

Economy, Tourism and Energy Committee
Tuesday 29 September 2026
6th Meeting, 2026 (Session 7)

Supplementary legislative consent memorandum on the Cyber Security and Resilience (Network and Information Systems) Bill (UK Parliament legislation)

Note by the Clerk

1. Supplementary legislative consent memorandum LCM-S7-12 was lodged on 10 September 2026 by Neil Gray MSP, Cabinet Secretary for Justice, and has been referred to the Economy, Tourism and Energy Committee for scrutiny.
2. The supplementary LCM is available on the Scottish Parliament [website](#). It should be read in conjunction with the information on the [Cyber Security and Resilience \(Network and Information Systems\) Bill](#) page from Session 6, which includes the initial memorandum lodged on the Bill.
3. The Committee considered the supplementary LCM at its meeting on [22 September 2026](#), and agreed to write to the Cabinet Secretary seeking further information. The questions set out in the Committee's [letter](#) were as follows:
 - 1) The Scottish Government previously withheld a recommendation on a number of clauses because they conferred powers on the Secretary of State that could be exercised in devolved areas without requiring the Scottish Ministers' consent. What has changed to persuade the Scottish Government that consultation arrangements provide an adequate safeguard, and why is it satisfied that those arrangements will remain effective in the future – including through future changes of UK Government – despite not being placed on a statutory footing?
 - 2) The supplementary LCM refers to assurances and practical arrangements agreed with the UK Government. Are those arrangements set out in writing and, if so, can they be shared with the Committee?
 - 3) The supplementary LCM states that the Scottish Government is content to recommend consent to clause 41 because the power is “narrowly focused” and can be used only where necessary to address specific, urgent and significant national security threats and risks. Could you explain what is meant by “narrowly focused” in this context, what limits apply to the power, and provide examples of the circumstances in which it could be used to make consequential amendments to Acts of the Scottish Parliament?
 - 4) Clause 45 could be used in relation to the Drinking Water Quality Regulator for Scotland, and the supplementary LCM states that the UK Government has provided assurances that the Scottish Ministers will be engaged before any direction is issued. Given the devolved nature of drinking water regulation, why is the Scottish Government satisfied that these non-statutory

engagement arrangements provide sufficient protection for devolved decision-making, what opportunity would the Scottish Ministers have to influence or object to a proposed direction, and how does the Scottish Government consider this approach appropriately balances the need to respond quickly to national security threats with respect for devolved responsibilities?

4. A response from the Cabinet Secretary was requested by Friday 25 September 2026. Once received, the response will be circulated to Members and published on the Committee's [webpage](#).

Cyber Security and Resilience (Network and Information Systems) Bill

5. The Cyber Security and Resilience (Network and Information Systems) 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 and associated documents can be viewed on the UK Parliament [website](#).
6. The Bill makes provision about the security and resilience of network and information systems which are used by or relied on for critical services in the UK. Its intention is to strengthen the UK's defences against the growing threat of cyber attacks and the associated disruption to critical services which could occur as a result. The Bill:
 - amends the [Network and Information Systems \(NIS\) Regulations 2018](#) and gives enhanced powers to competent authorities, including in relation to information sharing, incident reporting and enforcement;
 - gives the Secretary of State powers to:
 - further specify which activities should be regulated and by which authority;
 - make regulations relating to the security and resilience of network and information systems;
 - designate a statement of strategic priorities;
 - issue a code of practice for regulatory authorities; and
 - direct regulators and regulated bodies where threats relating to network and information systems pose a risk to national security.
7. The Bill deals with issues of national security and telecommunications regulation and is therefore primarily within the legislative competence of the UK Parliament. However, it confers new powers and duties on "competent authorities" – bodies responsible for monitoring compliance with the cyber-security requirements.

8. The Scottish Government is the competent authority for the health sector in Scotland, and the Drinking Water Quality Regulator is the competent authority for the drinking water sector. The Scottish Government's key concern has been that the new powers and duties for competent authorities in the Bill alter its executive competence.
9. The Bill is currently at Report Stage in the House of Lords.

Legislative consent procedure

10. Under the Sewel Convention, the UK Parliament does not normally legislate on devolved matters, or to alter the legislative competence of the Parliament or the executive competence of the Scottish Government, without the consent of the Scottish Parliament. Consent is given by means of a resolution of the Parliament.
11. Under Chapter 9B of the Standing Orders, the Scottish Government must lodge a legislative consent memorandum (LCM) in relation to each UK Parliament Bill that contains provision ("relevant provision") that would require the Parliament's consent under the Convention. Sometimes the Scottish Government may be required to lodge one or more supplementary LCMs during the passage of a Bill. It is also possible for an LCM to be lodged by an individual MSP.
12. Every LCM lodged is referred to a lead committee for scrutiny, and may also be referred to other committees. If the Bill confers power on the Scottish Ministers to make subordinate legislation, the Delegated Powers and Law Reform Committee (DPLRC) must also consider the LCM and may report on it to the lead committee.
13. Once the lead committee has reported, the Scottish Government normally lodges a motion on legislative consent for consideration in the Chamber. Such a motion may give consent to relevant provision in the Bill, refuse consent to such provision, or a mixture of the two. A draft of the motion is normally included in the LCM.

Original LCM

14. The original LCM stated that the Scottish Government was supportive of the Bill's overall aims, as they are designed to enhance the regulation, improve cyber security and resilience of key sectors. It considers that 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.
15. The Scottish Government and UK Government disagreed on which aspects of the Bill require consent. The UK Government considered that consent is required for clauses 12, 17, 19-22, 27-29, 31-35, 45-51 and 56. The Scottish Government agreed with the UK Government view but considered that consent is also required for clauses 15, 18, 23, 25, 26, 30, 38, 40, 41, 52 and Schedule 1 and 2. This is on the basis that 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.

16. Given the Scottish Government's support for the overall aims of the Bill, the original LCM recommended consent to clauses 12, 15, 17-23, 33, 38, 40, 46-52, 56 and Schedules 1 and 2.
17. However, the original LCM did not give a position on consent in relation to clauses 25-32, 34, 35, 41 and 45. This was because these provisions concerned the conferral of regulation making powers on the Secretary of State, which could be exercised in relation to devolved matters but did not require the consent of the Scottish Ministers. The original LCM stated that these provisions were subject to ongoing discussion with the UK Government.
18. The Committee's predecessor in Session 6 took evidence from the then Cabinet Secretary for Justice, Angela Constance MSP, at its meeting on 4 March 2026. In that Committee's [report](#) on the original LCM, the Committee reiterated its view that:
 - the Scottish Parliament should have the opportunity to effectively scrutinise the exercise of all legislative powers within devolved competence; and
 - accordingly, powers conferred on UK Ministers should be subject to a requirement for the Scottish Ministers' consent when exercised within devolved competence.
19. The Committee welcomed the constructive dialogue between the UK and Scottish Governments, and recommended that the Parliament give its consent to the clauses identified in the original LCM.

Supplementary LCM

20. In the supplementary LCM which has been referred to the Economy, Tourism and Energy Committee, the Scottish Government reiterates its support for the overall aims of the Bill. The supplementary LCM sets out that the Scottish Government has worked closely with the UK Government to review those clauses (25-32, 34, 35, 41 and 45) where further discussion was required, to clarify the scope and intentions of those clauses, and reach agreement on the practical implementation of the Bill.
21. The supplementary LCM states that, 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.
22. Further detail on the reasons given for recommending consent to clauses 25-32, 34, 35, 41 and 45 is set out below.

23. Clauses 25-28 allow the Secretary of State to designate a statement of strategic priorities (SSP) and lay a report on how regulatory authorities, including devolved competent authorities, have complied with their duties. The supplementary LCM notes that, while 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 in its development and the Scottish Ministers, in their role as a competent authority, will be consulted. Therefore, the Scottish Government is now recommending that consent be granted for clauses 25-28.
24. Clause 29 allows the Secretary of State to make further regulations relating to the security and resilience of network and information systems. Clauses 30, 31, 34 and 25 establish the parameters to shape the regulation-making power under clause 29. Again, the Scottish Government is now recommending consent to these clauses because, while there is no statutory requirement to obtain the consent of the Scottish Ministers, the Scottish Ministers will be consulted in their role as a competent authority if the powers are exercised in a way that confers functions on devolved regulatory authorities.
25. 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. The Scottish Government is now recommending consent on the basis that, while there is no statutory requirement to obtain the consent of the Scottish Ministers, the Scottish Ministers, in their role as a competent authority, will be consulted before any financial liabilities are imposed on devolved bodies.
26. Clause 41 introduces powers that allow 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. The Scottish Government is recommending consent because 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.
27. Clause 45 confers powers on the Secretary of State to direct regulatory authorities to do certain things. The Scottish Ministers are specifically excluded from this power but, instead, they would have the authority to comply with a request. However, the provision could be used in relation to the Drinking Water Quality Regulator. The supplementary LCM states that the UK Government has provided assurances that, while there is no statutory requirement to obtain the consent of the Scottish Ministers, 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.
28. The draft motion on legislative consent is as follows:

“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.”

Decision

29. The supplementary LCM states that the timescales for the Bill's passage through the UK Parliament means that the legislative consent motion will need to be taken in the Chamber before the October recess.
30. **The Committee is invited to consider the Cabinet Secretary's response to its letter and agree:**
- **whether it is content to recommend agreement to the Scottish Government's draft motion,**
 - **if so, whether it is content to delegate responsibility to the Convener to agree a draft report.**

Clerks to the Committee
September 2026