

# ECONOMY AND FAIR WORK COMMITTEE

**2<sup>nd</sup> Meeting, 2022 (Session 6), Wednesday 19  
January 2022**

## **Legislative Consent Memorandum – Subsidy Control Bill**

### **Note by the Clerk**

#### **Background**

1. The UK Parliament will not normally legislate on matters devolved to the Scottish Parliament without its consent; often referred to as the Sewel Convention. [Chapter 9B of the Parliament's Standing Orders](#) sets out the rules and procedures for seeking legislative consent under the convention.
2. The [Subsidy Control Bill](#) ("the Bill"), a UK Government Bill, was introduced in the House of Commons on 30 June 2021. The provisions in the Bill cover the whole of the UK. The purpose of the Bill is to establish a domestic subsidy control regime for the UK, following exit from the EU and provide a legal framework for public authorities to make subsidy decisions. [Annex A to the Bill's Explanatory Notes](#) lists the chapters and clauses where legislative consent is being sought by the UK Government.
3. The Subsidy Control Bill falls under Rule 9B.1.1 of the Standing Orders, as it will impact on areas devolved to the Scottish Parliament and on the executive competence of the Scottish Ministers.
4. On 25 October, Kate Forbes, Cabinet Secretary for the Finance and the Economy (supported by Ivan McKee, Minister for Business, Trade, Tourism and Enterprise) lodged a [legislative consent memorandum](#) (LCM). On 10 November the LCM was referred to this Committee to consider and report.
5. The LCM sets out how, in the view of the Scottish Government, the Bill will affect Scotland and details the provisions (from para 6 onwards) where the Bill makes provision applying to Scotland for purposes within the legislative competence of the Scottish Parliament.
6. Paragraphs 40 – 53 of the LCM set out the Scottish Government's position on the Bill and explain why a draft motion has not been included in the memorandum. The Scottish Government does not recommend to the Scottish Parliament that it gives its consent to the Bill in its current form.
7. At its meeting on 14 December, the Committee considered its approach to scrutiny of the LCM. It agreed to seek some written views and hold an evidence

session with selected witnesses, before taking evidence from a Scottish Government Minister.

8. A SPICe paper summarising the submissions and issues raised to aid today's evidence session, is attached.

9. Written submissions are published [here](#). The COSLA submission includes three suggested amendments that would define an "assisted area" and, when developing guidance on the operation of the regime, create a requirement for consultation with devolved administrations.

10. The Committee took evidence last week from a panel on the implications of the Bill for Scotland.

11. At today's meeting, the Committee will hear from—

- Ivan McKee MSP, Minister for Business, Trade, Tourism and Enterprise;
- Hilary Pearce, Head of European Structural Funds and Subsidy Control Division; and
- Jennifer Willoughby, Head of National and International Regulatory Alignment Unit.

## **Process and timescales**

12. The Scottish Government does not intend to lodge a Legislative Consent Motion for this Bill and does not recommend that consent be given to this Bill. It states that if, during the remaining stages of the Bill, appropriate amendments are made that address concerns, a supplementary LCM with a final position on consent may be lodged. This would then be referred to the Committee to consider and report.

13. The Bill is currently proceeding through the UK Parliament where it is considered by both Houses. The Bill was introduced in the House of Commons and completed Committee stage there on 13 December. The Bill has now moved to the House of Lords where it is expected to receive its second reading on 19 January, after which it will move to the amending stages; Committee Stage and then Report Stage.

14. This Committee will wish to ensure its report is available in good time to be taken account of during the final amending stages (usually report stage).

**Clerk to the Economy and Fair Work Committee  
14 January 2022**