



The Scottish Parliament  
Pàrlamaid na h-Alba

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## **Delegated Powers and Law Reform Committee**

# **Second supplementary Legislative Consent Memorandum: delegated powers exercisable within devolved competence in the Sustainable Aviation Fuel Bill**



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# Delegated Powers and Law Reform Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1;

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule; and

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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# Committee Membership



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Scottish National Party



**Katy Clark**  
Scottish Labour



**Roz McCall**  
Scottish Conservative  
and Unionist Party



**Jeremy Balfour**  
Independent

# Introduction and overview of the Bill

1. The purpose of this report is to consider the [Second Supplementary Legislative Consent Memorandum](#) lodged by the Scottish Government in relation to the delegated powers in the [Sustainable Aviation Fuel Bill](#) (“the Bill”).
2. The Bill was introduced on 15 May 2025 and is currently at report stage in the House of Lords.
3. The purpose of the Bill is to reduce revenue risk in relation to the production of sustainable aviation fuel ("SAF") and support SAF production in the UK, leading to a reduction in aviation emissions.
4. The Bill seeks to achieve this by:
  - introducing legislative measures to implement a revenue certainty mechanism to support sustainable aviation fuel (SAF) production in the UK;
  - enabling the Secretary of State to designate a counterparty that is wholly owned by government and direct them to enter into private law contracts with SAF producers, guaranteeing a price for the sale of eligible SAF over a period; and
  - enabling the Secretary of State to make regulations imposing a levy on suppliers of aviation fuel in the UK, to fund the revenue certainty mechanism. This will allow the counterparty to collect a levy to cover the costs of issuing payments under contracts and administering the scheme.

# Delegated Powers

5. The Scottish Government lodged an [LCM for the Bill](#) on 24 July 2025 because the Bill makes provision applying to Scotland for purposes within the legislative competence of the Parliament.
6. The Committee considered the LCM at its meetings on 16 September and 7 October 2025 and published its [report](#) on 9 October 2025.
7. The report records that the Committee was content with all of the delegated powers in the Bill. However, in relation to the powers in section 1(6) and 10(1) the Committee made some additional recommendations.
8. The full background on all powers to make subordinate legislation within devolved competence under the Bill, together with the Committee's consideration and conclusions, is set out in that report.
9. **Section 1(6)** enables the Secretary of State to direct a designated counterparty to enter into a revenue certainty contract with a SAF producer on terms determined by the Secretary of State. The period during which the Secretary of State may direct the designated counterparty is initially limited to 10 years under subsection (5), but that period may be extended by regulations made under subsection (6).
10. In relation to the power in section 1(6), the Committee noted that the power is exercisable by the Secretary of State within the Scottish Parliament's legislative competence, but it is not subject to any requirement to consult or obtain the consent of the Scottish Ministers before being exercised and does not fall within the scope of SI Protocol 2.
11. **Section 10(1)** enables the Secretary of State to make regulations to require the designated counterparty to make payments of any surplus to suppliers of aviation fuel who have paid the levy and how the surplus and payments are to be determined. A surplus may arise where the SAF producers are making payments to the counterparty when the market reference price exceeds the strike price.
12. This clause also provides that regulations may require suppliers who receive such payment to ensure their customers will receive such benefits from the payment in accordance with those regulations.
13. Subsection (4) requires the Secretary of State to consult Scottish Ministers, before making such regulations, if the regulations contain provision which would be within the legislative competence of the Scottish Parliament if contained in an Act of the Scottish Parliament.
14. In relation to the power in section 10(1), the Committee called upon the Scottish Government, when it was in a position to do so, to set out how it will facilitate scrutiny by the Scottish Parliament of:
  1. any proposals by the Secretary of State to make regulations under these powers containing provision within legislative competence; and
  2. the Scottish Ministers' consultation response in respect of such proposals.

15. For completeness, on 27 October 2025, the Scottish Government lodged a supplementary LCM. The Committee considered this at its meeting on 4 November 2025 and agreed that no further action was required, as the supplementary LCM did not alter the Committee's previous conclusions.

## **Second Supplementary LCM**

16. On 17 December 2025, a [second supplementary LCM](#) was published to record the fact that, following further engagement between the Scottish Government and the UK Government, the UK Government had amended the Bill so as to require the Secretary of State to consult with the Scottish Ministers where regulations were to be made under powers conferred by clauses 1, 3, 10 and 11. In addition, paragraph 50 of the second supplementary LCM contains an undertaking that the Scottish Government will ensure that the Scottish Parliament is informed of these consultations and its responses going forward.
17. In light of the amendments to the Bill, the Scottish Government is now recommending that the Parliament consents to these clauses.

18. **The Committee welcomes that:**

- **the power in section 1(6) is now subject to a consultation requirement; and**
- **the Scottish Government has now set out how it will facilitate the scrutiny of proposals by the Secretary of State to make regulations under section 10(1) containing provision within legislative competence, and the Scottish Ministers' consultation response in respect of such proposals.**

