



T: 0300 244 4000
E: scottish.ministers@gov.scot

Stuart McMillan MSP
Convener
Delegated Powers and Law Reform Committee
The Scottish Parliament
Edinburgh
EH99 1SP

03 November 2022

Dear Stuart,

Thank you for your letter of 27 October on behalf of the Delegated Powers and Law Reform Committee and in relation to the Legislative Consent Memorandum for the UK Infrastructure Bank (UKIB) Bill.

I welcome the Committee's report on the delegated powers relevant to Scotland. I also acknowledge your request for the Scottish Government to consider seeking an amendment to the Bill that would place a requirement for Scottish Ministers' consent in exercise of the powers conferred on UK Ministers.

The UKIB Bill was lodged in May and we are aware that the Welsh Government has sought amendments that would provide Welsh Ministers and the Senedd with the powers you describe and suggest for Scottish Ministers. To date, they have not been successful in securing such an amendment. In addition, an amendment was tabled by Lord Thomas as the Bill progressed through the House of Lords which, if agreed, would have provided for there to be consultation with the devolved governments in relation to amendments of the Act under clause 2(6), the statement of strategic priorities under clause 3(1) and 3(3), and the appointment of directors by the Chancellor of the Exchequer under clause 7. This amendment was voted on and rejected.

With this in mind, we are seeking additional mechanisms, which do not rely on legislative amendments but which will ensure Scotland's interest are properly reflected in UKIB activity and that UKIB makes investments in line with Scottish Government priorities.

As set out in HM Treasury's UK Infrastructure Bank Policy Design document, the Bank is required to work constructively with government and institutions in each nation of the UK to maximise the impact of its investments and to develop a nuanced understanding of the characteristics of the market in each nation so that it can target its investments appropriately. This includes prioritising the building of strong relationships with the Scottish National Investment Bank and the Development Bank of Wales and working closely with the Northern Ireland Executive in ways that are compatible with the UK's devolution arrangements. I intend to ensure that this policy design has practical application in Scotland, and know that

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productive conversations are already taking place between UKIB and the Scottish National Investment Bank.

I also intend to ensure that there is visibility and transparency to the Scottish Parliament about the outcomes in the National Performance Framework that UKIB activity may contribute to. UKIB's activity, if mindful of the Scottish context, will contribute to the delivery of the outcomes in the National Strategy for Economic Transformation, the Global Capital Investment Plan and the Infrastructure Investment Plan. My priority remains to work constructively to realise the benefits of increased levels of investment in Scotland, including to ensure a Just Transition to Net Zero. Achieving the best possible outcomes will require collaboration at a practical level. This is the rationale for the assurances we have requested from UK Government as set out in the Legislative Consent Memorandum lodged on 2 September. We will need to consider what further measures may be necessary once we have received a formal response from UK Government. I understand the Bill had its second reading in the House of Commons on Tuesday 1 November and that further amendments were proposed. There may also be further amendments to the Bill as it proceeds through the UK Parliament, with consequences for the devolution settlement, which we will need to consider.

Subject to receiving the requested assurances and consideration of further amendments to the Bill by HM Treasury, I will then prepare a supplementary Legislative Consent Memorandum. I trust that this provides the required information; please do not hesitate to get in touch if you have any further questions or requests.

Yours sincerely,

IVAN MCKEE

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