

# Social Justice and Social Security Committee 4<sup>th</sup> Meeting, 2023 (Session 6), Thursday 23 February

## Legislative Consent Memorandum – Social Security (Additional Payments) (No. 2) Bill

### Note by the Clerk

#### Introduction

1. [The Social Security \(Additional Payments\) \(No. 2\) Bill](#) is a UK Government Bill introduced in the House of Commons on 7 February 2023 and is following an expedited timetable. The Bill's Second Reading is taking place in the House of Commons on 21 February 2023. The second reading is the first opportunity for MPs to debate the main principles of the Bill. It is understood all other Commons stages will be taken in early March and it will then move to the House of Lords.
2. Ideally, the Scottish Parliament needs to take a view on legislative consent before the Bill has reached its last amending stage in the House of Commons. In practice this will mean the Committee considering and reporting on the Legislative Consent Memorandum (LCM) will need to happen by 6 March.

#### Legislative consent process

3. The process for considering consent to the relevant provisions in a UK Bill essentially commences with the publication, normally by the Scottish Government, of an LCM. The LCM relates to a Bill under consideration in the UK Parliament which contains what are known as "relevant provisions". These provisions could:
  - change the law on a "devolved matter" (an area of policy which the UK Parliament devolved to the Scottish Parliament in the Scotland Act 1998); or
  - alter the "legislative competence" of the Scottish Parliament (its powers to make laws) or the "executive competence" of Scottish Ministers (their powers to govern).

4. Under an agreement formerly known as the “Sewel Convention”, the UK Parliament will not normally pass Bills that contain relevant provisions without first obtaining the consent of the Scottish Parliament. The consent itself is given through a motion (a Legislative Consent Motion) which is taken in the Chamber – but the detailed scrutiny is undertaken by a Scottish Parliament committee based on the LCM.
5. The motion must normally be decided on before the Bill reaches its final amending stage at the UK Parliament in the House in which it was first introduced (although this can be as late as the last amending stage in the second house).
6. On occasion, a memorandum is lodged which invites the Parliament to note that the Scottish Government does not intend to lodge a legislative consent motion on a particular bill.
7. The detailed procedure for scrutiny of LCMs and Motions is set out in [Chapter 9B](#) of the Parliament’s Standing Orders.

## **Social Security (Additional Payments) (No. 2) Bill**

8. The Chancellor of the Exchequer in his [Autumn statement on 17 November 2022](#) announced new measures to help with the rising cost of living. They include means-tested cost of living payments (called ‘additional payments’ in the Bill) for the most vulnerable households. The means-tested additional payments will total up to £900 and will be made in three payments. The UK Government will also make payments of £150 to individuals in receipt of qualifying disability benefits.
9. According to the [Explanatory Notes](#), this Bill makes provision for additional payments from the 2023/24 financial year to recipients of means-tested benefits, tax credits and disability benefits to help with the increased costs of living. The payments detailed in the Bill are additional measures to those provided by [the Social Security \(Additional Payments\) Act 2022](#), which was also subject to an LCM.
10. The (No.2) Bill will apply to England, Wales Northern Ireland and Scotland.
11. The UK Government says that the payments will be delivered by the Department for Work and Pensions (DWP) and HMRC as new benefits reserved in Great Britain. Consequently, data sharing with the Scottish Government is needed to prevent duplication of payments or avoid people missing out on payments.
12. The additional expenditure resulting from the Bill will be funded by the UK Government.

13. The UK Government's view is that the new payments are fully reserved as they are payments responding to the cost of living crisis and therefore not within the scope of any exceptions to the Social Security Heading F1, [Schedule 5 of the Scotland Act 1998](#).

## Scottish Government Legislative Consent Memorandum

14. The Scottish Government, while agreeing with the policy, and noting that timescale does not allow for separate legislation, takes the view that the payments relate to devolved matters and therefore a Legislative Consent Motion is required.
15. The Parliament's procedures require any Legislative Consent Motion to be preceded by the lodging of a Legislative Consent Memorandum and its consideration by a committee. The Cabinet Secretary for Social Justice, Housing and Local Government, Shona Robison MSP, lodged memorandum LCM-S6-33 on 21 February 2023 and the Parliamentary Bureau is anticipated to refer this memorandum to the Committee, as 'lead committee'. The LCM is available on the Scottish Parliament website [here](#).
16. A motion was lodged by the Cabinet Secretary for Social Justice, Housing and Local Government on 21 February 2023. The motion says:

“That the Parliament agrees that the provisions of the Social Security (Additional Payments) (No. 2) Bill, introduced in the House of Commons on 7 February 2023, so far as they relate to matters that fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

## Decisions

- 17. Members are invited to consider whether to agree with the recommendation of the Scottish Government that the legislative consent motion should be agreed by the Scottish Parliament.**
- 18. Members are also asked to delegate agreement of a short, factual report on the outcome of the Committee's deliberations to the Convener and arrangements for its publication given the timescale.**