by the promoter. The procedure for debating and disposing of amendments is the same as for a Public Bill.

Final Stage

19. This third stage is equivalent to Stage 3 of a Public Bill. It is taken in the Chamber and involves all MSPs. It consists, first, of an opportunity to consider further amendments to the Bill (which may be lodged by any MSP), followed by a debate on a motion to pass the Bill.

**Clerk to the Hutchesons' Hospital Transfer and Dissolution
(Scotland) Bill Committee**

Hutchesons' Hospital Transfer and Dissolution (Scotland) Bill Committee

1st Meeting, 30 October (Session 5)

Work programme

Oral evidence

1. It is standard practice for private bill committees to take evidence from the Promoters of the Bill (and/or their agents) in the first instance. It is therefore recommended that the Committee invites the promoters (and/or agents) of the Bill to attend its next meeting.

2. Members are invited to consider whether to invite anyone else to provide oral evidence to the Committee. However, at this stage it may be beneficial to seek any written views before deciding whether to seek any further oral views

Written evidence

3. It is not usual for private bill committees to issue a general call for views, given the specific nature of their considerations and due to the formal objection process. However, the Committee's webpage will include details of how written evidence can be submitted for anyone wishing to do so.

4. The Committee may also wish to consider writing to a number of organisations/individuals to give them the opportunity to submit views if they wish to do so.

5. If the Committee is agreeable to writing to selected organisations/individuals, it is suggested that they are given a deadline of Monday 19 November 2018.

Witness expenses

6. The Committee is asked to agree to delegate the consideration and approval of any witness expenses to the Convener.

Provisional timetable for Preliminary Stage

7. The Committee is invited to consider in further detail its proposed approach and timetable for Preliminary Stage. Meetings of the Committee are most likely to be held on Tuesday or Wednesday mornings. The table below gives an indicative timetable, however these dates may need to be revised —

Wednesday 7 November 2018	2nd meeting Oral evidence from the Promoters
Week beginning Monday 26 November 2018	3rd meeting Further oral evidence if required. Consideration of any written views [If no further oral evidence, consideration of issues for draft Preliminary Stage report]
Week beginning Monday 10 December 2018	4th meeting Consideration of key issues for draft Preliminary Stage report or consideration of draft report (and agreement if possible)
TBC 2018/19	5th meeting Consideration and agreement of draft report (if not agreed in previous meeting)
TBC 2018/19	Publication of preliminary stage report
TBC 2019	Preliminary stage debate

Action

8. The Committee is invited to agree—

- to take evidence from the promoters at its next meeting;
- whether to take further oral evidence and, if so, who from;
- whether to write to any organisations/individuals to invite written views;
- to delegate consideration and approval of witness expenses to the Convener; and
- to its provisional timetable for the preliminary stage.

**Clerk to the Hutchesons' Hospital
Transfer and Dissolution (Scotland) Bill Committee**