

Net Zero, Energy and Transport Committee

26th Meeting, 2022 (Session 6), Tuesday, 4 October 2022

Legislative Consent Memorandum on the UK Levelling-up and Regeneration Bill: evidence session

Note by the Clerk

Introduction

1. [The Levelling-up and Regeneration Bill](#) was introduced in the UK Parliament on 11 May 2022. The UK Bill forms part of the wider UK Government programme to 'level up the country' and reverse geographical disparities between different parts of the United Kingdom by spreading opportunity more equally. It makes provision for the setting of twelve levelling-up missions and reporting on progress in delivering them.
2. As the provisions set out in the Bill relate to matters which are devolved, or partly devolved, to the Scottish Government and Scottish Parliament, this has triggered a legislative consent process, whereby the Scottish Parliament is asked whether it consents to this new law being made in those areas.
3. On 27 July, the Scottish Government lodged a [Legislative Consent Memorandum](#) (LCM) on the Bill. The Scottish Government says that the Bill touches on devolved legislative or executive competence in three main areas—
 - "levelling-up missions";
 - planning law; and
 - environment law, via provisions to give the UK Government new powers to create a regime of "Environmental Outcomes Reports" (EORs).
4. On 21 September, the Scottish Parliament agreed to [refer the LCM to the Net Zero, Energy and Transport Committee as lead Committee](#). The Committee must consider and report on the LCM.
5. The Committee's scrutiny will focus on the Bill's impact on environmental law in Scotland, via provisions to give the UK Government new powers to create a regime of "Environmental Outcomes Reports" (EORs) across the UK.

Consent process for UK Bills making provision about devolved matters

6. Chapter 9B of the Scottish Parliament’s Standing Orders sets out a formal process to give the Scottish Parliament the opportunity to consent (or not) to UK legislation making provision in relation to devolved matters. An LCM lodged by the Scottish Government must —
 - summarise what the Bill does and its policy objectives;
 - specify the extent to which the Bill makes provision about devolved matters;
 - and either—
 - include the draft of a legislative consent motion that the Scottish Government intends to lodge in due course, explaining why it intends to lodge it; or
 - where the Scottish Government does not intend to lodge a legislative consent motion, explain why not.

7. A legislative consent motion is a motion seeking the Scottish Parliament’s consent to those provisions in the UK Bill affecting devolved matters. The absence of a draft legislative consent motion LCM is therefore a signal from the Scottish Government that it does not support the way or ways in which the UK Bill proposes to legislate in relation to devolved matters (or does not support some of those ways), for reasons that the LCM will set out. The Scottish Government has not provided a draft legislative consent motion for this LCM, the reasons for this are set out in further detail in the section below.

Overview of Bill and content of LCM

8. The Scottish Government’s view of the Bill is that it touches on devolved legislative or executive competence in several areas. However, the Net Zero, Energy and Transport Committee’s scrutiny will focus on—
 - The Bill’s impact on environmental law in Scotland, via provisions to give the UK Government new powers to create a regime of “Environmental Outcomes Reports” (EORs) across the UK

9. The UK Government [stated in a recent policy paper](#) that—

“[EORs] will replace the existing EU-generated systems of Strategic Environmental Assessment (including Sustainability Appraisals) and Environmental Impact Assessment and introduce a clearer and simpler process where relevant plans and projects (including Nationally Significant Infrastructure Projects) are assessed against tangible environmental outcomes set by government, rather than in Brussels.” Full details are available in Part 5 of the Bill.”

10. The Scottish Government’s view on Part 5 of the Bill and the introduction of EORs is laid out in paragraphs 6-8 of the legislative consent memorandum. It

does not consider that the UK Government has made a case for introducing EORs in Scotland.

Consideration of the LCM and next steps

11. At its meeting on 20 September 2022, the Committee agreed to issue a targeted ‘call for views’ on the LCM, seeking written evidence from relevant stakeholders.
12. At its meeting on 04 October 2022, the Committee will hold an evidence session on the LCM with the following panel of stakeholders—
 - Lloyd Austin, Convener, Governance Group, Scottish Environment LINK;
 - Robbie Calvert, Policy Practice and Research Officer, Royal Town Planning Institute Scotland;
 - David Melhuish, Director, Scottish Property Federation.
13. Stakeholders will be asked to share their views on the new regime of EORs and what implications its introduction may have on the current landscape of environmental regulations in Scotland.
14. The Committee expects to report to the Scottish Parliament on the LCM later this year and prior to the conclusion of the amending stages at the UK Parliament.