LEGISLATIVE CONSENT MEMORANDUM

Further Education and Training Bill

Motion

1. The motion to be put to the Parliament is:

“Further Education and Training Bill Legislative Consent Motion – UK Legislation: That the Parliament agrees that the relevant provisions of the Further Education and Training Bill, introduced in the House of Lords on 20 November 2006, relating to the devolved matters of training and employment, to alter the executive competence of the Scottish Ministers in respect of services to share information and assistance in relation to employment and training, and in respect of industrial training levies, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by Nicol Stephen, Deputy First Minister and Minister for Enterprise and Lifelong Learning, under Rule 9B.3.1 (a) of the Parliament’s standing orders. It relates to the Further Education and Training Bill, which was introduced in the House of Lords on 20 November 2006. The Bill can be found at:

http://www.publications.parliament.uk/pa/pabills/200607/further_education_and_training.htm

Summary of the Bill and its Policy Objectives

3. The Further Education and Training Bill implements the commitments made in the White Paper Further Education, Raising Skills, Improving Life Chances, published in March 2006. The Bill implements relevant aspects of the White Paper and introduces a number of provisions in relation to the constitution and functions of the Learning and Skills Council for England, institutions in the further education sector, enabling higher education corporations to form or be involved in companies and charitable incorporated organisations, conditions relating to levies under the Industrial Training Act 1982, and the powers of the National Assembly for Wales in relation to education and training. The Bill deals mostly with reserved matters in that the majority of provisions extend only to England and Wales.

4. However, there are three areas in which the Scottish Executive would like the Bill to apply to devolved areas. Those three areas are: enabling the Learning and Skills Council to facilitate both the Managing Information Across Partners programme and the efficient and effective operation of Career Development Loans, and also amendments to the Industrial Training Act 1982.

Consultation

5. There has been consultation with various stakeholders in Scotland regarding the Managing Information Across Partners programme, following which a report was produced which stakeholders subsequently endorsed. With regard to the amendment to the Industrial Training Act 1982, it is understood that this arose through representation from employer bodies to the Department for Education and Skills, and that the amendment should not be controversial. In respect of Career
Development Loans, this relates to procedure, and will formalise the route whereby instructions can be given to the Learning and Skills Council in respect of Scottish applicants.

Financial Implications

6. There are no financial implications.

Provisions in the Bill for which Consent is Sought

7. The following paragraphs describe the specific provisions for which consent of the Scottish Parliament is sought and provide background on their application in Scotland.

Provisions on Managing Information Across Partners

Clause 10 Provision of Services

Policy Intent

8. The Bill contains a provision enabling the Council to make arrangements for the provision of services to the Scottish Ministers but only with the consent of the Scottish Ministers. The Bill also contains a provision which confers an order making power on the Scottish Ministers to enable them to add to the list of persons and bodies with whom the Council may make arrangements.

Background

9. The Managing Information Across Partners programme aims to enable learner and learning data to be shared across the entire education sector within the UK. The programme is being taken forward in England by the Department for Education and Skills who have contracted with the Learning and Skills Council for implementation of the programme in England. The provisions in the Bill allow the Learning and Skills Council to make arrangements with persons and bodies in relation to the Council procuring goods and services and developing information technology systems.

Advantages of utilising this Bill

10. In Scotland a development group was established to take forward the Managing Information Across Partners programme ideas as appropriate for Scotland. The Scottish development group may recommend in future to make use of certain computer systems and other services (such as learner registration) that are being developed in England. Joining into software and procedures already developed could result in significant savings to Scotland as well as reduced bureaucracy for learners that participate in the Scottish and the English system during their lifetime.
Provisions on Career Development Loans

Clause 11 Assistance with respect to employment and training

Policy Intent

11. The provisions in the Bill are to allow the Learning and Skills Council to take part in any arrangements for assisting persons with respect to employment, as instructed by the Scottish Ministers, as agreed by the Department for Education and Skills.

Background

12. Career Development Loans are advanced under section 2 of the Employment and Training Act 1973 which is a function shared between the Scottish Ministers and the Ministers of the Crown in terms of section 56 of the Scotland Act 1998. This is a UK-wide loan scheme initially operated by the Department for Education and Skills, with responsibility transferred to the Learning and Skills Council from 1 April 2005. The scheme is aimed at helping people who want to enhance their qualifications or change career, and takes the form of a deferred repayment bank loan to help pay for vocational learning. The administration for Career Development Loans is carried out by the Learning and Skills Council. Currently, only the Department for Education and Skills can instruct the Learning and Skills Council.

Advantages of utilising this Bill

13. This is a procedural change which will regularise the legislative basis for the Learning and Skills Council to deliver the scheme for Scottish learners. By formalising the route whereby instructions can be given by the Scottish Ministers to the Learning and Skills Council in respect of Scottish applicants, there is a clearer line of accountability in respect of Scottish learners. The Bill will enable the Scottish Ministers to vary the eligibility criteria for Career Development Loan learners, and/or providers, should there be a wish to meet specific Scottish circumstances.


Clause 23 Conditions relating to levy proposals

Clause 24 Duration of levy orders

Policy Intent

14. Provisions are included in the Bill to amend the requirement that Industry Training Boards demonstrate consensus for their levy proposals solely by reference to relevant organisations. The Bill achieves this change by repealing the definition of “the relevant organisations” which is now seen as being too narrow and no longer representative of an industry, and broadening out the categories to provide consensus to the amount of levy payable to representative organisations and employers who are likely to be able to pay the levy. There are also provisions inserted which specify the period of time to be covered by levy proposals.
Background

15. The Industrial Training Act 1982 allows for Industry Training Boards. Construction Industry Training Board and the Engineering Construction Industry Training Board are currently the only Industry Training Boards in existence. Industry Training Boards collect an annual levy from liable employers. Grants are then given to employers who train. Industry Training Boards have to gain consensus, on an annual basis, to continue to collect the levy, and on the amount levied to each business. The amount paid by each business is based on their wage bill. The amendments to the Industrial Training Act are to ensure that consensus to the amount of levy, charged annually, is obtained from a wider range of relevant organisations within the relevant industry. Current requirements limit the organisations that are consulted and are seen as being too restrictive.

Advantages of utilising this Bill

16. This change to the Industrial Training Act 1982 will ensure the legislation is more reflective of employers’ wishes. It will also ensure that as wide a range of Scottish businesses are consulted annually on the levy and that Scotland is consistent with England and Wales around the range of businesses consulted.

Scottish Executive
November 2006