



The Rt Hon Lord Carloway
Lord President

Parliament House
Edinburgh, EH1 1RQ

28 May 2024

Stuart McMillan MSP
Convener of the Delegated Powers
and Law Reform Committee
The Scottish Parliament
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Dear Convener

JUDICIAL FACTORS (SCOTLAND) BILL

I thank you for your letter of 15 May 2024. The judicial working group and I have had the opportunity to consider the proposal.

We have some reservations about allowing judicial factors to seek directions from the court. We are not sure that the power in section 69 of the 2024 Act and the power proposed here would be wholly analogous. The scheme of the Bill envisages that the Accountant will supervise and direct judicial factors (Part 5, and in particular s 37). Judicial factors have a right to apply to the court regarding any decision of the Accountant (s 45).

Introducing a right to apply to the court for directions could undermine the Accountant's supervision and direction. The Scottish Law Commission did not envisage that the Bill should confer such a right (Scottish Law Commission Report No 233, Judicial Factors, Chapter 8, in particular para 8.14).

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'L' followed by a long horizontal stroke that curves upwards at the end.