

Supplementary Legislative Consent Memorandum

Great British Energy Bill

Background

1. This supplementary memorandum has been lodged by Gillian Martin MSP, Acting Cabinet Secretary for Net Zero and Energy, in accordance with Rule 9B.3.1(a) and Rule 9B.3.1(c) of the Parliament's Standing Orders, and is supported by Acting Minister for Climate Action, Dr Alasdair Allan MSP.
2. The Great British Energy Bill was introduced by the UK Government in the House of Commons on 25 July 2024. The Bill is available on the UK Parliament website via this link: [Great British Energy Bill \(UK Parliament\)](#)
3. An LCM ([LCM-S6-48](#)) was lodged on 08 August 2024, without any recommendation on a consent position, and noted that a supplementary LCM outlining the Scottish Government's recommendation on a consent position would be lodged at a later date.
4. A Government amendment was made to clause 5(4) of the Great British Energy Bill on 24 January 2025 to provide that the Secretary of State must not, without the consent of the Scottish Ministers, include in a statement of strategic priorities anything which concerns a matter provision which would be within the legislative competence of the Scottish Parliament.

Content of the Bill

5. The Bill makes provision for special arrangements in relation to the regulation of a company which is designated by the Secretary of State with the objects of facilitating, encouraging and participating in:
 - the production, distribution, storage and supply of clean energy,
 - the reduction of greenhouse gas emissions from energy produced from fossil fuels,
 - improvements in energy efficiency, and
 - measures for ensuring the security of the supply of energy.

Provisions which require the consent of the Scottish Parliament

6. The Bill as a whole extends to Scotland. It is considered that it contains provisions which apply to Scotland and are for purposes which do not relate to reserved matters and are within the legislative competence of the Scottish Parliament.

7. The Bill is wholly concerned with the designation, purpose and funding of “Great British Energy”. It is considered by the Scottish and UK Governments that all clauses of the Bill require the consent of the Scottish Parliament.

8. Section 28(8) of the Scotland Act 1998 recognises that the UK Government will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament. Devolution Guidance Note 10 states that Bills require the consent of the Scottish Parliament if they contain provision applying to Scotland and which are for devolved purposes or if they alter the legislative competence of the Scottish Parliament or the executive competence of the Scottish Ministers.

Clauses 1, 2, 7 and 8

9. The Bill is wholly concerned with the designation, purpose and funding of “Great British Energy”. These include matters which fall within devolved legislative competence and devolved energy policy such as hydrogen production and carbon capture. These purposes inform the LCM position for clauses 1, 2, 7 and 8 of the Bill which are ancillary to or related to the purposes of designation of Great British Energy.

10. Consent is required for:

- Clause 1: only insofar as similar provision could be made in Scotland for the designation of a company for devolved purposes;
- Clause 2: only insofar as this clause is linked to clause 1 and any similar or analogous provision could be made in Scotland;
- Clause 7: only insofar as similar requirements could be placed on a company created in Scotland for devolved purposes; and,
- Clause 8: only insofar as these provisions are linked to other clauses for which an LCM is sought.

Clause 3

11. Clause 3 of the Bill sets out the purpose of Great British Energy. These purposes are broad and encompass energy-related matters which span both devolved and reserved matters. For example, these include devolved energy policy which fall within devolved legislative competence, such as hydrogen production and carbon capture.

12. The Scottish Government considers clause 3 to require the consent of the Scottish Parliament, as regards those objects which are the subject matter of devolved competence in devolved energy matters, for example in respect of hydrogen production or carbon capture.

Clause 4

13. Clause 4 provides that the Secretary of State may provide financial assistance to Great British Energy. Paragraph 4 of Part 3 of schedule 5 of the Scotland Act 1998 allows the Scottish Parliament to legislate for financial assistance to be given for the purpose of promoting or sustaining economic development or employment. It is considered that it would be within legislative competence to make provision in an Act of the Scottish Parliament which provided for the giving of financial assistance to Great British Energy in

relation to its devolved operations or more generally for the purpose of promoting or sustaining economic development or employment.

14. The Scottish Government considers clause 4 to require the consent of the Scottish Parliament, as it relates to financial assistance other than for reserved purposes.

Clause 5

15. Clause 5 enables the preparation of a statement of strategic priorities. This statement is expressly stated to be capable of including matters concerning devolved energy policy which would be within the legislative competence of the Scottish Parliament. Clause 5(4), has been amended ([HL Bill 43—R—Running List 24 January](#)) to confer functions on the Scottish Ministers insofar as the consent of Scottish Ministers (rather than consulting of) would be required to include any statement of strategic priorities which is within devolved legislative competence.

16. The Scottish Government considers clause 5 to require the consent of the Scottish Parliament, as regards those strategic priorities and plans which are the subject matter of devolved competence in devolved energy policy, for example in respect of hydrogen production or carbon capture.

Clause 6

17. Clause 6 provides that the Secretary of State may give specific or general directions to Great British Energy and that Great British Energy must comply with the directions. The direction making power is framed in general terms and to the extent to which the directions related to matters which are not reserved matters would be powers that could be within the legislative competence of the Scottish Parliament to enact. However, the UK Government has indicated that the clause is expected only to be used in limited circumstances such as a health and safety risk or national security.

18. The UK Government has provided written assurances that consultation with the Scottish Government will be included under clause 6 in practice, which states that the Secretary of State must consult “such other persons as the Secretary of State considers appropriate” when giving direction to Great British Energy that is related to a matter which is within the legislative competence of the Scottish Parliament.

19. The Scottish Government considers clause 6 to require the consent of the Scottish Parliament, as regards those directions which are the subject matter of devolved competence in devolved energy policy, for example in respect of hydrogen production or carbon capture.

Reasons for recommending consent

20. The Scottish Government **recommends giving consent** to the Great British Energy Bill in its current form.

21. The Scottish Government is of the view that while the Bill only establishes Great British Energy, once established Great British Energy will act in line with the policy aims and objectives of the Scottish Ministers, most notably tackling the climate emergency and

growing our economy. The UK Government cannot include in a statement of priorities anything within devolved legislative competence without the consent of Scottish Ministers. The UK Government has also provided written assurances that consultation with the Scottish Government will be included under clause 6 when giving a direction to Great British Energy that is related to a matter which is within the legislative competence of the Scottish Parliament.

22. Were legislative consent not given and the Bill amended to exclude Scotland, Scotland could miss out on a substantial number of opportunities such as potential for Great British Energy involvement or investment in a range of clean energy sectors.

Consultation

23. The UK Government has not consulted on the formation of Great British Energy. However, there has been engagement between the UK Government and Scottish Government at a ministerial and official level on the Bill after it was lodged in the UK Parliament.

24. Prior to the General Election, the UK Government sought to advance community and local energy policy by introducing community benefits guidance for upgrades to the GB electricity network, enhanced community benefit guidance for onshore wind in England, and consulting on community energy policy in England. Community stakeholders and wider public response to these consultations underlined strong support for more local democracy and influence in energy projects. From Dec 2024 – April 2025 the Scottish Government is consulting on the Good Practice Principles for community benefits for onshore and offshore renewable energy, to ensure that our guidance helps communities and developers get the best from community benefits.

Financial implications

25. It was confirmed in the 2024 UK Autumn Budget that GB Energy will be given £100 million capital funding over FY 25/26 for clean energy project development, and £25 million to establish the company.

Post EU scrutiny

26. The Scottish Government does not consider the Bill to impact on alignment with EU law.

Conclusion

27. The Scottish Government is supportive of the UK Government's stated ambitions for GB Energy. Additionally, the Scottish Government is pleased that amendments have been made to clause 5(4) meaning that the UK Government cannot include in a statement of strategic priorities anything within devolved legislative competence without the consent of Scottish Ministers. Overall, engagement with the UK Government has been positive and the Scottish Government looks forward to further discussions with the UK Government on Great British Energy, to ensure that it delivers for Scotland.

28. Therefore, the Scottish Government recommends the Scottish Parliament agrees that the relevant provisions of the Great British Energy Bill, introduced in the House of Commons on 25 July 2024, so far as these matters fall within the legislative competence of the Scottish Parliament should be considered by the UK Parliament.

Draft motion on legislative consent

29. The draft motion, which will be lodged by the Acting Cabinet Secretary for Net Zero and Energy, is:

“That the Parliament agrees that all provisions of the Great British Energy Bill, introduced to the House of Commons on 25 July 2024 and subsequently amended, so far as these matters fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Scottish Ministers, should be considered by UK Parliament.”

Scottish Government
January 2025

This Supplementary Legislative Consent Memorandum relates to the Great British Energy Bill (UK legislation) and was lodged with the Scottish Parliament on 28 January 2025

Great British Energy Bill – Supplementary Legislative Consent Memorandum

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - www.parliament.scot

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at: www.parliament.scot/documents