

Proposed Removal from Office and Recall (Members of the Scottish Parliament) Bill

Introduction

A proposal for a Bill to introduce new measures on removing an MSP from office, including additional grounds for removal and new processes for removal, such as recall. Proposed new grounds for removal include where an MSP does not participate in parliamentary proceedings for a given period without valid reason or receives a prison sentence lower than the current threshold for automatic removal.

The consultation runs from 20 January 2022 to 13 April 2022.

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Please select the category which best describes your organisation

No Response

Please choose one of the following:

I would like this response to be published anonymously

If you have requested anonymity or asked for your response not to be published, please give a reason (Note: your reason will not be published):

Please provide your Full Name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposed Bill?

Fully supportive

Please explain the reasons for your response.

Derek Mackay's [Redacted] highlighted one of its weaknesses. This bill addresses that although I would have gone further and ensured that salary and pension accrual were clawed back from the beginning of the 6 month period of absence.

Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

Legislation is required. Other ways such as votes of censure or constituency recall are too open to abuse.

Q3. What is your view on the proposal to remove MSPs from office if they do not participate sufficiently in parliamentary proceedings?

Fully supportive

Please explain the reasons for your response. Please include your views on: what constitutes sufficient participation, how the process for removing an MSP from office should work in practice where they are not sufficiently active for a period of, for example, six months (see detail of consultation document under element one of the proposal for background on this question).

Failure to participate means that they are not doing the job to which they were elected. In any other line of work they would be issued with a warning and then sacked.

In practice, it should be up to the Presiding Officer to investigate an allegation that an MSP was not participating sufficiently in parliamentary proceedings and determine whether the MSP should be excluded. Ideally this allegation would come from constituents but given the operation of the list system in practice it could also be raised by a group of MSP's.

Q4. What is your view on the proposal that receiving a prison sentence of a year or less is an appropriate trigger for an MSP to be automatically removed from office?

Neutral (neither support nor oppose)

Please explain the reasons for your response, including detailing how long you consider a minimum prison sentence should be to trigger the automatic removal.

I see a problem here in that an MSP could be ordered to serve 9 months but in actuality only serve 4 months before release. Or if remanded in custody prior to going to court, would this time count in the event that they are found not guilty?

Q5. What is your view on the proposal that an individual who is removed as an MSP under these proposals, either through insufficient participation or being sentenced to a particular period in prison, should be unable to stand as an MSP again for the rest of the relevant parliamentary session?

Fully supportive

Please explain the reasons for your response.

Quite simply, if a player is sent off they stay off.

Q6. What is your view on the proposal to introduce a system of recall for MSPs? Recall is where the electorate in an area can trigger a special election to remove an elected representative before the end of their term if certain conditions are met

Fully opposed

Please explain the reasons for your response, including how you would envisage such a system working in practice, for members elected under the regional list system and for constituency

Q6. What is your view on the proposal to introduce a system of recall for MSPs? Recall is where the electorate in an area can trigger a special election to remove an elected representative before the end of their term if certain conditions are met

members elected under the first past the post system.

In principle this seems a good idea but in practice I suspect that it would subject to considerable abuse. It might be argued that this is the democratic way to approach the problem, but if someone is elected in a 70% turnout, recalled by complaints from 5% (?) of the constituents and then replaced in a special election with a 40% turnout that seems an extremely undemocratic way to proceed.

Q7. What is your view on the proposal that, where an MSP has been given a prison sentence, they should only be removed from office once any appeal process they pursue has concluded?

Partially supportive

Please explain the reasons for your response, including commenting on the alternative option where an MSP given a prison sentence would be removed from office as soon as they are sentenced, as opposed to awaiting the completion of an appeals process.

They have a legal right to appeal. However, perhaps a substitute MSP could be put in place when legal proceedings began and the accused would be removed from Holyrood until those proceedings had concluded. Financial penalties would be back-dated to the day when legal proceedings began.

Financial Implications

Q8. Taking into account all those likely to be affected (including public sector bodies, businesses and individuals etc), is the proposed Bill likely to lead to:

some increase in costs

Please indicate where you would expect the impact identified to fall (including public sector bodies, businesses and individuals etc). You may also wish to suggest ways in which the aims of the Bill could be delivered more cost-effectively.

I would hope that the very existence of the legislation would prevent [Redacted]. If the investigation and decision is made by the Presiding Officer, then costs could be kept down. If a power of recall is included costs of a bye-election, campaigning etc. could be considerably higher and it is almost certain that someone will raise a legal challenge if the legislation is not completely watertight.

Equalities

Q9. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

Neutral (neither positive nor negative)

Q9. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

Please explain the reasons for your response. Where any negative impacts are identified, you may also wish to suggest ways in which these could be minimised or avoided.

I can see no impact whatsoever.

Sustainability

Q10. In terms of assessing the proposed Bill's potential impact on sustainable development, you may wish to consider how it relates to the following principles:

- living within environmental limits
- ensuring a strong, healthy and just society
- achieving a sustainable economy
- promoting effective, participative systems of governance
- ensuring policy is developed on the basis of strong scientific evidence.

With these principles in mind, do you consider that the Bill can be delivered sustainably?

Yes

Please explain the reasons for your response.

In terms of "promoting effective, participative systems of governance", it is essential.

General

Q11. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

Only that this may make the role of the Presiding Officer more important and that they will have to show more independence, and act more like the Speaker in Westminster, than has hitherto been the case.