

Net Zero, Energy and Transport Committee
Tuesday 7 January 2025
1st Meeting, 2025 (Session 6)

Legislative Consent Memorandum on the Great British Energy Bill

Background

1. The [Great British Energy Bill](#) is a UK Government Bill introduced in the House of Commons on 25 July 2024. On 8 August 2024, the Scottish Government lodged a [Legislative Consent Memorandum \(LCM\)](#) on the Bill.
2. The Bill covers the whole UK. The UK Government's Explanatory Note says:

“The purpose of this Bill is to enable the Secretary of State for Energy Security and Net Zero to designate a company as Great British Energy and place it on a statutory footing. Great British Energy will be an operationally independent company wholly-owned by the Government. Its objects will be to facilitate, encourage and participate 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 energy security.”
3. The Net Zero Energy and Transport Committee has been referred the LCM for consideration, meaning it must report to the Scottish Parliament on it.
4. The Bill is at Committee Stage in the House of Lords. It will then move to Report Stage, which is the final stage where substantive amendments can be tabled.

Consent process for UK Bills affecting devolved matters

5. 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;
 - explain why the Scottish Government considers it appropriate that consent is given or refused.
6. A motion on legislative consent is a motion seeking consent to relevant provisions or seeking refusal of the Scottish Parliament's consent to provisions in the UK Bill affecting devolved matters. A UK Bill considered to trigger a need for an LCM may affect devolved competence in more than one way. A motion may therefore propose consent to some of these elements but non-consent to others.

Standing Orders specifies that a motion (whether consenting, refusing consent, or a mixture of both) should normally be lodged. If the Scottish Government does not intend to lodge a motion at the time of lodging the memorandum the LCM should explain why not.

Content of the LCM and further correspondence

7. The LCM states that the consent of the Scottish Parliament is required as the Bill “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”.

8. The LCM did not set out a position on consent and was missing detail in several places as analysis had not yet been carried out. It stated:

“the Scottish Government is presently of the view that a number of the Bill’s provisions relate to devolved matters. There has so far been limited time for engagement with the UK Government on the detail of these matters prior to the Bill’s introduction and as a consequence the Scottish Government is not presently in a position to make any recommendation to the Scottish Parliament as to consent. It is anticipated that the supplementary LCM will be lodged following further discussions with the UK Government, outlining the Scottish Government’s recommendations on consent. A full analysis is pending and the outcome of that analysis will be covered in the supplementary LCM. This is likely to be lodged by the end of September, based on current timescales for the second reading of the Great British Energy Bill.”

9. As of 23 December 2024, no supplementary LCM has been lodged. On 3 December, the Convener [wrote](#) to the Acting Cabinet Secretary for Net Zero and Energy, asking for an update on the supplementary LCM and for further details on which Bill provisions the UK and Scottish Governments were discussing.

10. The Acting Cabinet Secretary’s [response dated 11 December](#) (received 16 December) said there had been constructive discussions with the UK Government, with the UK Government expected to bring forward amendments the Scottish Government had asked for. It did not provide any details on what the amendments related to or when the analysis referred to in the LCM would be undertaken. The letter added that “Once an amendment can be tabled that would trigger the requirement for a supplementary LCM, we will take that forward as quickly as possible.” As noted above, the LCM had instead indicated that a supplementary LCM would be lodged on the completion of further analysis.¹

11. If, after an LCM for a UK Bill has been laid, that Bill is then amended in a way that would alter the executive competence of the Scottish Government or the legislative competence of the Scottish Parliament, or would make law in a devolved area, this would trigger a further LCM, commonly known as a

¹ As per quote in paragraph 8 above. Paragraph 16 of the LCM had also said: “A supplementary LCM will be lodged as soon as possible following the completion of further policy work on the Bill.”

“supplementary LCM”. However, this does not mean that it is not possible to lay a supplementary LCM unless such amendments are made.

12. The LCM procedure in Standing Orders is, overall, intended to ensure that any Committee has sufficient information from the Scottish Government, and time to reflect on it (including taking further evidence if it wishes) to make a report that will help the Scottish Parliament take an informed decision on consent. In cases where an LCM effectively sets out a holding position on any significant matter, there is an expectation that the Scottish Government will provide such additional information in a supplementary LCM to enable that deliberation before the Bill is at too advanced a stage at Westminster. The Scottish Government’s own stated position in this LCM also reflected that understanding.
13. Following a request at official level for more information, the Scottish Government provided a further [letter](#) on 19 December which explained that the amendments that had been requested related to Clause 5. Clause 5 requires the UK Government to consult the Scottish Ministers (and the other devolved governments) before including in a “statement of strategic priorities” for Great British Energy matters within devolved legislative competence. The letter says:

“Recognising previous Scottish Parliamentary interest in the mechanisms for scrutiny of UK Ministers exercising functions in devolved areas, the Scottish Government has been exploring potential changes to this provision. Following constructive discussions and agreement, we now expect the UK Government to lodge such an amendment.”

Next steps

14. Once it has taken evidence from the Scottish Government on 7 January, the Committee will discuss what further action to take in relation to the LCM, including whether more evidence or information is necessary, taking account of the UK Parliamentary timetable.
15. On 19 December 2024, the Convener [wrote](#) to the Secretary of State for Energy Security and Net Zero, inviting a member of the United Kingdom Government to provide evidence on the Bill, and asking for a response by 6 January. If this is accepted, a date for the evidence will be scheduled before the Bill’s final amending stage at Westminster.
16. The Net Zero, Energy and Transport Committee is likely to agree a short report on the LCM at a meeting in the near future.

**Clerks
Net Zero, Energy and Transport Committee
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