Economy, Energy and Tourism Committee

1st Report, 2011 (Session 4)

Legislative Consent Memorandum on the Devolution (Time) Bill (LCM (S4) 3.1)
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Economy, Energy and Tourism Committee

Remit and membership

Remit:

The remit of the Committee is to consider and report on the Scottish economy, enterprise, energy, tourism and renewables and all other matters within the responsibility of the Cabinet Secretary for Finance, Employment and Sustainable Growth apart from those covered by the remit of the Local Government and Regeneration Committee and matters relating to the Cities Strategy falling within the responsibility of the Cabinet Secretary for Health, Wellbeing and Cities Strategy.

Membership:

Chic Brodie
Gavin Brown (Convener)
Rhoda Grant
Patrick Harvie
Angus MacDonald
Mike MacKenzie
Stuart McMillan
Anne McTaggart
John Wilson (Deputy Convener)

Committee Clerking Team:

Clerk to the Committee
Stephen Imrie

Senior Assistant Clerk
Joanna Hardy

Assistant Clerk
Diane Barr
Introduction

1. The Devolution (Time) Bill\(^1\) was introduced in the House of Lords on 15 December 2010. As the Bill makes provisions applying to Scotland for purposes that lie within the legislative competence of the Scottish Parliament and that alter the executive competence of the Scottish Ministers, a legislative consent memorandum (LCM(S4) 3.1)\(^2\) was lodged by the Scottish Government (see Annexe A).

Background

2. The Bill aims to make provision for the devolution of timescales, time zones and the subject-matter of the Summer Time Act 1972. As currently drafted, the provisions in the Bill which will extend to Scotland are those outlined in the first clause of the Bill. This clause seeks to omit the relevant sentence from section L5 of Schedule 5 of the Scotland Act 1998 which reserves “timescales, time zones and the subject-matter of the Summer Time Act 1972”.

3. A previous Legislative Consent Memorandum (LCM) was lodged with the Scottish Parliament for the Lighter Evenings (Experiment) Bill in 2006. This Bill did not achieve Royal Assent and the Scottish Government do not expect the current Bill to complete progress through the UK Parliament in the time likely to be available to it in the current parliamentary session. Having previously canvassed Scottish stakeholders on this matter in early 2010, the Scottish Government would not support any proposal to alter the current system of timekeeping as it does not believe there are compelling reasons to change.

4. The Scottish Government has not been consulted on the provisions of the Bill as it is a Private Members Bill. It has requested that the pre-legislative scrutiny applied to UK Government Bills be extended to all Bills which are to be introduced at the UK Parliament.

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\(^1\) [http://www.publications.parliament.uk/pa/ld201011/ldbills/034/11034.1-i.html](http://www.publications.parliament.uk/pa/ld201011/ldbills/034/11034.1-i.html)

5. In light of the above, the Cabinet Secretary for Finance, Employment and Sustainable Growth did not lodge a legislative consent motion.

6. The Economy, Energy and Tourism Committee considered the LCM on 5 October 2011.

Conclusion

7. The Committee agreed to note the LCM and to endorse the Scottish Government’s view that pre-legislative scrutiny to establish compatibility with the Sewel Convention and any consequent requirement for legislative consent should apply to all Bills introduced to the UK Parliament.
LEGISLATIVE CONSENT MEMORANDUM

DEVOLUTION (TIME) BILL

1. The Cabinet Secretary for Finance, Employment and Sustainable Growth invites the Parliament to note that the Scottish Government does not intend to lodge a Legislative Consent Motion to seek consent in respect of the Devolution (Time) Bill (“the Bill”). The Bill was introduced in the House of Lords on 15 December 2010.

Background

2. This memorandum has been lodged by John Swinney, Cabinet Secretary for Finance, Employment and Sustainable Growth, under Rule 9.B.3.1(b) of the Parliament’s standing orders. The Devolution (Time) Bill was introduced to the House of Lords by Lord Tanlaw on 15 December 2010. The text of the Bill can be found at:


Content of the Devolution (Time) Bill

3. The Bill aims to make provision for the devolution of timescales, time zones and the subject-matter of the Summer Time Act 1972. The Bill extends to Scotland and would devolve the currently reserved definitions of time, as established by the Summer Time Act 1972, to be within the legislative competence of the Scottish Parliament.

Provisions Which Relate to Scotland

4. As currently drafted, the provisions in the Bill which will extend to Scotland are those outlined in the first clause of the Bill. This clause seeks to omit the relevant sentence from section L5 of Schedule 5 of the Scotland Act 1998 which reserves “timescales, time zones and the subject-matter of the Summer Time Act 1972”. Removing this reservation from the Scotland Act 1998 would devolve the matter to be within legislative competence of the Scottish Parliament. Making alteration to the legislative competence of the Scottish Parliament makes this a ‘relevant’ Bill as defined by standing orders and this Bill would therefore require the consent of the Scottish Parliament under the Sewel Convention.

Why no Legislative Consent Motion is being lodged

5. There has been continued debate around the issue of daylight savings for some years now. A previous Legislative Consent Memorandum was lodged with the Scottish Parliament under standing orders Rule 9B.3.1(b) for the Lighter Evenings (Experiment) Bill in 2006. The Lighter Evenings Bill did not achieve royal assent and we do not expect the current Bill to complete progress through the UK Parliament in the time likely to be available to it in the current parliamentary session. There is a convention in relation to Private Members Bills introduced in.
the Lords whereby the UK Government will not oppose the progress of such Bills in that House. However this courtesy does not extend to the Commons and as the UK Parliament’s website notes: “Lords Private Members’ Bills are treated like other Private Members’ Bills, but do not have priority over Bills introduced in the Commons. They are therefore unlikely to have much, if any, time devoted to them”.

6. Having previously canvassed Scottish stakeholders on this matter in early 2010, the Scottish Government would not support any proposal to alter the current system of timekeeping as we do not believe there are compelling reasons to change. Ministers have consistently argued that the priorities for changes to the devolution settlement should relate directly to the economic or social benefits they could deliver. On current evidence, time should remain synchronised throughout the home nations as long as Scotland remains part of the UK.

7. The Scottish Government has not been consulted by Lord Tanlaw on the provisions of this Bill. In our view, this reflects a failing in the UK Parliament’s pre-legislative scrutiny process for Private Members Bills. Whereas UK Government Bills will receive pre-legislative scrutiny to establish compatibility with the Sewel convention and any consequent requirement for legislative consent, this process does not apply to Private Members Bills.

8. The Scottish Government would welcome the pre-legislative scrutiny applied to UK Government Bills being extended to all Bills which are to be introduced at the UK Parliament. Such a measure was recommended by the Calman Commission (Recommendation 4.2), but this has not been taken forward.

**Conclusion**

9. The Parliament will wish to note that Scottish Government does not intend to lodge a Legislative Consent Motion for the UK Devolution (Time) Bill.

*Scottish Government*
*September 2011*
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