Parliamentary Bureau - Legislative Consent Memorandum

Pension Schemes 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.

2. This LCM has been lodged by Shona Robison MSP, Cabinet Secretary for Finance and Local Government, in accordance with Rule 9.B.3.1(a).

Pension Schemes Bill

3. This Bill was introduced in the House of Commons on 5 June 2025.

4. The Bill contains provisions that will bring significant changes to different kinds of pension schemes. It consolidates Local Government Pension Scheme funds in England and Wales (LGPS (E&W)) into six larger funds and provides for the management and governance of those funds. In respect of other types of pension schemes, the Bill will allow trustees of well-funded defined benefit occupational pension schemes to return surplus funds to employers, and it makes changes to defined contribution schemes, requiring value for money, the consolidation of individuals' small pension pots, and sets a minimum size for multi-employer schemes to create "megafunds". Other miscellaneous provisions alter the legal standing of the Pensions Ombudsman and make changes relating to the Pension Protection Fund.

5. This memorandum relates to the provisions intended for the LGPS (E&W). As originally drafted, the Bill granted powers to the Secretary of State to make regulations for the LGPS (E&W) in relation to these matters. The LGPS (E&W) is governed by regulations separately to the Scottish Local Government Pension Scheme (LGPS(S)), although they are both made under powers derived from the Public Service Pensions Act 2013 (the 2013 Act). The 2013 Act introduced reforms to eight major public service pensions schemes, powers to make scheme regulations rest with the "responsible authority", being the relevant Secretary of State for the UK Government or, for the five executively devolved schemes in Scotland, the Scottish Ministers.

6. Following amendments tabled at the Committee stage on 1 September 2025, certain clauses contained in Chapter 1 of Part 1 now extend to the LGPS(S). The UK Government agreed to make these changes following exchanges between the Scottish Ministers and the UK Government, in which it was agreed that maintaining the parity of powers for the respective regulation-making authorities in the UK was desirable. The Bill, as amended, therefore alters the executive competence of the Scottish Ministers.

7. The LCM includes a draft motion seeking the Parliament's consent to all relevant provisions in the Bill.

Designation of lead committee

8. The relevant provisions of the Bill fall within the remit of the Local Government, Housing and Planning Committee. The committee's remit is (among other things) to consider and report on matters relating to local government and planning falling within the responsibility of the Cabinet Secretary for Finance and Local Government. The Cabinet Secretary has responsibility (among other things) for local government, and local government finance. She is supported by the Minister for Public Finance, who has responsibility (among other things) for public sector pensions.

9. The LCM will also be considered by the Delegated Powers and Law Reform Committee in relation to any provisions in the Bill conferring powers to make subordinate legislation in areas of devolved competence.

Recommendation

10. The Bureau is invited to refer, under Rule 9B.3.5, the LCM to the Local Government, Housing and Planning Committee as lead committee.

The Public Authorities (Fraud, Error and Recovery) Bill

11. The Public Authorities (Fraud, Error and Recovery) Bill was introduced by the UK Government in the House of Commons on 22 January 2025.

12. An LCM was lodged by the Scottish Government in relation to this Bill on 21 March 2025. In that LCM, the Scottish Government recommended that the Parliament consent to clauses 72, 73, 74, 75, 77-81, 83-87 and 98, and schedules 3-4 of the Bill. The Parliament agreed a motion on legislative consent on 25 June 2025 to consent to these clauses.

13. At the time of lodging the first LCM, the Scottish Government had not yet reached a position on the other relevant provisions, namely clauses 89, 90, 92, 94 and 95 and schedule 5.

14. A supplementary LCM was lodged by Shirley-Anne Somerville MSP, Cabinet Secretary for Social Justice, on 3 October 2025, following the tabling of relevant amendments in the House of Lords (second house).

15. The supplementary LCM sets out that the policy objective of the Bill is to "safeguard the public finances against fraud and error. Part 1 of the Bill is intended to help the UK Government address losses due to fraud and error occurring outside the tax and benefits systems. Part 2 introduces new powers to help the Department for Work and Pensions (DWP) to address fraud and error in the social security system, and to recover overpayment debt."

16. The supplementary LCM further sets out that the Scottish Government recommends that the Scottish Parliament consent to the relevant provisions in the Bill, namely amended clause 78 and schedule 4 in relation to search and seizure, and clauses 90, 98 and 99 (which were clauses 88, 96 and 97, respectively, in the Bill as introduced) in relation to non-benefit payments.

Parliamentary consideration

17. The LCM engages the remit of the Social Justice and Social Security Committee, which considered and reported on the initial LCM in June 2025. The Committee's remit includes, but is not limited to, considering and reporting on matters falling within the responsibility of the Cabinet Secretary for Social Justice. The Cabinet Secretary for Social Justice is responsible (among other things) for Scottish Government benefits (development and delivery) and Social Security Scotland.

18. It is understood that the Bill will reach Report stage in the House of Lords (second house) on 15 October. The Scottish Parliament's October recess runs from 11 October to 26 October. Therefore, to ensure that Parliament has considered the supplementary LCM before the last amending stage in the UK Parliament, which is expected to take place while the Scottish Parliament is in recess, the lead committee would need to consider and report on the supplementary LCM on or before the last sitting day before recess (Thursday 9 October).

19. Given that the supplementary LCM was lodged on 3 October, it would be very difficult for the lead committee to consider and report on the LCM in this short timeframe. It is understood that the Scottish Government intends to seek a debate on this supplementary LCM, which would provide MSPs with an alternative means of scrutinising it. The Social Justice and Social Security Committee has been consulted and is content not to consider the supplementary LCM in these circumstances.

20. The Delegated Powers and Law Reform (DPLR) Committee has also been consulted and has indicated that it is content not to consider the supplementary LCM in these circumstances.

21. A draft motion to suspend Rules 9B.3.5 and 9B.3.6 of Standing Orders, which would allow a motion on legislative consent to go directly to the Chamber without being considered or reported on by the lead committee or the DPLR Committee, is set out below.

Recommendation

22. The Bureau is invited to consider recommending to the Parliament by motion that Rules 9B.3.5 and 9B.3.6 of Standing Orders be suspended for the purposes of consideration of the supplementary LCM on the Public Authorities (Fraud, Error and Recovery) Bill.

23. A draft motion is provided below:

> "That the Parliament agrees that, for the purposes of consideration of the supplementary legislative consent memorandum on the Public Authorities (Fraud, Error and Recovery) Bill, Rules 9B.3.5 and 9B.3.6 of Standing Orders are suspended."

Parliamentary Business Team
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