

PARLIAMENTARY BUREAU

LEGISLATIVE CONSENT MEMORANDUMS

There are currently four legislative consent memorandums requiring the attention of the Parliamentary Bureau. Details of these legislative consent memorandums, and recommendations for each legislative consent memorandum, can be found below.

LEGISLATIVE CONSENT MEMORANDUM - ANIMAL WELFARE (KEPT ANIMALS) BILL (UK LEGISLATION)

Introduction

1. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

Animal Welfare (Kept Animals) Bill

2. The Animal Welfare (Kept Animals) Bill was introduced in the House of Commons on 8 June 2021.

3. An LCM was lodged by Mairi Gougeon MSP, Cabinet Secretary for Rural Affairs and Islands, on 22 June 2021.

4. The Bill makes provision about the welfare of certain kept animals that are in, imported into, or exported from Great Britain. Part 1 of the Bill extends to England and Wales only and makes provision about the keeping, selling and breeding of primates. Part 2 of the Bill repeals the Dogs (Protection of Livestock) Act 1953 in England and Wales and enacts new provision for an offence where a dog attacks or worries livestock. Part 3 of the Bill (clauses 42 to 49) contains other provisions about kept animals. Powers to make provision consequential on the Bill are contained in Part 4 (general) as are provisions regarding commencement.

5. The LCM indicates that the Scottish Government intends to lodge a motion seeking the Scottish Parliament's consent to the UK Parliament legislating on devolved matters in this Bill.

Designation of lead committee

6. The Bill is concerned with animal welfare which is within the responsibilities of the Cabinet Secretary for Rural Affairs and Islands. The remit of the Rural Affairs, Islands and Natural Environment Committee includes "*to consider and report on matters falling within the responsibility of the Cabinet Secretary for Rural Affairs and Islands*". The remit of the Rural Affairs, Islands and Natural Environment Committee is therefore engaged.

7. No other committee remit appears to be engaged.

8. The LCM will also be considered by the Delegated Powers and Law Reform Committee in regard to provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation.

Recommendation

9. The Bureau is invited to agree to refer, under Rule 9B.3.5, the LCM on the Animal Welfare (Kept Animals) Bill to the Rural Affairs, Islands and Natural Environment Committee to consider and report on it.

LEGISLATIVE CONSENT MEMORANDUM - POLICE, CRIME, SENTENCING AND COURTS BILL (UK LEGISLATION)

Introduction

1. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

Police, Crime, Sentencing and Courts Bill

2. The Police, Crime, Sentencing and Courts Bill was introduced in the House of Commons on 9 March 2021.

3. An LCM was lodged by Keith Brown MSP, Cabinet Secretary for Justice and Veterans, on 5 August 2021.

4. The Bill aims to increase trust, transparency and efficiency across the criminal justice system by bring together the Sentencing Bill, Serious Violence Bill and Police Powers and Protections Bill. It includes provision to:

- protect the police and other emergency workers and enhance the wellbeing of police officers and staff;
- protect the public by giving the police the tools needed to tackle crime and disorder, and by addressing the root causes of serious violent crime using multi-agency approaches to prevention;
- ensure that the most serious violent and sexual offenders spend time in prison that matches the severity of their crimes, protects victims and gives the public confidence;
- tackle repeat and prolific offenders through robust community sentences which punish and also address offenders' needs; and
- modernise the delivery of criminal justice by overhauling existing court processes to provide better services for all court users.

5. The LCM indicates that the Scottish Government intends to lodge a motion seeking the Scottish Parliament's consent to the UK Parliament legislating on devolved matters in relation to some aspects of this Bill. However, the Scottish Government does not currently recommend consent for the power to extract information from digital devices of witnesses, victims and others.

Designation of lead committee

6. The Bill is concerned with a range of criminal justice issues. As such, it falls within the responsibilities of the Cabinet Secretary for Justice and Veterans. The remit of the Criminal Justice Committee includes “*to consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Veterans*”. The remit of the Criminal Justice Committee is therefore engaged.

7. No other committee remit appears to be engaged.

8. The LCM will also be considered by the Delegated Powers and Law Reform Committee in regard to provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation.

Recommendation

9. The Bureau is invited to agree to refer, under Rule 9B.3.5, the LCM on the Police, Crime, Sentencing and Courts Bill to the Criminal Justice Committee to consider and report on it.

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM - ENVIRONMENT BILL (UK LEGISLATION)

Introduction

10. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

Environment Bill

11. The Environment Bill was introduced in the House of Commons on 30 January 2020.

12. This supplementary LCM was lodged by Michael Matheson MSP, Cabinet Secretary for Net Zero, Energy and Transport on 9 July 2021. It augments the original LCM lodged by the Cabinet Secretary for Environment, Climate Change and Land Reform on 27 May 2020, and the legislative consent motion agreed by the Parliament on 12 November 2020.

13. The Explanatory Notes¹ accompanying the Bill set out the UK Government’s view of its purpose and main functions, which fulfil legal obligations under the European Union (Withdrawal) Act 2018. The UK Government describes the Bill as having two main purposes. Firstly, to provide a legal framework for environmental governance, and secondly to make provision for specific improvement of the

¹ <https://publications.parliament.uk/pa/bills/cbill/58-01/0009/en/20009en01.htm>

environment, including measures on waste and resource efficiency, air quality and environmental recall, water, nature and biodiversity, and conservation covenants.

14. The LCM indicates that the Scottish Government does not intend to lodge a motion seeking the Scottish Parliament's consent to the UK Parliament legislating on devolved matters in this Bill due to its concern that adequate consideration has not been given to devolved competence. The UK Government disagrees that the provisions set out in the LCM are within devolved competence.

Designation of lead committee

15. The LCM engages the remit of two committees:

- The remit of the Net Zero, Energy and Transport Committee is to report on "matters falling within the responsibility of the Cabinet Secretary for Net Zero, Energy and Transport". The Bill has clear environmental provisions and implications the LCM has been lodged by the Cabinet Secretary for Net Zero, Energy and Transport. The remit of this committee is therefore engaged.
- The remit of the Constitution, Europe, External Affairs and Culture Committee includes to consider and report on "policy in relation to the UK's exit from the EU". As this Bill relates to the UK's withdrawal from the EU, the remit of this committee is also engaged.

16. It is considered that the Net Zero, Energy and Transport Committee has the primary interest in this LCM as the subject matter of the Bill is most clearly within its remit. Designation of this Committee would also be in line with the approach taken to the previous LCM where the Session 5 Environment, Climate Change and Land Reform Committee was designated, as opposed to the Finance and Constitution Committee. However, formal designation of that committee as lead committee does not, of course, preclude any other committee whose remit is engaged from considering the LCM if it so wishes.

17. The LCM will also be considered by the Delegated Powers and Law Reform Committee in regard to provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation.

Recommendation

18. The Bureau is invited to consider recommending to the Parliament by motion that it agrees, under Rule 9B.3.5, to designate the Net Zero, Energy and Transport Committee as the lead committee to consider and report on the LCM.

19. A draft motion is provided below.

Draft Parliamentary Bureau motion on the Environment Bill (UK Legislation):

Designation of Lead Committee – That the Parliament agrees that the Net Zero, Energy and Transport Committee be designated as the lead committee in consideration of the legislative consent memorandum in relation to the Environment Bill (UK Legislation).

PARLIAMENTARY BUREAU

LEGISLATIVE CONSENT MEMORANDUM - PROFESSIONAL QUALIFICATIONS BILL (UK LEGISLATION)

Introduction

20. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

Professional Qualifications Bill

21. The Professional Qualifications Bill was introduced in the House of Lords on 12 May 2021.

22. An LCM was lodged by Kate Forbes, Cabinet Secretary for Finance and the Economy, supported by Ivan McKee, Minister for Business, Trade, Tourism and Enterprise, on 12 July 2021.

23. The UK Government has set out the aims and purpose of the proposed legislation in the Explanatory Notes which accompany the Bill. The Bill is intended to revoke and replace the interim system for the recognition of professional qualifications that derives from the UK's membership of the EU. The Bill creates a framework to enable the recognition of professional qualifications ("RPQ") from overseas professions in the UK or part of the UK to meet the needs of the professions.

24. The LCM indicates that the Scottish Government does not intend to lodge a motion seeking the Scottish Parliament's consent to the UK Parliament legislating on devolved matters in this Bill. The LCM states that this is because the Scottish Government is concerned about the lack of a legislative requirement for UK Ministers to obtain consent from the Scottish Ministers when exercising the powers conferred by the Bill in devolved areas.

Designation of lead committee

25. The LCM engages the remit of two committees:

- The remit of the Economy and Fair Work Committee is "*to consider and report on matters relating to the economy falling within the responsibility of the Cabinet Secretary for Finance and the Economy*". The Bill applies to all regulated professionals active in Scotland and has been lodged by the Cabinet Secretary for Finance and the Economy. The remit of this committee is therefore engaged.

- The remit of the Constitution, Europe, External Affairs and Culture Committee includes to consider and report on “*policy in relation to the UK’s exit from the EU*”. As this Bill relates to the UK’s withdrawal from the EU, the remit of this committee is also engaged.

26. It is considered that the Economy and Fair Work Committee has the primary interest in this LCM as the subject matter of the Bill is most clearly within its remit. However, formal designation of that committee as lead committee does not, of course, preclude any other committee whose remit is engaged from considering the LCM if it so wishes.

27. The LCM will also be considered by the Delegated Powers and Law Reform Committee in regard to provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation.

Recommendation

28. The Bureau is invited to consider recommending to the Parliament by motion that it agrees, under Rule 9B.3.5, to designate the Economy and Fair Work Committee as the lead committee to consider and report on the LCM.

29. A draft motion is provided below.

Draft Parliamentary Bureau motion on the Professional Qualifications Bill (UK Legislation):

Designation of Lead Committee – That the Parliament agrees that the Economy and Fair Work Committee be designated as the lead committee in consideration of the legislative consent memorandum in relation to the Professional Qualifications Bill (UK Legislation).

**Parliamentary Business Team
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