



HOUSE OF LORDS

Procedure and Privileges Committee

1st Report of Session 2024–25

Law Commission bill procedure

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Procedure and Privileges Committee

The Select Committee on Procedure and Privileges of the House is appointed each session to consider any proposals for alterations in the procedure of the House that may arise from time to time, and whether the standing orders require to be amended.

Membership

The members of the Procedure and Privileges Committee are:

<u>Lord Gardiner of Kimble</u> (Chair)	<u>Baroness Pitkeathley</u>
<u>Baroness Bull</u>	<u>Baroness Sanderson of Welton</u>
<u>Lord Haskel</u>	<u>Lord Sherborne of Didsbury</u>
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[Lord Collins of Highbury](#) (for backbench Labour members)
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Declaration of interests

A full list of Members' interests can be found in the Register of Lords' Interests:
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Publications

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Further information

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First Report

LAW COMMISSION BILL PROCEDURE

Introduction

1. This report seeks the House's agreement to an adjustment to the procedures for special public bill committees considering Law Commission bills. The adjustment would be to increase the maximum time available to such a committee for evidence-taking from a 28 to 40-day period.
2. Should the House agree to the proposal it will require an amendment to paragraph 8.122 of the *Companion to the Standing Orders*, replacing the figure "28" with "40".

Background and recommendation

3. The Committee recommends this change following a request from Lord Thomas of Cwmgiedd, who chaired the two most recent special public bill committees on Law Commission bills.
4. The existing procedure originates from the House's agreement to two reports of our predecessor Procedure Committee in 2008 and 2010.¹ The procedure has not been altered since then.
5. Although Lord Thomas reports that the procedure is generally working well, he suggests that having a maximum of 40 rather than 28 days would allow a committee the flexibility to offer alternative dates to witnesses should the initial invitation prove impractical.
6. Committees would, as now, be able to conclude the evidence taking process earlier when they wish. Lord Thomas' request is included in a letter appended to this report.
7. This report gives the Committee the opportunity to thank all members of the House who have served on special public bill committees on Law Commission bills for ensuring that uncontroversial and relatively technical bills have received thorough and efficient scrutiny.
8. We support Lord Thomas' proposal so as to ensure the process in future continues to be smooth and efficient.

Next steps

9. We invite the House to agree to increase the maximum period for evidence taking for a special public bill committee on a Law Commission bill from 28 to 40 days.

¹ See House of Lords Procedure Committee, *Law Commission Bills* (2nd Report, Session 2010–12, HL Paper 30) and *Law Commission Bills* (1st Report, Session 2007–08, HL Paper 63).

APPENDIX 1: LETTER FROM LORD THOMAS OF CWMGIEDD

Letter from Lord Thomas of Cwmgiedd to Lord Gardiner of Kimble, Senior Deputy Speaker, 29 July 2024.

Dear Lord Gardiner,

Special Public Bill Committees on Law Commission Bills

I am writing to you as Chair of the Procedure and Privileges Committee following the conclusion of last session's Special Public Bill Committee on the Arbitration Bill, which was subject to the House's procedure for Law Commission bills. I have had the privilege to chair each of the last two such committees, including the committee scrutiny of what is now the Electronic Trade Documents Act 2023. Law Commission bills play a hugely important role in delivering improvements to the statute book which are not politically controversial but are nonetheless much-needed.

The House's current procedures were introduced on a trial basis in 2008 and confirmed by the House on the advice of your predecessor Committee in 2010. They strike an excellent balance in ensuring there is scope for genuine debate and scrutiny without taking the same amount of time on the floor of the House as other government bills. Prior to the procedures we now have, they may not always have been attractive propositions to a government of the day balancing higher political priorities and limited parliamentary time. I am conscious that these procedures have not been reviewed since 2010. As I said during the Special Public Bill Committee's proceedings on the Arbitration Bill on 27 March, I would like to provide my feedback based on the experience of the last two bills, and suggest what would be a small but, I hope, helpful refinement for your Committee's consideration.

At the moment, *The Companion to the Standing Orders* provides that "committees must conclude their taking of evidence within a 28-day period beginning with the date on which they are appointed, excluding any adjournment of the House for more than three days."[^]

For scrutiny to be effective, it is highly desirable that those with an interest in the outside world have a genuine opportunity to submit evidence. Any effective procedure must envisage that this evidence may not come from the "usual suspects". To assume that everyone with a useful view to offer has done so through the Law Commission's undoubtedly thorough prior consultation would be complacent, and risk compounding any oversight on either the part of the Commission or anybody who at that time had not engaged with the process. The window we have is very tight. It assumes that a committee is able to issue its call for evidence more or less instantaneously, when members may legitimately want to discuss and change a draft prepared by officials, and, in my view much more importantly, it potentially leaves an unreasonably short period of time for those outside Parliament to respond. Because it is important to leave scope for a committee to invite witnesses to give oral evidence within the 28 day period, the written evidence deadline is by necessity significantly shorter. While the timing of the Committee's appointment and the Christmas recess meant that the committee on the Electronic Trade Documents Bill was able to provide a longer deadline, the impact of the shortened February half term meant that we were only able to offer

[^] Paragraph 8.122, *Companion to the Standing Orders*

a fortnight to potential witnesses on the Arbitration Bill. This constraint meant that at least two witnesses from whom the Committee was very keen to hear were unable to provide oral evidence, and that we as a Committee were unable to offer alternative dates. I do not regard that as a satisfactory or courteous outcome for anyone potentially hearing about the Bill, and their opportunity to submit views, for the first time.

The Procedure and Privileges Committee has, in other areas, recommended successful reforms, for example for the tenure of select committee appointments, which have reduced the arbitrary impact of non-sitting periods on the House's work. This strikes me as a case where a small change, which would have very little impact on the overall time taken to scrutinise a Law Commission bill and no impact on the time it takes on the floor of the House, could have a significant positive impact on the ability of those most affected to engage in our scrutiny. An increase from 28 days to 40 would in my view allow special public bill committees suitable discretion to allow a more acceptable window for their calls for evidence, analogous to what is normally the minimum period allowed by select committees. Such committees would retain the ability to complete their evidence taking work at an earlier point than 40 days should they wish to.

I would be grateful if the Committee could consider my request to extend the evidence taking period, which I believe would add significant value to the work and ensure we are courteous to those who take the time to seek to inform it.

Lastly I make a more general observation, which I concede may be more for the Law Commission and the Government than the Procedure and Privileges Committee. Beyond the point at which we could take evidence on the Arbitration Bill, the Committee received representations about an issue over the interaction of the provisions in the Bill and arbitrations under treaties. I intend to pick this point up with Ministers. In my view it will become an increasingly important point given the likelihood of future Law Commission bills which seek to deal with areas affected by technological change, where, as we have seen, the legislative process has often struggled to keep pace with the changing world it seeks to reflect.

Yours sincerely,

Lord Thomas of Cwmgiedd