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Net Zero, Energy and Transport Committee

Net Zero, Energy and Transport Committee Report on a further supplementary Legislative Consent Memorandum on the Great British Energy Bill



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Net Zero, Energy and Transport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Transport and the Cabinet Secretary for Net Zero and Energy, with the exception of matters relating to just transition; and on matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland and Royal Botanic Garden within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands.



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Introduction

1. Introduced in the House of Commons on 25 July, [the Great British Energy Bill's](#) purpose is to create Great British Energy; an operationally independent company wholly owned by the UK Government. Its objectives will be: to facilitate, encourage and participate in the production, distribution, storage and supply of clean energy; the reduction of greenhouse gas emissions from energy produced from fossil fuels; improvements in energy efficiency; and measures for ensuring energy security.ⁱ

Prior Committee consideration of consent in relation to devolved aspects of the Bill

2. The Scottish Government lodged a [Legislative Consent Memorandum](#) (LCM) on the Great British Energy Bill on 8 August 2024. This was subsequently referred to the Net Zero, Energy and Transport Committee as lead committee to consider the LCM and report to the Parliament on it. In any report on an LCM, or supplementary LCM, the lead committee's role is to consider whether it is appropriate that consent should be given to the UK Parliament legislating in areas that affect devolved legislative or executive competence. It should also highlight any policy issues that it considers the Parliament should be aware of before reaching a view on consent.
3. The LCM stated that the consent of the Scottish Parliament is required as the Bill "contains provisions which apply to Scotland and are for purposes which do not relate to reserved matters and are within the legislative competence of the Scottish Parliament".
4. As we noted in [our report earlier this month](#) on the LCM and first supplementary LCM on the UK Bill, the LCM of 8 August did not set out a position on consent and was missing detail in several places. We noted that the Scottish Government had said more detail, and a view on consent would be set out in a supplementary LCM, pending a "full analysis" that was "likely to be lodged by the end of September, based on current timescales for the second reading of the Great British Energy Bill."
5. In the event no such analysis was provided by end September and, as our report noted, it was not until 19 December 2024 when, in response to repeated requests from the Committee and Committee officials, the Scottish Government finally [provided a substantive update](#) on its position in relation to the Bill, albeit this fell short of a "full analysis".
6. The 19 December letter explained that the Scottish Government was seeking amendments to clause 5, which requires the UK Government to consult the Scottish Ministers (and the other devolved governments) before including any matters within devolved competence in a "statement of strategic priorities" for Great British Energy. The letter indicated that the reason for the delay in providing the Committee, and the Parliament, with a supplementary LCM, was that the Scottish Government was waiting for the relevant amendments to be lodged.
7. The [supplementary LCM](#) lodged on 27 January 2025 set out the Scottish Government's view that each clause in the Bill had the potential to raise devolved issues and therefore required Scottish Parliament consent. It said that the Scottish

ⁱ [Great British Energy Bill, Explanatory Notes](#)

Government supported the establishment and general aims of GB Energy and that, in relation to most clauses, it was content for the UK Government to legislate in ways that might impact on devolved competencies, which it saw as likely to be relatively incidental. However, it said there had been discussions with the UK Government around clauses 5 and 6. In the case of clause 5, amendments had now been lodged to address the Scottish Government's concerns. In the case of clause 6, there had been discussions with which the Scottish Government was content. In both cases, therefore, the Scottish Government was also now happy with the UK Government legislating in these areas.

8. Our [report of 4 February](#) on the LCM and first supplementary LCM discusses the substance of clauses 5 and 6 and the evidence ministers from the Scottish and UK Government provided on them, during the narrow window when the Committee finally had sufficient information to be able to take informed evidence on devolved aspects of the Bill. We recommended in the report that the Scottish Parliament give its consent to the UK Parliament legislating in devolved areas.ⁱⁱ But we also expressed our dissatisfaction with the way the LCM had been handled, saying that while we welcomed positive engagement between governments to resolve differences:

” If the LCM process is made beholden to intergovernmental discussions, there is a risk of the Parliament becoming more of a bystander to the consent process than a participant. This is not the process envisaged in the Parliament's Standing Orders

9. A motion on legislative consent was [debated and agreed on 6 February](#).

Second Supplementary LCM

10. A [second supplementary LCM was lodged on 17 February](#). This provides details of a number of amendments that were made at a late stage of the Bill's progress at Westminster. The Scottish Government's view is that most of these are within the limits of the consent already granted by the Scottish Parliament so do not require further consent to be given but that the amendment inserting new clause 7A is an exception:

” *7A Sustainable development*

Great British Energy must keep under review the impact of its activities on the achievement of sustainable development in the United Kingdom.

11. The second supplementary LCM says consent is required for this clause as the duty "will relate to activities of GB Energy which are within the legislative competence of the Scottish Parliament, and to the environmental impact of such activities." It says:

ii This was by majority, with 5 Members in favour, one against, and one abstaining. The recommendation also noted our reservations in relation to clause 6, where the Scottish Government had received assurances that they would be consulted before the order-making power in that clause was used in a way that affected devolved competence, but this had not been set out on the face of the Bill.

” 22. The Scottish Government recommends giving consent to the Great British Energy Bill in its current form, including the new Clause 7A. The new clause requires GB Energy to keep under review the impact of its activities on the achievement of sustainable development in the United Kingdom. The Scottish Government is of the view is that while the Bill only establishes GB Energy, once established GB Energy will act in line with the policy aims and objectives of the Scottish Ministers, most notably tackling the climate emergency and growing our economy.

23. Were legislative consent not given and the Bill amended to exclude Scotland, Scotland could miss out on a substantial number of opportunities such as potential for Great British Energy involvement or investment in a range of clean energy sectors.

Committee consideration of second supplementary LCM

12. A second supplementary LCM was lodged on 17 February and notified to the Committee late that afternoon. If further legislative consent is to be given by the Scottish Parliament, a motion to this effect must be agreed before the third reading of the Bill at Westminster, expected on 25 February. A debate in the Chamber on a motion on legislative consent has therefore been scheduled for 20 February. This has effectively left the Committee with no opportunity for scrutiny.
13. The agreement of this short report amounts therefore to an almost literal case of a committee going through the motions in order to meet a formal requirement of the Scottish Parliament's Standing Orders, which is unsatisfactory. We cannot make any meaningful comment on the implications of clause 7A, or give an informed view on whether consent ought to be granted.
14. The Committee's 4 February report on the LCM and first supplementary LCM for the GB Energy Bill highlighted concerns about the LCM process and the risk of the Scottish Parliament being left as a "bystander" to the legislative consent process for UK Bills. In relation to this second supplementary LCM concerning late amendments to the Bill, the Committee and Parliament have again been left sidelined, with the Committee unable to offer an informed contribution to the forthcoming Chamber debate on consent.
15. As the 4 February report said, we welcome positive engagement between governments during the passage of a UK Bill with devolved aspects. We also recognise that late amendments to UK Bills that raise devolved consent issues are unavoidable. However, the Committee urges the Scottish Government to liaise with the UK Government to ensure the Scottish Parliament has as much time as possible to consider any such amendments.

