



The Scottish Parliament
Pàrlamaid na h-Alba

Finance and Constitution Committee

Cabinet Secretary for
Constitution, Europe and
External Affairs (by e-mail)

The Scottish Parliament
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Dear Cabinet Secretary,

Coronavirus Bill Legislative Consent Memorandum

As lead Committee we are required under Rule 9B.3.5 of the Standing Orders to report on the Coronavirus Bill LCM¹ and this letter fulfils that requirement.

At its meeting on 24 March 2020 the Finance and Constitution Committee took evidence from the Cabinet Secretary for Constitution, Europe and External Affairs. The Official Report of this meeting will be available on [the Committee's webpage](#). Annexe A of this letter summarises the areas subject to the Committee's consideration.

The Health and Sport Committee; Economy, Energy and Fair Work Committee; and the Delegated Powers and Law Reform Committee also considered the Coronavirus Bill LCM at their meetings on 24 March 2020.

The Finance and Constitution Committee agreed to recommend that the Parliament agrees to the Legislative Consent Motion in the terms set out in the Coronavirus Bill Legislative Consent Memorandum (LCM-S5-36).

Yours sincerely,

Bruce Crawford MSP
Convener

¹ https://www.parliament.scot/S5_Bills/SPLCM-S05-36.pdf

**Coronavirus Bill Legislative Consent Memorandum
Consideration by the Finance and Constitution Committee**

The Coronavirus Emergency Bill (hereafter referred to as ‘the Bill’) is a UK Bill introduced into the UK Parliament on Thursday 19 March.

The Bill

1. The Explanatory Notes to the Bill explain that it seeks “to enable the Government to respond to an emergency situation and manage the effects of a covid-19 pandemic. A severe pandemic could infect up to 80% of the population leading to a reduced workforce, increased pressure on health services and death management processes. The Bill contains temporary measures designed to either amend existing legislative provisions or introduce new statutory powers which are designed to mitigate these impacts.”
2. The Bill states that it “aims to support Government in the following:
 - Increasing the available health and social care workforce
 - Easing the burden on frontline staff
 - Containing and slowing the virus
 - Managing the deceased with respect and dignity, and
 - Supporting people”
3. The Bill, and its accompanying Explanatory Notes, can be accessed at:
 - [The Bill \(as introduced\)](#)
 - [The Explanatory Notes](#)
4. The emergency period as specified in the Bill is a period of two years which can be extended by up to six months at a time.
5. The Explanatory Notes observe that “Each of the four nations of the UK has its own set of laws, and thus these tools and powers differ to varying degrees in each area. Consistency of outcome will be achieved by making the range of tools and powers consistent across the UK.” It then explains that “This Bill aims to level up across the UK, so that the actions to tackle this threat can be carried out effectively across all four nations.”
6. A table entitled “Territorial Extent and application”, included at Annexe A of the Explanatory Notes, identifies those provisions which the UK Government considers will require a Legislative Consent Motion.

Scottish Government Legislative Consent Memorandum

7. The Scottish Government lodged an LCM on the Bill on 20 March 2020. The Committee notes that consent is being sought in relation to the following provisions in the Bill.

- **Clause 2:** Emergency registration of nurses and other health and care professionals)
- **Clause 9 and schedule 8:** Temporary modification of mental health and mental capacity legislation
- **Clause 11:** Indemnity for health service activity: Scotland
- **Clause 15:** Duty of local authority to assess needs: Scotland
Clause 16: Section 15: Further provision
- **Clause 17 and schedule 12:** Registration of deaths and still births etc.
Clause 19 and schedule 13: Review of cause of death certifications and cremations: Scotland
- **Clause 35 and schedule 15:** Temporary closure of educational institutions and childcare premises
Clause 36 and schedule 16: Temporary continuity directions: education and childcare
- **Clause 49 and schedule 20:** Powers relating to potentially infectious persons
- **Clause 50 and schedule 21:** Powers to give directions relating to events, gatherings and premises
- **Clause 34:** Vaccination and Immunisation: Scotland
- **Clause 6 and schedule 5:** Emergency registration of social workers: Scotland
- **Clause 32:** Temporary disapplication of disclosure offences: Scotland
Clause 33: Temporary power to reclassify disclosure requests made in connection with PVG scheme membership: Scotland
- **Clause 56 and schedule 27:** Powers in relation to transport, storage and disposal of dead bodies etc
- **Clause 19 and schedule 13:** Review of cause of death certificates and cremations: Scotland
- **Clause 65:** Postponement of Scottish Parliament elections for constituency vacancies
Clause 66: Postponement of local authority elections in Scotland for casual vacancies

- **Clause 44:** NHS pension schemes: suspension of restrictions on return to work: Scotland
- **Clause 3:** Emergency arrangements concerning practitioners: Scotland
- **Clause 23:** Power to require information relating to food supply chain
- **Clause 24:** Authorities which may require information
- **Clause 25:** Restrictions on use and disclosure of information
- **Clause 26:** Enforcement of requirement to provide information
- **Clause 27:** Meaning of “food supply chain” and related expressions
- **Schedule 14** – information relating to food supply chains: financial penalties
- **Clause 47 and schedule 18:** Health Protection Regulations: Scotland
- **Clause 21:** Appointment of temporary Judicial Commissioners
- **Clause 22:** Time limits in relation to urgent warrants etc under Investigatory Powers Act
- Appointment of temporary Judicial Commissioners
- Time limits in relation to urgent warrants etc under the Investigatory Powers Act

Committee scrutiny

8. The Committee took evidence at its meeting on 24 March from the Cabinet Secretary for Constitution, Europe and External Affairs and the official report of that meeting will be found [on the Committee’s webpage](#).

Recommendation

9. It is the view of the Scottish Government that it is preferable in terms of ensuring that government and public bodies have powers expediently to respond to the current Covid-19 pandemic that the relevant provisions of the Coronavirus Bill which fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers should be considered by the UK Parliament.

10. The draft motion, which will be lodged by the Cabinet Secretary for Constitution, Europe and External Affairs and the Cabinet Secretary for Health and Sport is:

“That the Parliament agrees that the relevant provisions of the Coronavirus Bill, introduced in the House of Commons on 19 March 2020, so far as they fall within the legislative competence of the Scottish Parliament or alter the

executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Committee decision

11. The Committee recommends that the Parliament agrees to the draft motion in the terms set out in the Coronavirus Bill Legislative Consent Memorandum.