



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Gillian Martin MSP
Acting Cabinet Secretary for Net Zero and Energy

7 May 2025

Dear Cabinet Secretary,

Planning and Infrastructure Bill LCM

At the meeting of the Delegated Powers and Law Reform Committee on Tuesday, 6 May, the Committee considered the powers to make subordinate legislation within devolved competence conferred on Scottish Ministers and UK Ministers in the above Bill.

It agreed to ask the following questions to the Scottish Government.

In relation to:

Clause 14(2), inserting new paragraph 1A in Schedule 8 of the Electricity Act 1989: power to make provision about applications made to the Scottish Ministers for consent under sections 36 or 37 of the 1989 Act

Clause 14(4), inserting new paragraph 2A(12) in Schedule 8 of the Electricity Act 1989: power to amend the procedure for a reporter considering an objection to an application

Clause 14(5), inserting new paragraph 7B in Schedule 8 of the Electricity Act 1989: power to specify time limits for actions in relation to applications for consent under sections 36 and 37

Clause 15, inserting new section 37A(2) in the Electricity Act 1989: power to set out the process for varying a section 37 consent

Clause 15, inserting section 37B(2) in the Electricity Act 1989: power to set out process for varying consents due to change of circumstances

Clause 15, inserting section 37C(4) in the Electricity Act 1989: power to set out the process for correction of errors in consent documents

The Committee noted that the powers relate to matters for which the Scottish Ministers have executive competence (administering and determining applications for consents under sections 36 and 37 of the Electricity Act 1989), but which do not fall within the Scottish Parliament's legislative competence. The Committee also

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noted that the powers are conferred jointly on UK and Scottish Ministers, with a requirement for Ministers (in either administration) to consult their counterparts in the other administration before making regulations under the powers.

The Committee seeks to understand how decisions will be made about which administration will exercise the powers, given the implications of that choice for Scottish Parliamentary scrutiny. In instances where the Secretary of State is to exercise the power, the Committee requests information about how the Scottish Government will facilitate Scottish Parliament scrutiny of the proposed policy.

As such, the Committee asks:

1. How decisions will be made regarding which authority will exercise these powers? And
2. How the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of the policy approach to making these regulations, where the power within devolved executive competence is exercised by the Secretary of State?

In relation to:

Clause 20: power to amend the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017

The Committee asks, as the power is exercisable within the Scottish Parliament's legislative competence:

1. Why it has been decided that this power should be exercisable concurrently, rather than being conferred solely on the Scottish Ministers? And
2. Why it is subject to a requirement to consult the Scottish Ministers when exercised by the Secretary of State, rather than a requirement to obtain the Scottish Ministers' consent?

Similarly to the previous powers, as these powers are conferred concurrently, the Committee asks:

3. How decisions will be made regarding which authority will exercise these powers? And
4. How the Scottish Government intends to facilitate scrutiny by the Scottish Parliament of the policy approach to making these regulations, where the power within legislative competence is exercised by the Secretary of State?

The Committee requests a response by **Tuesday, 13 May**. The Committee appreciates this is a short deadline, but it is seeking to report to the lead committee in the Scottish Parliament ahead of it concluding its scrutiny of this LCM.

This letter is also being copied to the Net Zero, Energy and Transport Committee. Please also copy your response to them.

Yours sincerely,

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Stuart

Stuart McMillan MSP
Convener

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