

Social Justice and Social Security Committee
Thursday 12 March 2026
9th Meeting, 2026 (Session 6)

Legislative Consent Memorandum: Armed Forces Bill

Purpose

1. This paper invites the Committee to consider a Legislative Consent Memorandum (“LCM”), LCM-S6-73, lodged by the Scottish Government in relation to the Armed Forces Bill which is currently before the UK Parliament.
2. The Social Justice and Social Security Committee is the lead committee for the consideration of the policy content of the LCM.
3. At this meeting, the Committee will take oral evidence from Graeme Dey, Minister for Parliamentary Business and Veterans and Scottish Government officials.
4. The LCM has been lodged by the Cabinet Secretary for Justice and Home Affairs under Rule 9B.3.1(a) of the Parliament’s Standing Orders.

Background

5. The [Armed Forces Bill \(“the Bill”\)](#) was introduced by the UK Government in the House of Commons on 15 January 2026. Second reading in the House of Commons was on 26 January and, as of 5 March, a date for Committee Stage had yet to be set.
6. The UK Government has set out that the Bill makes provisions to:
 - continue the Armed Forces Act 2006 for a further five years;
 - amend that Act and other enactments relating to the armed forces;
 - make provision about the reserve forces;
 - make provision about visiting forces; to make provision about the Ministry of Defence Police;
 - make provision about the defence functions of the Oil and Pipelines Agency;
 - make provision about the protection of military remains; and for connected purposes.
7. A detailed description of the provisions of the Bill is available in the following briefing published by the House of Commons library: [Armed Forces Bill: Research Briefing](#).

LCM-S6-73

8. The Bill contains provisions that apply to Scotland. The LCM states that clauses 2, 50, 52, 54 and 55, to the extent that they relate to clause 2, alter the executive competence of the Scottish Ministers and will require a decision on recommending or withholding legislative consent.
9. Clause 2 extends the existing legal Duty to have due regard to the principles of the Armed Forces Covenant (“the Covenant Duty”) to the Scottish Ministers when exercising public functions in relation to a specified matter. The specified matters subject to the extended Duty are: childcare; education and training; employment; health and social care; housing; social security benefits; personal taxation; criminal justice; transport; pensions; immigration and citizenship; and armed forces compensation.
10. Clauses 50, 52, 54 and 55 relate to general provisions. Clause 50 relates to the interpretation of the Bill including definitions of key terms. Clause 52 makes provision as to the extent to which the clauses apply within the UK. Clause 54 makes provision for commencement of the Bill and for transitional provision to be made by subordinate legislation by the UK Government if required. Clause 55 is the short title of the Bill.
11. The Explanatory Notes indicate that the UK Government’s view is that additional clauses (clause 6, with part of schedule 3 and clause 43) also require the consent of the Scottish Parliament. Following discussions, the Scottish and UK governments have agreed that clause 43 does not require a legislative consent memorandum (LCM). In relation to clause 6 and schedule 3, further engagement is required between the UK and Scottish governments to seek to agree whether this is subject to a requirement for legislative consent. Should it be agreed that it is so subject, a supplementary LCM would be lodged in the Scottish Parliament to reflect this.
- 12. Consequently, the Scottish Government recommends that the Scottish Parliament consents to clauses 2, 50, 52, 54, and 55 of the Bill, so far as they alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.**
13. Details of LCM-S6-73 and the provisions of the Bill for which the consent of the Scottish Parliament is required are set out in Annex A of this paper. The full details of the LCM can be accessed [here](#).
14. The draft motion, which will be lodged by the Cabinet Secretary for Justice and Home Affairs, is:

“That the Parliament agrees that the relevant provisions of the Armed Forces Bill, introduced in the House of Commons on the 15 January 2026, relating to Clause

2, 50, 52, 54, and 55, so far as they alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Other committees’ scrutiny

15. The Delegated Powers and Law Reform (DPLR) Committee is not considering the LCM at this time. It is not in its mandatory remit, and further consideration is being given to whether it is within its discretionary remit. If it is, its successor committee may undertake work in the next Session.

Timing

16. As noted above, the Scottish Government anticipates lodging a further LCM. Normally, where it is known that a further LCM is expected, it makes sense for the lead committee (and the DPLR Committee, if involved) to report just once on both memorandums. However, it seems likely that the supplementary LCM will not be lodged until after the parliamentary session has ended.

17. As the Bill is currently at the second reading stage in the House of Commons, it is anticipated that a successor committee would consider the supplementary LCM.

18. At today’s meeting Members will be able to put questions to the Minister for Parliamentary Business and Veterans and Scottish Government officials.

19. The Committee will be invited to delegate responsibility to the Convener to approve a draft of the report on the LCM for publication.

Next steps

20. The Committee is invited to put questions to the Minister for Parliamentary Business and Veterans and consider LCM-S6-73 at this meeting.

21. The Convener to be delegated authority to approve a draft of the report for publication.

**Clerks to the Committee
March 2026**

Annex A

Provisions which require the consent of the Scottish Parliament

Scottish Government analysis has indicated that clauses 2, 50, 52, 54, and 55, so far as they alter the executive competence of the Scottish Ministers, within the Bill impact on devolved matters and will require a decision on recommending or withholding legislative consent.

Clause 2 of the Bill relates to the Armed Forces Covenant. This clause extends the existing legal Duty to have due regard to the principles of the Armed Forces Covenant (“the Covenant Duty”) to the Scottish Ministers when exercising public functions in relation to a specified matter. Local authorities, education bodies and health bodies in Scotland are already subject to this Duty in specified areas of health, housing and education, as provided for in sections 343AA to AD of the Armed Forces Act 2006. Clauses 2(1) to (5) of the Bill replace those sections with new sections 343ZA, 343ZAA and 343ZAB.

The specified matters subject to the extended Duty are: childcare; education and training; employment; health and social care; housing; social security benefits; personal taxation; criminal justice; transport; pensions; immigration and citizenship; and armed forces compensation. Guidance may be issued by the Secretary of State for Defence in relation to the Covenant Duty. A body subject to the Duty to have due regard to the Covenant principles in exercise of its public functions, will also be under a Duty to have regard to the guidance.

The Secretary of State must consult the Scottish Ministers prior to issuing such guidance so far as it relates to devolved functions. The Secretary of State is given a regulation-making power to amend the bodies and functions caught by the Duty. Before doing so, the Secretary of State must consult the Scottish Ministers, insofar that the regulations contain provisions that are within devolved competence. The regulations are subject to the negative procedure.

The guidance and regulation-making powers of the Secretary of State are already set out in the Armed Forces Act 2006 (sections 343AE and 434AF respectively; the Bill extends and modifies these powers in line with the extension of the Covenant Duty itself) by virtue of the amendments made by clause 2(6) and (7).

The Covenant Duty itself (including in its application to functions exercised in Scotland by Scottish public authorities) is considered by the Scottish Government to relate to the reserved matter of the armed forces given it aims to mitigate against disadvantage to individuals that may arise specifically in connection with their armed forces membership (or former membership). As such, clause 2 is not considered to be within the legislative competence of the Scottish Parliament.

However, as clause 2 provides that the Scottish Ministers are to be subject to the Duty, in the exercise of such of their public functions as relate to the specified matters, it is

considered to alter the executive competence of the Scottish Ministers. Accordingly, legislative consent is required for this provision. 4 Clauses 50, 52, 54 and 55 - General Provisions

Clause 50 relates to the interpretation of the Bill including definitions of key terms. Clause 52 makes provision as to the extent to which the clauses apply within the UK. Clause 54 makes provision for commencement of the Bill and for transitional provision to be made by subordinate legislation by the UK Government if required. Clause 55 is the short title of the Bill. Legislative consent is required to the extent that each of these clauses apply for the purpose of clause 2, as a provision substantively requiring legislative consent.

Reasons for recommending consent

Section 28(8) of the Scotland Act 1998 recognises that the UK Government will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament. Devolution Guidance Note 10 states that Bills require the consent of the Scottish Parliament if they contain provisions applying to Scotland and which are for devolved purposes or if they alter the legislative competence of the Scottish Parliament or the executive competence of the Scottish Ministers.

The Scottish Government is of the view that clause 2 of the Bill, along with clauses 50, 52, 54 and 55 to the extent that they relate to clause 2, alters the executive competence of the Scottish Ministers and consent is required accordingly. The Armed Forces community has a vital role in defence of Scotland and the Scottish Government considers that it should not face disadvantage in accessing the support or services it needs as a result of its service

Post EU scrutiny

The Scottish Government does not consider this to have any impact on EU alignment.

Financial implications

There may be additional costs incurred as a result of the Covenant Duty. There is no funding from the UK Government to the devolved governments associated with this Bill and its implementation. This is similar to the Armed Forces Act 2021, which placed a Duty to have due regard to the Covenant principles on local authorities and other bodies in Scotland (that Duty now being extended to central government as discussed above). The UK Government, in its Explanatory Memorandum, identified a potential implementation cost for UK Government departments at somewhere between £307,000 and £1.5 million.

Consultation

The UK Government has consulted with the Scottish Government and stakeholders prior to the introduction of the Bill to the UK Parliament. However, the Scottish Government did

not have sight of the final version of the Bill or the UK Government's finalised devolution analysis prior to the Bill being introduced.

Conclusion

The Scottish Government has supported the principles of the Armed Forces Covenant since its introduction and considers that it underpins its Veterans Strategy and support for the Armed Forces community more widely. As a result, the Scottish Government recommends support for this extension of the Armed Forces Covenant Duty.

Draft motion on legislative consent

The draft motion, which will be lodged by the Cabinet Secretary for Justice and Home Affairs, is:

That the Parliament agrees that the relevant provisions of the Armed Forces Bill, introduced in the House of Commons on the 15 January 2026, relating to Clause 2, 50, 52, 54, and 55, so far as they alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament." Scottish Government.

March 2026