

# Finance Committee report on Legislative Consent Memorandum Finance Bill 2020

June 2020

## Introduction

1. The Finance Bill 2020 (the Bill) was introduced into the House of Commons on 17 March 2020.
2. The Bill completed its second reading in the House of Commons on 27 April 2020 and was sent to a Public Bill Committee. The date of the first sitting of the Committee has yet to be confirmed, but the Committee is scheduled to report by 25 June 2020.
3. The Legislative Consent Memorandum (LCM), was laid on 13 May 2020 by Lesley Griffiths MS, Minister for Environment, Energy and Rural Affairs (the Minister). The Welsh Government provide a summary of the key provisions of the Bill in paragraph 5 of the LCM.
4. Standing Order 29 provides that the Welsh Ministers must lay a LCM Consent Memorandum where a UK Bill makes provision in relation to Wales:
  - (i) For any purpose within the legislative competence of the Senedd (apart from incidental, consequential, transitional, transitory, supplementary or savings provisions relating to matters that are not within the legislative competence of the Senedd); or
  - (ii) Which modifies the legislative competence of the Senedd.
5. Following the LCM being laid the Minister published a written statement on The future of UK carbon pricing, which notes:

“The UK ETS is a key policy to support cost-effective reduction in emissions from our highest emitting sites. Around 50% of Welsh



greenhouse gas emissions are generated by the power, industry and aviation businesses covered by the scheme. Our businesses need certainty and, at this difficult time, we will support industry to recover to an economically and environmentally sustainable future.”<sup>1</sup>

**6.** The Finance Committee considered the LCM at its meeting on 15 June 2020.

## Provisions for which consent is sought

**7.** Paragraph 6 of the LCM explains that the Welsh Government considers that consent is required for the provisions contained in subsections (1) to (4) of clause 93 of the Bill (as introduced), which relate to charging for allocating allowances under emissions reduction trading schemes.

**8.** The UK as a whole currently participates in the European Union Emissions Trading System. However, a replacement policy will be required within the UK at the end of the transition period to the UK exiting the European Union.

**9.** Clause 93(1) allows the UK Government to make regulations which provide for the allocation of emissions allowances in return for payment under any future UK Emissions Trading System.

**10.** Clause 93(2) provides examples of matters that such regulations may make provision for. Clause 93(3) and (4) allow the UK Government to create schemes which set out the detail of the conduct and terms of allocations in return for payment, in particular setting out who may participate, the allowances that may be allocated and when and where allocations are to take place.

**11.** The Welsh Government consider that these provisions fall within the legislative competence of the Senedd, insofar as they relate to environmental protection and climate change in Wales.

**12.** However, the UK Government do not consider that consent is required. The table on page 201 of the Bill’s Explanatory Notes provides that although clause 93 extends and applies to Wales, the UK Government do not consider that a corresponding provision would be within the competence of the Senedd.

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<sup>1</sup> <https://gov.wales/written-statement-government-response-future-uk-carbon-pricing>

## Legislative competence

**13.** Under the reserved powers model set out in the Government of Wales Act 2006 ("GoWA"), a provision will only be within competence if the competence tests set out in section 108A are satisfied. One of the tests is that a provision must not relate to any of the reserved matters that are listed in Schedule 7A of GoWA.

## Conclusion

**14.** Paragraph 13 of the LCM explains that the Welsh Government consider that it is appropriate to deal with the provisions in a UK Bill as the auction process for emissions trading schemes will require a UK-wide framework, and will need to come into force at the same time across the UK. The Welsh Government consider that the timescale does not allow for a Wales specific Bill to be introduced.

**15.** The Committee notes the LCM and does not wish to raise any reporting issues. Therefore, the Committee is content.