This Supplementary Legislative Consent Memorandum relates to the Cyber Security and Resilience (Network and Information Systems) Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 10 September 2026

Supplementary Legislative Consent Memorandum

Cyber Security and Resilience (Network and Information Systems) Bill

Background

1. This memorandum has been lodged by Neil Gray MSP, Cabinet Secretary for Justice in accordance with Rule 9B.3.1(a) of the Parliament's Standing Orders. It should be read in conjunction with the Scottish Government's previous memorandum on the Bill, see LCM-S6-70 ("the original LCM").

2. The Cyber Security and Resilience (Network and Information Systems) Bill ("The Bill") was introduced by the UK Government in the House of Commons on 12 November 2025, with a carry-over motion on 6 January 2026. The Bill was then reintroduced on 14 May 2026. The Bill is available on the UK Parliament website via this link: https://bills.parliament.uk/bills/4035.

3. This Supplementary Legislative Consent Memorandum addresses clauses within the Bill where no recommendation on consent was made in the original LCM lodged on 6 January 2026.

Content of the Bill

4. The Bill makes provision, including provision amending the Network and Information Systems Regulations 2018 ("the NIS Regulations"), about the security and resilience of network and information systems used or relied on in connection with the carrying on of essential activities.

5. The NIS Regulations apply to energy, transport, water and healthcare, online marketplaces, search engines and Cloud computing services. The regulations require:

- designated competent authorities to regulate specific sectors. (The Scottish Ministers are the designated competent authority in Scotland for the health sector and the Drinking Water Quality Regulator is the designated competent authority for the drinking water sector.)
- relevant operators to take appropriate security measures and report incidents that significantly impact the continuity of their services.

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6. The Bill is in five parts:

- Part 1 sets out the purpose and structure of the Bill.
- Part 2 of the Bill amends the NIS Regulations to protect more digital services and supply chains, such as data centres, large load controllers, managed service providers and designated critical suppliers. It also gives enhanced powers to competent authorities, including in relation to information sharing, incident reporting and enforcement.
- Part 3 of the Bill confers powers on the Secretary of State to further specify activities which are to be regulated and to designate regulatory authorities to carry out that regulation. The Secretary of State is also given powers to designate a statement of strategic priorities, issue a code of practice for regulatory authorities and a power to make regulations relating to the security and resilience of network and information systems which are used or relied on in connection with the carrying on of essential activities.
- Part 4 gives the Secretary of State the power to give directions to regulated persons and regulatory authorities, where threats relating to network and information systems pose a risk to national security.
- Part 5 outlines the territorial extent of the Act and the commencement arrangements for different provisions within the Act.
- For the purpose of this memorandum, Parts 3 and 4 are of particular relevance.

7. Ahead of the Grand Committee Stage, the UK Government has also tabled amendments which introduce a vendor-related directions clause and consequential amendments to Parts 1, 3 and 4.

8. Grand Committee Stage has now concluded and, whilst these amendments have not been agreed, we expect UK Government to re-table them at Lords Report Stage.

9. Network and information systems support a wide range of functions in the health and drinking water sectors in Scotland and therefore the Bill has direct implications for these.

Provisions which require the consent of the Scottish Parliament

10. The Bill is a relevant Bill under Rule 9B.1.1 of the Standing Orders.

11. The Bill's provisions relate to matters which are reserved under Schedule 5 of the Scotland Act 1998; national security (Head B8) and wireless telegraphy (Head C10). It would not be within the legislative competence of the Scottish Parliament to make provision for the purpose of those reserved matters.

12. However, the Bill also alters the executive competence of the Scottish Ministers in their role as a designated competent authority under the NIS Regulations. This includes new powers, the expansion of existing powers and also new legal duties with which the Scottish Ministers would have to comply.

13. The UK Government view is that consent is required for clauses 12, 17, 19-22, 27-29, 31-35, 45-51 and 56.

14. The Scottish Government agrees with the UK Government view but is of the opinion that consent is also required for clauses 15, 18, 23, 25, 26, 30, 38, 40, 41, 52 and Schedule 1 and 2. These clauses have the potential to indirectly alter the functions of the Scottish Ministers due to their role as a designated competent authority under the NIS Regulations or through consequential amendments to primary legislation.

Reasons for recommending legislative consent

15. The Scottish Government supports the Bill's overall aims as they are designed to enhance the regulation, improve cyber security and resilience of key sectors. The Bill aligns with the visions and outcomes of the Scottish Government's Strategic Framework for a Cyber Resilient Scotland in terms of improving critical sectors' cyber security and resilience, including the devolved health and drinking water sectors.

16. In the original LCM, the Scottish Government recommended that consent be given for clauses 12, 15, 17-23, 33, 38, 40, 46-52, 56 and Schedules 1 and 2 (see LCM-S6-70 for a full discussion of those provisions).

17. The previous LCM also highlighted clauses 25-32, 34, 35, 41 and 45 where further discussions were required. The Scottish Government has worked closely with UK Government to review the clauses, clarify the scope and intentions and reach agreement on the practical implementation of the Bill.

18. Clauses 25-28 allow the Secretary of State to designate a statement of strategic priorities and lay a report on how regulatory authorities, including devolved competent authorities, have complied with their duties.

19. Clause 25 allows the Secretary of State to designate a statement of strategic priorities (SSP). The SSP sets out the roles, responsibilities and the objectives for regulatory authorities. This clause allows the Secretary of State to place new duties on regulatory authorities, including the Scottish Ministers, which would amount to an alteration of executive competence.

20. Clause 26 outlines consultation processes and procedures related to the SSP. It places a requirement on the Secretary of State to consult with regulatory authorities on a draft of the strategic statement. This is a new legal entitlement for the Scottish Ministers, as a regulatory body, which alters their executive competence.

21. Clause 27 places a legal obligation on regulatory authorities to have regard to the SSP, when exercising any of their functions and also to seek to achieve any relevant objectives set out in the statement. This would alter the way in which regulatory authorities would be required to carry of their functions. As a regulatory authority, this alters the executive competence of the Scottish Ministers.

22. Clause 28 requires the Secretary of State to lay before parliament, at the end of each reporting period, a report setting out how regulatory authorities have complied with their duties under clause 26, and how they are planning to comply with those duties in the subsequent reporting period. There is also a power, for the purpose of the report, for the Secretary of State to issue a notice to regulatory authorities, which would require the authority to provide such information as specified in the notice. As a regulatory authority, this applies to the Scottish Ministers and therefore alters their executive competence.

23. For clauses 25-28, whilst there is no requirement to obtain the consent of the Scottish Ministers in relation to the SSP and necessary reporting, on a practical level the Scottish Government will be involved its development and the Scottish Ministers, in their role as a competent authority, will be consulted on the SSP. Therefore, the Scottish Government recommends that consent be granted for clauses 25-28.

24. Clauses 29 allows the Secretary of State to make further regulations relating to the security and resilience of network and information systems.

25. This includes regulations in connection with the identification, management and reduction of risks in relation to relevant network and information systems and also the mitigation of adverse impacts. They could also confer functions on "regulated persons”, as a result of clause 30(1). As a competent authority, this includes the Scottish Ministers as a result of the definition in clause 24(8)(a). That clause states that persons designated as competent authorities under regulation 3(1) of the NIS Regulations are to be treated as being designed as a “regulatory authority” for the purposes of Part 3 of the Bill. Therefore, clause 29 alters of the executive competence of the Scottish Ministers.

26. Clauses 30, 31, 34 and 35 establish the parameters to shape the powers under clause 29 to make the new regulations.

27. For clauses 29, 30, 31, 34 and 35, whilst there is no statutory requirement to obtain the consent of the Scottish Ministers, on a practical level the Scottish Ministers, in their role as a competent authority, will be consulted if powers are exercised in a way that confers functions on devolved regulatory authorities. Therefore, the Scottish Government recommends that consent be granted for clauses 29-31, 34 and 35.

28. Clause 32 permits the Secretary of State, when making regulations under clause 29(1), to make provisions for or in connection with the imposition of financial penalties by regulatory authorities. This includes the amount of penalty to be imposed, how it is to be determined and how regulatory authorities are to deal with sums received. As a regulatory authority, this is an alteration of the executive competence of the Scottish Ministers.

29. For clause 32, whilst there is no statutory requirement to obtain the consent of the Scottish Ministers, on a practical level the Scottish Ministers, in their role as a competent authority, will be consulted before any financial liabilities are imposed on devolved bodies. Therefore, the Scottish Government recommends that consent be granted for clause 32.

30. Clause 41 (regulations under section 24 or Chapter 3) introduces powers that allows the Secretary of State to make consequential amendments to primary legislation, including Acts of the Scottish Parliament, when making regulations under clause 24 or Chapter 3 of the Bill.

31. Section 28(8) of the Scotland Act 1998 recognises that the United Kingdom Parliament will not normally legislate on devolved matters without the consent of the Scottish Parliament. Clause 41 would allow the UK Government to modify devolved primary legislation without any statutory requirement to obtain the consent of the Scottish Ministers.

32. However, the powers are narrowly focused to ensure that UK Government may only make consequential amendments when necessary to address specific, urgent and significant national security threats and risks. Therefore, the Scottish Government recommends that consent be granted for clause 41.

33. Clause 45 confers powers on the Secretary of State to direct regulatory authorities to do certain things. Although the Scottish Ministers are specifically excluded from that power, clause 45(9) would give them the authority to comply with a request made by the Secretary of State. Complying with such a request would amount to a new function for the Scottish Ministers as a regulatory authority and thus would amount to a modification of their executive competence. The direction-making power would also cover the Drinking Water Quality Regulator for Scotland and would amount to a modification of its functions.

34. For clause 45, whilst there is no requirement to obtain the consent of the Scottish Ministers within the Bill, the UK Government has provided assurances that in practice the Secretary of State will seek to engage with the Scottish Ministers before issuing a direction to the Drinking Water Quality Regulator for Scotland. Therefore, the Scottish Government recommends that consent be granted for clause 45.

Vendor-related amendments

35. The UK Government tabled amendments ahead of the Grand Committee which would introduce a vendor-related directions clause with consequential amendments to clauses 45, 47, 48, 49 and 52.

36. These vendor-related directions clause would allow UK Government to impose restrictions on the use of certain goods or services by regulated bodies in response to national security concerns. The consequential amendments add references to vendor-related directions to the clauses already in the Bill. This would bring vendor-related directions into the scope for the monitoring, compliance, financial penalties and non-

disclosure regimes. They would also enable formal contravention notices to be issued by competent authorities for breaches of vendor-related directions.

37. These amendments would not alter the overarching aims of the relevant clauses and would not alter the executive competence of the Scottish Ministers beyond the issues addressed in the previous LCM. In addition, the amendments provide UK Government with mechanisms to support competent authorities in addressing supply chain threats to national security. Therefore, the amendments do not change the recommendation that consent be granted for clauses 45, 47, 48, 49 and 52.

Current position

38. The cyber threat landscape continues to evolve with heightened global tensions and emerging technologies such as Artificial Intelligence accelerating the need for increasingly robust cyber security across essential services. The Bill seeks to ensure that consistent powers across essential service sectors are in place to allow an effective response to any significant national security threats that arise.

39. On balance, the Scottish Government considers that the ability of acting at speed to mitigate specific national security concerns, combined with the Scottish Ministers' role as a competent authority under the NIS Regulations and the Scottish Government's role in the practical implementation of the Bill, support recommending legislative consent for clauses 25-32, 34, 35, 41 and 45 in addition to the clauses covered by the original LCM.

Consultation

40. No separate formal consultation has been undertaken in respect of the UK Government amendments. The Scottish Government has been informed of the proposed amendments through engagement with the Department for Culture, Media and Sport during the Bill's Parliamentary passage.

Financial implications

41. No significant additional financial implications are anticipated. Any administrative impacts on regulatory authorities and regulated bodies are expected to be manageable within existing resources.

Post EU scrutiny

42. These provisions are relevant to the Scottish Government's policy to maintain alignment with the EU as they go some way to bridging the gap between the current NIS Regulations and the EU NIS2 Directive. In particular, the Bill aligns with NIS2 on incident notification timelines, regulation of managed service providers and encouraging alignment with established cyber security frameworks. The Bill also creates the powers necessary to expand the scope of the NIS regulations and allow closer alignment in the future.

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Conclusion

43. In conclusion, the Scottish Government agrees with the UK Government's view of the devolution position for this Bill in relation to the clauses they identified as requiring legislative consent (paragraph 13). However, the Scottish Government has highlighted further clauses which indirectly impact on devolved matters (paragraph 14) where clauses have the potential to alter the functions of the Scottish Ministers due to their role as a designated competent authority under the NIS Regulations or through consequential amendments to primary legislation.

44. The Scottish Government supports the overall aims of the Bill which should help to improve the cyber security and resilience of essential services in Scotland.

45. The Scottish Government is therefore recommending consent to the relevant clauses, including as amended by the vendor-related directions amendments tabled by UK Government ahead of Grand Committee.

46. The Scottish Government will continue to engage with the UK Government during the Bill's passage. It is the Scottish Government's understanding that the intended timescales for the Bill's passage through UK Parliament would necessitate voting on the Motion on Legislative Consent ahead of the Scottish Parliament's October recess. The Scottish Government will do what it can to facilitate Parliament's scrutiny within that timescale.

Draft motion on legislative consent

47. The draft motion, which will be lodged by the Cabinet Secretary for Justice, is:

> "That the Parliament, noting that the Cyber Security and Resilience (Network and Information Systems) Bill, introduced in the House of Commons on 12 November 2025 and reintroduced on 14 May 2026, so far as these matters fall within the competence of the Scottish Parliament, or alter the executive competence of the Scottish Ministers, agrees to give consent to such provision as is made by clauses 12, 15, 17-23, 25-35, 38, 40, 41, 45-52, 56, Schedule 1 and Schedule 2."

Scottish Government
September 2026

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