

Legislative Consent Memorandum

Steel Industry (Nationalisation) Bill

Background

1. This memorandum has been lodged by Stephen Flynn MSP, Cabinet Secretary for Economy, Tourism and Transport in accordance with Rule 9B.3.1(a) of the Parliament's standing orders.

2. The Steel Industry (Nationalisation) Bill was introduced by the UK Government in the House of Commons on 14 May 2026. The Bill is available on the UK Parliament website via this link: [Steel Industry \(Nationalisation\) Bill - Parliamentary Bills - UK Parliament](#).

Content of the Bill

3. The Bill confers powers on the Secretary of State to transfer the shares or property of a steel undertaking into the ownership of the Secretary of State, a nominee of the Secretary of State, or a company wholly owned by the Secretary of State. A "steel undertaking" is defined in this context as an undertaking that carries on a business consisting of or including the manufacture or processing of steel, or the manufacture or processing of iron to be used solely for making steel. These powers are exercisable by regulations and may take one of two forms: share transfer regulations, or property transfer regulations (referred to in the Bill as "the principal transfer powers").

4. Clause 2 of the Bill provides that the principal transfer powers may be exercised only if the Secretary of State considers it necessary to do so in the public interest. "Public interest" in this context includes, but is not limited to, the public interest in:- (i) defence and national security; (ii) the construction, maintenance and operation of critical infrastructure in the UK; and (iii) supporting the economy of the UK or any part of the UK. The principal transfer powers may be exercised within a 2-year period beginning with the day on which the Bill is passed, meaning the powers are subject to a 'sunset' clause. There is also, however, a delegated power in clause 3 of the Bill that would allow this 2-year period to be extended through regulations subject to the affirmative procedure.

5. Clauses 4-14 of the Bill make detailed provision as to the permissible contents, effect and operation of share transfer regulations. Share transfer regulations may provide for securities issued by a specified steel undertaking to be transferred to the Secretary of State, a nominee of the Secretary of State, or a company wholly owned by the Secretary of State. "Securities" in this context includes shares and stock as well as debentures and warrants or other instruments entitling

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the holder to acquire stocks and shares or debentures. Clause 6 of the Bill provides that share transfer regulations are to override any restriction in a contract or other legislation, and they may also allow the Secretary of State to appoint and remove directors and senior managers of steel undertakings or to vary or terminate the contracts of such individuals. Clauses 13 and 14 of the Bill confer further powers enabling the onward transfer of securities to another owner, or reverse share transfer regulations, meaning the shares can be transferred back to the original owner.

6. Clauses 15-30 of the Bill make more detailed provision about property transfer regulations. The clauses in this group make similar provision to clauses 4-14 but for property transfer regulations, and they include provision for the effect of a property transfer, for continuity arrangements, in respect of directors etc., as well as including provision for onward property transfer or reverse property transfer, parallel to clauses 13 and 14 for share transfers. The remaining clauses in Part 1 make additional wide-ranging provision in connection with the principal transfer powers, including provision about continuity of a steel undertaking's operations following a transfer; provision regarding the enforcement of obligations imposed by or under the principal transfer regulations; and provision for the fiscal consequences of a transfer.

7. Part 2 of the Bill makes provision in connection with compensation. Clause 52 provides that the Secretary of State must make regulations for, or in connection with, the payment of compensation in connection with the exercise of a principal transfer power. Compensation scheme regulations may provide for the amount of any compensation to be determined by an independent valuer.

8. Part 3 of the Bill makes provision in connection with financial assistance. Clause 58 provides that the Secretary of State may provide financial assistance to any person in connection with, or in consequence of, the exercise of a power conferred by Part 1 of the Bill in relation to a steel undertaking. Clause 59 requires the Secretary of State to prepare reports about financial assistance provided under clause 58.

Provisions which require the consent of the Scottish Parliament

9. The Bill is a relevant Bill within Rule 9B.1.1 of the Standing Orders, as it makes provision applying to Scotland for purposes within the legislative competence of the Scottish Parliament.

10. The Scottish Government's view is that legislative consent is required for the majority of the provisions in the Bill, but generally only to the extent that the principal transfer powers are exercisable for a public interest purpose that relate to devolved matters. Neither steel nor the steel industry are matters which are reserved to the UK Parliament. The Scottish Government accordingly considers that the question of whether the powers conferred by the Bill relate to reserved matters or not, is to be determined by reference to the purpose of the proposed nationalisation and the nature of the public interest in it. Further detail on the extent to which the Bill includes

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provision for a purpose within the legislative competence of the Scottish Parliament is set out below. The position of the UK Government is also that the Bill engages the legislative consent procedure in the Scottish Parliament on the below provisions.

Clauses 1, 2, 4 and 15 – meaning of “steel undertaking”, the public interest and the principal transfer powers

11. These are the principal clauses in the Bill. Clause 1 defines “steel undertaking” for the purposes of the principal transfer powers as an undertaking that carries on a business consisting of or including the manufacture or processing of steel, or the manufacture or processing of iron to be used solely for the purposes of, or in connection with, the manufacture of steel. The definition is not limited to undertakings in any particular part of the UK and given that the territorial extent of the Bill includes Scotland, the definition would capture a steel undertaking operating in Scotland.

12. Clauses 4 and 15 of the Bill confer the principal transfer powers on the Secretary of State. These are the powers to make share transfer regulations (clause 4) and property transfer regulations (clause 15). Clause 2 of the Bill provides that these principal transfer powers may be exercised only if the Secretary of State considers it necessary to do so in the public interest. Clause 2 goes on to define the “public interest” as including the public interest in defence and national security; the construction, maintenance and operation of critical infrastructure in the UK; and supporting the economy of the UK or any part of the UK. The public interest is defined on an inclusive but non-exhaustive basis, meaning that the principal transfer powers could be exercised for other aspects of the public interest not currently mentioned in the Bill. These could also relate to devolved matters.

13. Defence and national security are reserved matters in terms of Part II of Schedule 5 of the Scotland Act 1998. Transferring a steel undertaking into public ownership using the mechanisms provided in the Bill, where this was done for defence or national security purposes would therefore be reserved. In terms of critical infrastructure, while this could relate to reserved matters (given, for example, the reservations of transport, energy and telecommunications), the Scottish Government considers that this may also have overlap with devolved policy areas, depending on the context. To that extent, the exercise of the principal transfer powers for the purpose of the construction, maintenance and operation of critical infrastructure could relate to either reserved or devolved matters. As to the third aspect of the public interest as the Bill defines it, ‘supporting the economy’ does not relate to reserved matters and is accordingly a matter that falls within the legislative competence of the Scottish Parliament.

Clauses 3, 5-7, 9-14, 16-23, 25-43, 45-47, 49-59 and 61-64

14. Given that the majority of the Bill’s remaining provisions are ancillary to, or closely connected with, the principal transfer powers, the Scottish Government considers that the detailed analysis set out above also applies to these clauses, and

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that each of the provisions listed above accordingly makes provision for a purpose within the legislative competence of the Scottish Parliament.

Clause 48 – Tax

15. Clause 48 of the Bill confers power on the Treasury to make provision in regulations about the fiscal consequences of the exercise of a transfer power in relation to specified taxes. The Bill does not go into further detail as to what such provision may entail although the power is not limited to amendments which are purely consequential or ancillary. The specified taxes, which are listed in clause 48(2), include the devolved taxes (being the devolved aspects of income tax, the land and buildings transaction tax and the Scottish landfill tax). The Scottish Government considers that any modification of the devolved taxes is a matter for the Scottish Parliament regardless of whether the principal transfer powers are being exercised for devolved or reserved purposes. For these reasons, the Scottish Government's view is that clause 48 makes provision for a purpose within the Scottish Parliament's legislative competence.

Clause 60 – Repeal of the Steel Industry (Special Measures) Act 2025

16. Clause 60 repeals the Steel Industry (Special Measures) Act 2025. As the 2025 Act does not extend to Scotland, the Scottish Government's view is that this clause does not require legislative consent.

Reasons for not recommending legislative consent

17. The Scottish Government asked for the Bill to be amended to include a consent requirement for the proposed exercise of the powers in the Bill in respect of steel undertakings in Scotland, where the exercise is for a devolved purpose. The Scottish Government has also sought assurance that the UK Government will engage with the Scottish Ministers ahead of any proposed exercise of the powers in Scotland; recognising the Scottish Ministers' interest in the impact on businesses in Scotland, and also to enable Ministers to consider whether the consent requirement applies.

18. The UK Government has not agreed to this request but has offered further engagement to reach a mutually acceptable position. While this response acknowledged the compressed timelines being worked to, it was only received on 15 June 2026, the day the Scottish Government had informed the UK Government the LCM would be lodged. The Scottish Government is therefore unable to recommend that the Scottish Parliament consents to the Bill as it stands, as it does not have appropriate regard for devolution.

19. Consent and consult mechanisms within UK legislation are a recognition that responsibility, knowledge and expertise in devolved matters rests with the Scottish Government, so ensuring it is engaged when devolved interests are affected ensures

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that the governments work together to achieve the best and most effective outcome. It is essential for the proper functioning of the Scottish constitutional settlement that the role of Devolved Governments is recognised and respected in UK legislation relating to devolved matters.

Consultation

20. Due to the expedited timetable for this Bill, there has been no consultation on the UK Government side ahead of the introduction and consequently no time for Scottish Government to consult.

Financial implications

21. The powers within the Bill are exercisable by the UK Government and therefore the financial consequences of their exercise would be for the UK Government rather than the Scottish Government.

Other relevant considerations

22. From the engagement that has taken place with the UK Government since the introduction of the Bill, the Scottish Government understands that the intention is that the Bill be passed ahead of the UK Parliament summer recess (16 July for the House of Commons). As such, there will be no scope to consider the Bill at a later date for the Scottish Parliament, given its summer recess begins on 27 June.

23. The expedited timetable, set by the UK Government, and the lack of engagement from the UK Government prior to the Bill's introduction, has resulted in limited opportunity for the Scottish Parliament to scrutinise and consider this Bill ahead of its summer recess.

24. The Scottish Government has made the UK Government aware that its decisions on timetable and lack of engagement prior to the introduction of the Bill, have impacted on the opportunity for scrutiny in Scottish Parliament and led to a serious risk of the Sewel Convention being breached.

Post EU scrutiny

25. The EU has proposed a new steel import protections to replace its current steel safeguard, which must end by June 2026. The EU says the move protects its steel industry from global overcapacity and subsidised imports, especially from Asia. Much of the proposal remains unclear, including its legality, the impact on derivative products, what the UK quota will be. The UK Government are engaging with the EU to better understand these points. Primary legislation will be required to implement the proposals and is currently progressing through the European Parliament.

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26. Alongside the Steel Strategy publication, the UK Government also announced new steel trade measures to replace the current steel safeguards that must end by June 2026 to comply with World Trade Organization (WTO) rules. No information on the new steel trade measures was shared with the Scottish Government prior to this announcement, and there is a distinct lack of detail currently available as to how they will operate in practice. Whilst the new steel trade measures are aimed at protecting the UK's domestic steel sector they may negatively impact on supply chains for downstream users of steel products, for example in Scotland's manufacturing and construction sectors. The former Deputy First Minister and Cabinet Secretary for Economy and Gaelic wrote to the Minister of State for Trade on 1 May 2026 regarding the forthcoming Steel Trade Measure and the concerns about the serious implications for downstream users.

Conclusion

27. The Scottish Government has concluded that clauses 1-7, 9-23, 25-43, 45-59 and 61-64 of the Bill require the consent of the Scottish Parliament.

28. Given the expedited nature of the Bill, and that the UK Government have not yet agreed to proposals to have appropriate regard to devolution, the Scottish Government cannot currently recommend that the Scottish Parliament consent to the relevant provisions. The Scottish Government will continue to engage with the UK Government.

Draft motion on legislative consent

29. The draft motion, which will be lodged by the Cabinet Secretary for Economy, Tourism and Transport, is:

“That the Parliament, noting that the Steel Industry (Nationalisation) Bill, introduced in the House of Commons on 14 May 2026, makes provision that falls within the legislative competence of the Parliament, agrees to refuse consent to such provision as is made by clauses 1-7, 9-23, 25-43, 45-59 and 61-64.”

Scottish Government
June 2026

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