

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM

(MEMORANDUM NO.2)

UK INFRASTRUCTURE BANK BILL

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum (LCM) must be laid, and a legislative consent motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The UK Infrastructure Bank Bill (“the Bill”) was introduced in the House of Lords on 11 May 2022. The creation of a UK infrastructure bank (“the Bank”) was first announced by the Chancellor at the Spending Review 2020. The Bank was launched on a non-statutory basis on 17 June 2021, and has already begun making investments.
3. The first LCM was laid on 25 May 2022 and addressed provisions in the Bill as introduced.
4. Committee Stage in the House of Lords concluded on 14 June 2022. No amendments were voted on or adopted at this stage.
5. Amendments to the provisions in the Bill were tabled for consideration at Report Stage in the House of Lords which was held on 4 July 2022 and some (primarily but not exclusively, government amendments) were agreed. These amendments make provision falling within the legislative competence of the Senedd of which this supplementary legislative consent memorandum addresses.
6. The Bill as first laid can be found on the UK Parliament website: [UK Infrastructure Bank Bill \[HL\] - Parliamentary Bills - UK Parliament](#)
7. Welsh Government officials have sought amendments relating to the remit of the bank in areas of devolved competence to ensure devolution is respected, but to date the UK Government has not yet made any such changes.

Policy Objectives

8. The UK Government's stated policy objectives of the Bill are to set up the Bank to help tackle climate change and to support regional and local economic growth by providing access to financial instruments, including loans to local authorities to enable investment in infrastructure. It will operate on a UK-wide basis.

Summary of the Bill

9. The Bill is sponsored by HM Treasury.

10. The UK Government's stated purpose of this Bill is to place the UK Infrastructure Bank ('the Bank') on a statutory footing. The Bank is an operationally independent institution wholly owned by government.

11. By placing the Bank on a statutory footing, the Bill seeks to:

- a) confirm and give statutory force to the Bank's objectives and activities;
- b) ensure the Bank is a long-lasting institution;
- c) create statutory forms of transparency, accountability and governance for the Bank;
- d) remove legal barriers to the Bank undertaking direct lending to local authorities;
- and
- e) grant specific powers to the Treasury to provide financial assistance to the Bank.

Territorial extent and application

12. The Bill extends and applies to the whole of the United Kingdom.

13. Infrastructure investment is a mixture of reserved and devolved competence. Matters relating to energy, cross-border rail and digital communications are cases where investment in infrastructure is likely to fall within reserved competence. Other matters such as rail, ports or bridges within a single devolved country or area are likely to fall within the legislative competence of the Senedd.

Amendments agreed at the House of Lords Report Stage for which consent is required

14. As stated in the first LCM, consent of the Senedd is required on the entirety of the Bill as the Senedd has competence to legislate in the same or similar terms in relation to Wales.

15. The agreed amendments are set out below.

Clause 2

Original clause:

16. *Clause 2 – Objectives and activities*

17. *This specifies what the Bank's objectives and activities are to be. The objectives of the Bank are to help tackle climate change and to support economic growth. The activities of the Bank are to provide financial assistance to projects relating to infrastructure (to include water, electricity, gas, telecommunications, sewerage, railways (including rolling stock), roads or other forms of transport and climate change), provide loans to public authorities for such projects and to provide advisory and other support services for such projects.*

18. Consent is required – the Senedd can legislate to confer these functions (which, as above, themselves relate to devolved areas of law) on a body it creates.

Agreed amendments to clause 2:

Amendment 6A

19. The proposed amendment expands the definition of 'infrastructure' for the purposes of the Bill so as to include 'structures underpinning the circular economy, and nature-based solutions'.

20. Consent is required - the proposed amendment does not impact the competence analysis for the original clause, and it is, therefore, concluded that consent is required.

Amendment 8

21. The proposed amendment expands the definition of 'infrastructure' for the purposes of the Bill so as to make it clear that energy efficiency, in relation to electricity, gas and the provision of heat, is within the definition of infrastructure.

22. Consent is required - the proposed amendment does not impact the competence analysis for the original clause, and it is, therefore, concluded that consent is required.

Amendment 12

23. The proposed amendment adds a governance requirement for the Bank and obliges the Bank to have regard to the Government's Levelling Up White Paper when exercising its functions.

24. Consent is required - the proposed amendment does not impact the competence analysis for the original clause, and it is, therefore, concluded that consent is required.

Clause 9

Original clause:

25. *Clause 9 - Reviews of the Bank's effectiveness and impact*

26. *This clause obliges HM Treasury to carry out reviews of the effectiveness of the Bank in delivering its objectives and its impact in relation to climate change and regional and local economic growth. After each review, HM Treasury must publish a report of the review and lay a copy of the report before Parliament.*

27. Consent is required - the Senedd has competence to impose such obligations on a similar body to the Bank that it has created and on the Welsh Ministers regarding publishing a report of the review and laying a copy of the report before the Senedd.

Agreed amendments to clause 9:

Amendments 22, 23, 25-29, 31, 33

28. These proposed amendments alter the administrative requirements on the Treasury as set out in the original clause. Specifically, the reviews required by clause 9: (a) are to be carried out by an independent person (instead of by the Treasury) and (b) are to detail the extent to which the Bank's investments encourage additional investment by the private sector. The proposed amendments also require the Treasury to publish the review undertaken by the independent person and adjust the time limit for completing the first review to 7 (rather than 10) years.

29. Consent is required - the proposed amendments do not impact the competence analysis for the original clause, and it is, therefore, concluded that consent is required.

UK Government view on the need for consent

30. The UK Government's view on the need for consent remains the same as outlined in the first LCM tabled on 25 May 2022.

Welsh Government's Current Policy Position

31. Welsh Government's position remains unchanged, as outlined in the previous LCM.

32. The Bill as introduced provides no role for the Senedd, the Welsh Ministers, or Welsh Government officials in the governance of the Bank, while reserving certain activities for Parliament, the Chancellor and HM Treasury, such as the power for HM Treasury to amend the Bank's strategic direction including in areas of devolved competence without consulting the Senedd or Welsh Government.

33. Welsh Government will continue to engage with HM Treasury despite there being no progress on amendments to date.

Financial implications

34. There are no direct financial implications arising from this memorandum.

Conclusion

35. As set out above, the legislative consent of the Senedd Cymru is required for all amendments to the Bill.

36. The Bill remains of constitutional concern to the Welsh Government. Despite the merits of some of the clauses, the Welsh Ministers' final position on whether to recommend consent is subject to the outcome of ongoing discussions with the UK Government regarding bringing forwards amendments to the Bill.

Rebecca Evans MS
Minister for Finance and Local Government
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