



The Scottish Parliament
Pàrlamaid na h-Alba

**Local Government and
Regeneration Committee**

7th Report, 2012 (Session 4)

Legislative Consent Memoranda

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The Scottish Parliament
Pàrlamaid na h-Alba

Local Government and Regeneration Committee

Remit and membership

Remit:

To consider and report on a) the financing and delivery of local government and local services, and b) planning, and c) matters relating to regeneration falling within the responsibility of the Cabinet Secretary for Infrastructure and Capital Investment.

Membership:

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Local Government and Regeneration Committee

7th Report, 2012 (Session 4)

Legislative Consent Memoranda

The Committee reports to the Parliament as follows—

Introduction

1. In June 2012, the following legislative consent memoranda were referred to the Committee for consideration:

- The Electoral Registration and Administration Bill, LCM(S4)10.1, and
- The Local Government Finance Bill, LCM(S4)12.1.

2. This report sets out the Committee's consideration of these Memoranda.

THE ELECTORAL REGISTRATION AND ADMINISTRATION BILL

3. The Electoral Registration and Administration Bill ("the UK Bill") was introduced in the House of Commons by HM Government on 10 May 2012. The purpose of this legislation is to amend the law in the UK in relation to the registration of electors and the administration and conduct of elections.

4. The UK Bill introduces provisions for a new system of electoral registration, known as Individual Electoral Registration ("IER"). This will, amongst other things, provide that each elector must apply individually to be registered to vote after the transition to the new system. The UK Bill also makes provisions for transition to this new system of registration, as well as introducing new methods by which electors can apply to register.¹

5. Furthermore, the UK Bill includes provisions in relation to the administration and conduct of elections. These provisions are intended to improve the way elections are run, increase voter participation, and further improve the integrity and robustness of the electoral system.²

¹ LCM(S4)10.1 <http://www.scottish.parliament.uk/LegislativeConsentMemoranda/UKERABill-lcm.pdf>

² LCM(S4)10.1

Legislative Consent Memorandum LCM(S4)10.1

6. Electoral Registration is a reserved matter to the UK Parliament. However, the conduct of local government elections in Scotland, including arrangements for absent voting, is a matter devolved to the Scottish Parliament. As a consequence, the UK Bill has implications for matters which fall within the legislative competence of the Scottish Parliament.

7. Following the introduction of the UK Bill in the House of Commons, the Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney MSP, lodged a Legislative Consent Memorandum (“the LCM”) under Rule 9B.3.1(a) of Standing Orders. The LCM containing the following draft Legislative Consent Motion:

“That the Parliament agrees that the relevant provisions of the Electoral Registration and Administration Bill, introduced in the House of Commons on 10 May 2012, relating to Individual Electoral Registration and absent voting and rejected postal votes, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Evidence taking

8. The LCM was referred to the Committee on 5 June 2012. The Committee took oral evidence on the LCM on 13 June 2012 from William Pollock, Chair of the Scotland and Northern Ireland Branch, Association of Electoral Administrators; Gordon Blair, Member, Society of Local Authority Lawyers and Administrators; Stephen Sadler, Head of Elections Team, Scottish Government; Andy O'Neill, Head of Office Scotland, Electoral Commission; Chris Highcock, Secretary, Electoral Management Board for Scotland, and David Anning, Project Manager, Logica UK.

9. On 20 June 2012, the Committee took oral evidence from John Swinney MSP, Cabinet Secretary from Finance, Employment and Sustainable Growth (“the Cabinet Secretary”), and Andrew Sinclair, Policy Officer, Scottish Government Elections Team.

Subordinate Legislation Committee

10. The Subordinate Legislation Committee considered the LCM at its meeting on 12 June 2012. The Committee notes that the Subordinate Legislation Committee was content the powers conferred on the Scottish Ministers under the UK Bill.³

Implications for Scotland

11. Stephen Sadler, Head of Elections Team at the Scottish Government, set out the implications of the Bill for Scotland:

“In the transition between the system of electoral registration that we have now and individual electoral registration, voters who have not registered

³ Report by the Subordinate Legislation Committee, SL/S4/12/R33:
<http://scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/52128.aspx>

individually but remain on the previous register will be carried forward for a year or two. The aim of that is to address the concern among the Electoral Commission and others that while the introduction of the scheme is a good thing in itself, an unintended consequence could be a reduction in the number of people who register. There will be that rollover period. The exception to that is that anyone applying to vote by post or by proxy will need to register as an individual, under the new legislation. Those issues could be dealt with by legislation in this Parliament, but as they are small issues in relation to the rest of the bill, and because there are implications and advantages in having the same arrangements for absent voting throughout Great Britain, we suggest that they be dealt with under the LCM.”⁴

12. Andy O’Neill, Head of the Scotland Office for the Electoral Commission welcomed the introduction of the UK Bill and the extension of the provisions to Scotland:

“The Electoral Commission has supported individual electoral registration since 2003, so we welcome the introduction of the bill in the UK Parliament. We believe that IER will give people the right to manage their own vote and that it will address some of the vulnerabilities of the electoral registration process. We recognise that it is a big change and that it needs to be planned well, and we have been working with the UK Government to try to achieve that.”⁵

13. In relation to the role of Electoral Registration Officers (“EROs”) in Scotland, LCM(S4)10.1 stated that:

“The [UK] Bill also contains a new proposal to place EROs under a duty to inform (after an election) those electors whose postal votes had been rejected because the postal vote identifiers did not match those stored on record for that elector. The intention is to give EROs the power to require the resubmission of signatures from past votes where there had been a mismatch. The notification, and the power to update signatures, would reduce the number of postal voters who inadvertently invalidated their postal vote at successive elections and help to support participation in the electoral process”.⁶

14. Stephen Sadler elaborated on this point:

“...powers so that after an election, when an absent vote has been rejected because the personal identifiers—for example the signature or date of birth—do not match, the electoral registration officer will be able to tell the voter

⁴ Scottish Parliament Local Government and Regeneration Committee, *Official Report, 13 June 2012*, Cols 1117

⁵ Scottish Parliament Local Government and Regeneration Committee, *Official Report, 13 June 2012*, Cols 1117-1118.

⁶ Scottish Parliament Local Government and Regeneration Committee, *Official Report, 13 June 2012*, Cols 1117.

what happened and give them a warning so that they do not make the same mistake next time.”⁷

15. Andy O’Neill noted that the current national estimated for postal vote rejection rate at the Scottish local government elections in May 2012 was 4.4%. This is a decrease from 5.9% postal ballot rejection rate for postal ballots cast during the Scottish Parliament election in May 2011.⁸

Recommendation

16. The Committee is content with the proposals set out in Legislative Consent Memorandum LCM(S4)10.1, and recommends that the Parliament approve the draft Legislative Consent Motion.

⁷ Scottish Parliament Local Government and Regeneration Committee, *Official Report, 13 June 2012*, Col 1117.

⁸ Scottish Parliament Local Government and Regeneration Committee, *Official Report, 13 June 2012*, Col 1130.

THE LOCAL GOVERNMENT FINANCE BILL

17. The Local Government Finance Bill (“the UK Bill”) was introduced in the House of Commons by HM Government on 19 December 2011. The Bill pertains almost entirely to England. The purpose of the UK Bill is to allow English local authorities to retain a proportion of their business rates receipts and to compel English local authorities to establish Council Tax reduction schemes to replace Council Tax Benefit.⁹

Legislative Consent Memorandum LCM(S4)12.1

18. On 17 May 2012 the UK Bill was amended at Committee Stage in the House of Commons. These amendments meant that the UK Bill now has implications for executive competencies of the Scottish Ministers.

19. Following the amendment of the UK Bill, the Cabinet Secretary for Finance, Employment and Sustainable Growth, John Swinney MSP, lodged a Legislative Consent Memorandum (“the LCM”) under Rule 9B.3.1(c)(ii) of Standing Orders. The LCM contains the following draft Legislative Consent Motion:

“That the Parliament agrees that the relevant provision of the Local Government Finance Bill, introduced in the House of Commons on 19 December 2011, which relates to the establishment of a data sharing gateway for purposes relating to council tax liability, in so far as these matters fall within the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

20. The LCM states that, as a result of the amendments to the UK Bill, the Scottish Ministers will be able to prescribe purposes relating to Council Tax for which HM Revenue and Customs (“HMRC”) may supply information it holds to local authorities in Scotland. The UK Bill makes provision for regulations to provide for sharing between local authorities in Scotland of information supplied by HMRC.

21. The legal framework which the amendment would allow the Scottish Ministers to create would, in practice, be used to support the assessment of individuals’ Council Tax liabilities. There are related offence provisions for unauthorised disclosure of information so supplied, which relates to a particular person, by recipients of such information. No other part of the Bill relates to Scotland.¹⁰

Evidence taking

22. The LCM was referred to the Committee on 5 June 2012. The Committee took oral evidence on the LCM on 20 June 2012 from John Swinney MSP, Cabinet Secretary from Finance, Employment and Sustainable Growth and Jonathan Sewell, Economic Adviser, Scottish Government Local Government and Communities Directorate.

⁹ LCM(S4)12.1

http://www.scottish.parliament.uk/LegislativeConsentMemoranda/LGFinanceBill_lcm.pdf

¹⁰ LCM(S4)12.1, para 4

Subordinate Legislation Committee

23. The Subordinate Legislation Committee considered the LCM at its meeting on 12 June 2012. The Committee notes that the Subordinate Legislation Committee was content the powers conferred under the UK Bill.¹¹

Implications for Scotland

Data sharing

24. The LCM states that the provisions of the UK Bill “relate to a technical matter in connection with the exchange of data between different bodies administering differing taxes”¹². The UK Bill will allow for relevant information held by HMRC on Council Tax to be provided to Scottish local authorities, and, for that information to be shared between Scottish local authorities.

Recommendation

25. The Committee is content with the proposals set out in Legislative Consent Memorandum LCM(S4)12.1, and recommends that the Parliament approve the draft Legislative Consent Motion.

¹¹ Report by the Subordinate Legislation Committee, SL/S4/12/R34:
<http://scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/52134.aspx>

¹² LCM(S4)12.1

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