LEGISLATIVE CONSENT MEMORANDUM

ENTERPRISE AND REGULATORY REFORM BILL 2012

Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Cabinet Secretary for Finance, Employment and Sustainable Growth, is:

“That the Parliament agrees that the relevant provisions of the Enterprise and Regulatory Reform Bill, introduced in the House of Commons on 23 May 2012, relating to the “green purpose” of the UK Green Investment Bank, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Background

2. This Legislative Consent Memorandum (LCM) has been lodged by the Cabinet Secretary for Finance, Employment and Sustainable Growth under Rule 9.B.3.1(a) of the Parliament’s Standing Orders. The Enterprise and Regulatory Reform Bill (“the Bill”) was introduced in the House of Commons on 23 May 2012. The latest version of the Bill can be found at:

http://services.parliament.uk/bills/2012-13/enterpriseandregulatoryreform.html

Content of the Enterprise and Regulatory Reform Bill

3. The Bill will make provision on various issues including: the UK Green Investment Bank (GIB); employment law; establishment of the Competition and Markets Authority and abolition of the Competition Commission and the Office of Fair Trading; amendment of the Competition Act 1998 and the Enterprise Act 2002; the reduction of legislative burdens; copyright and rights in performances; to make provision about payments to company directors; and for connected purposes.

Provisions which relate to Scotland

4. Part 1 of the Bill makes provisions about the GIB. The provisions in that Part allow HM Treasury to give the GIB financial assistance as long as it is more than half owned by the Crown and as long as two further conditions are met. These conditions are that the Secretary of State (for Business, Innovation and Skills) has provided the GIB with an operational independence undertaking and that the constitution of the GIB allows it to engage only in activities that contribute to the achievement of one or more of the green purposes in the UK.

5. The green purposes are: the reduction of greenhouse gas emissions; the advancement of efficiency in the use of natural resources; the protection or enhancement of the natural environment; the protection or enhancement of biodiversity and the promotion of environmental sustainability.
6. The main purpose of the GIB will be to provide financial solutions to accelerate private sector investment in the green economy. Capitalised with £3 billion (which includes £103 million of the Fossil Fuel Levy funds as agreed by Scottish Ministers and the UK Government), the GIB will play a vital role in addressing market failures affecting green infrastructure projects in order to stimulate a step up in private investment.

7. In March 2012 the UK Government announced that the headquarters of the GIB will be sited in Edinburgh. This was following a strong bid by the city which included commerce, academia and civic society, as well as wider support from these sectors across Scotland. There was also cross party support in Parliament for the Edinburgh bid, acknowledging the potential benefits both for the city and for Scotland’s low carbon sectors from the creation of the GIB.

8. The Bill will enable the UK Government to enshrine the GIB’s green purposes throughout the UK.

Reasons for seeking a legislative consent motion

9. The encouragement of energy efficiency is devolved. Climate change policy is also, in general, devolved to the Scottish Government and its commitment to securing the transition to a low carbon economy is one of the six strategic priorities laid out in the refreshed Scottish Government Economic Strategy (September 2011). The Bill provisions concerning the GIB’s green purpose do not relate to any reserved matter and therefore require an LCM.

10. It is vitally important that the GIB channels investment into low carbon projects to move the sector onto a strong commercial footing. It is therefore important that the green purposes of the GIB are consistent across the UK. This LCM will allow this consistency and ensure that green investments are made UK wide.

11. The legislative consent process is the Scottish Government’s preferred route to take forward this policy. A separate Scottish Bill for the relevant provisions would not be a resource efficient method for delivering the Bill’s provisions and would prove difficult to deliver in a timely manner in order to allow the establishment of the GIB as scheduled.

Consultation

12. The UK Government announced its intent to create a GIB in June 2010 as part of the 2010 budget statement. There followed detailed consideration and consultation regarding the cost, benefits, rationale and value of the proposed bank including an inquiry in to the proposals by the House of Commons Environmental Committee. There was also a detailed selection process to establish where the GIB should be headquartered which involved 32 locations. Reports were published on the economics of the bank
and the policy and financial context. Westminster’s Environmental Audit Committee also held an inquiry.

Financial implications

13. There would be no negative financial implications for Scotland stemming from approval of this LCM. Indeed, following an excellent bid campaign, the GIB headquarters will be located in Edinburgh with resultant benefits to Edinburgh’s economy and for Scotland’s thriving low carbon sector.

Conclusion

14. It is in the interests of the Scottish people and an ambition of the Scottish Government for Scotland to move to a low carbon economy while maintaining the security and diversity of electricity supplies. The proposals of the Bill will help achieve this and should be supported.

Scottish Government
June 2012