Parliamentary Bureau - Supplementary Legislative Consent Memorandum

Sustainable Aviation Fuel Bill (UK Legislation)

Introduction

1. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

The Sustainable Aviation Fuel Bill

2. An LCM was lodged by Fiona Hyslop MSP, Cabinet Secretary for Transport, on 24 July 2025, under Rule 9B.3.1(b) of the Parliament's Standing Orders. In the original LCM, the Scottish Government noted that it was not in a position to make any recommendation to the Parliament on consent for clauses 1, 3, 10, 11(2) and (5) and the schedule, so far as they relate to devolved matters. The relevant provisions include, among other things, powers for the Secretary of State which could be exercised, by way of regulations, in relation to devolved matters.

3. This supplementary LCM was lodged by the Cabinet Secretary for Transport on 27 October 2025. This supplementary LCM has been lodged to update the Scottish Government's consent recommendation following discussions with the UK Government, as well as the tabling of an amendment to the Bill on 6 October 2025 by the UK Government, which is considered to relate to devolved matters.

4. The Bill enables the Secretary of State to fund financial assistance, by way of a levy imposed on suppliers of aviation fuel, to a designated counterparty (a company limited by shares, with shares held by a Minister of the Crown) so that the counterparty may, at the direction of the SoS, enter into revenue certainty contracts with sustainable aviation fuel (SAF) producers. This is intended to reduce revenue risk in relation to the production of SAF and support SAF production in the UK, leading to a reduction in aviation emissions.

5. The purpose of clauses 1 to 5, 10, 11(2) to (5), and 12 to 19 is to reduce aviation emissions by incentivising SAF production. These are considered to relate to the control of pollution and the protection of the environment, which fall within the legislative competence of the Scottish Parliament, subject to any reservations.

6. The relevant amendment will enable the Secretary of State to direct a "relevant company" (which is defined as a company limited by shares held by a Minister of the Crown) to provide any assistance that the Secretary of State may require for the purposes of identifying producers in respect of which to make a direction to offer a revenue certainty contract. The amendment will also enable the Secretary of State to make payments to the relevant company in respect of that assistance. The UK Government considers the amendment to be relatively minor and technical.

7. The Scottish Government considers that a supplementary LCM is required as:

- The UK Government has tabled a proposed amendment to clause 1 of the Bill, which was not covered by the original LCM; and
- The Scottish Government has now reached a position in relation to clauses 1, 3, 10, 11(2) to (5) and the schedule, along with a proposed amendment to clause 1.

8. This supplementary LCM sets out the Scottish Government's recommendation that the Parliament withhold consent to the provisions covered by the supplementary LCM due to its concerns regarding the regulation-making powers at clauses 1(6), 3(1), 10(1) and 11(4) remaining unresolved by the UK Government. The Scottish Government's concerns relate to a lack of formal role for the Scottish Ministers in the regulation-making powers. The Scottish Government sets out in the supplementary LCM that efforts to reach an agreement with the UK Government are ongoing but, in the meantime, it recommends that the Parliament withhold consent to these provisions.

Designation of lead committee

9. The LCM engages the remit of the Net Zero, Energy and Transport Committee, which took evidence on the initial LCM on 30 September 2025. The Committee's remit includes, among other things, to consider and report on matters falling within the responsibility of the Cabinet Secretary for Transport. The Cabinet Secretary is responsible (among other things) for decarbonisation and just transition of transport. She is supported by the Minister for Agriculture and Connectivity, Jim Fairlie MSP, who is responsible (among other things) for aviation and air services.

10. As the relevant provisions of the Bill relate to reducing aviation emissions, they fall within the responsibilities of the Cabinet Secretary for Transport, who has lodged the supplementary LCM, and the Minister for Agriculture and Connectivity in his capacity as a transport minister. As such, the relevant provisions in the Bill would appear to fall within the remit of the Net Zero, Energy and Transport Committee.

11. The initial LCM was considered by the Delegated Powers and Law Reform (DPLR) Committee in relation to provisions in the Bill conferring powers on UK Ministers to make subordinate legislation in devolved areas. This was considered in terms of the Committee's wider remit, contained in Rule 6.11.1(b) of the Standing Orders, which provides that the remit of the Committee includes considering and reporting on proposed powers to make subordinate legislation in particular bills "or other proposed legislation."

Recommendation

12. The Bureau is invited to refer, under Rule 9B.3.5 of Standing Orders, the supplementary LCM on the Sustainable Aviation Fuel Bill to the Net Zero, Energy and Transport Committee as lead committee.

Parliamentary Business Team
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