



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 9 February 2022  
SP Paper 103  
2nd Report, 2022 (Session 6)

## **Economy and Fair Work Committee**

# **Report on the Legislative Consent Memorandum for the Subsidy Control Bill**



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

---

All documents are available on the Scottish Parliament website at:  
<http://www.parliament.scot/abouttheparliament/91279.aspx>

For information on the Scottish Parliament contact Public Information on:  
Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

# Contents

<b>Conclusions</b>	<b>1</b>
<b>Introduction</b>	<b>4</b>
<b>Legislative Consent Memorandum</b>	<b>5</b>
<b>The Bill applied to Scotland</b>	<b>6</b>
<b>Committee consideration</b>	<b>8</b>
<b>Subsidies and the Scottish economy</b>	<b>9</b>
<b>Opportunities within the new regime</b>	<b>10</b>
<b>Streamlined subsidy schemes</b>	<b>11</b>
<b>Net Zero</b>	<b>12</b>
<b>Scottish National Investment Bank</b>	<b>13</b>
<b>Natural disasters and emergencies</b>	<b>14</b>
<b>Uncertainty, administration costs and risk aversion</b>	<b>15</b>
<b>Competition and Markets Authority and Subsidy Advice Unit</b>	<b>17</b>
<b>Transparency</b>	<b>20</b>
<b>Review of a decision to make a subsidy</b>	<b>21</b>
<b>The inclusion in the Bill of agriculture</b>	<b>23</b>
<b>Detailed guidance and clarity</b>	<b>25</b>
<b>Assisted Areas map</b>	<b>26</b>
<b>Conclusions</b>	<b>28</b>
<b>Bibliography</b>	<b>31</b>

# Economy and Fair Work Committee

To consider and report on matters relating to the economy falling within the responsibility of the Cabinet Secretary for Finance and the Economy.



[economyandfairwork.committee@parliament.scot](mailto:economyandfairwork.committee@parliament.scot)

# Committee Membership



**Convener**  
**Claire Baker**  
Scottish Labour



**Deputy Convener**  
**Colin Beattie**  
Scottish National Party



**Alexander Burnett**  
Scottish Conservative  
and Unionist Party



**Maggie Chapman**  
Scottish Green Party



**Jamie Halcro Johnston**  
Scottish Conservative  
and Unionist Party



**Fiona Hyslop**  
Scottish National Party



**Gordon MacDonald**  
Scottish National Party



**Colin Smyth**  
Scottish Labour



**Michelle Thomson**  
Scottish National Party

# Conclusions

- 1. This report is made during the concluding stages of the Bill’s passage at Westminster. As already noted, the delay in receiving the legislative consent memorandum compromised the Committee’s ability to scrutinise and influence the Bill at an earlier stage. It is unsatisfactory that the Committee finds itself in this position and we draw this concern to the Parliament’s attention.**
- 2. The Committee agrees with the Scottish Government and shares its concerns that the Bill gives considerable powers to UK Ministers, cutting across the devolution settlement, with the risk of UK Ministers intervening in devolved areas without proper consultation or knowledge of local circumstances.<sup>i</sup>**
- 3. The Committee notes that there is regular contact between the Scottish and UK Governments at official-level but so far, it has not led to Scottish Government concerns being addressed. The Committee is disappointed that these efforts appear to have been unproductive.**
- 4. A recurring area of contention is what has been described as an asymmetry of power. This asymmetry can be seen between the UK Government and devolved Governments. The legislative consent memorandum highlights the various areas of the Bill that alter the Executive competence of the Scottish Ministers and impact devolved areas of competence.<sup>ii</sup>**
- 5. An asymmetry of power can also be seen between communities at a local or regional level and larger businesses and entities with greater access to administrative and legal resource – both in terms of awarding subsidies and in deciding whether to challenge an award. In other words, smaller organisations and community groups may find the new regime harder to navigate. The Scottish Government will need to consider how it mitigates these effects.**
- 6. The Committee is concerned that changes to the devolution settlement are being made in this Bill concerning the status of Acts of the Scottish Parliament, their susceptibility to judicial review and interpretation. The**

---

<sup>i</sup> Alexander Burnett and Jamie Halcro Johnston dissented.

<sup>ii</sup> Alexander Burnett and Jamie Halcro Johnston dissented.

**Committee is also concerned that changes to the devolution settlement are being made, other than in the Scotland Act.<sup>iii</sup>**

**7. The detail of how the new subsidy control regime will operate has been left to secondary legislation and guidance. The Scottish Parliament will not have the opportunity to consider secondary legislation made under the Bill, despite the significance of its impact on devolved powers. Had the detail been included in this Bill, the Parliament would have been able to consider that detail during scrutiny of the legislative consent memorandum.<sup>iv</sup>**

**8. The lack of detail in the Bill, the lack of statutory involvement of the devolved Governments in the development of guidance and rules, and the lack of ability for the Scottish Parliament to scrutinise any of this is concerning. We recommend that the UK Government publish draft regulations and guidance and consult on them.<sup>v</sup>**

**9. The Committee agrees that Scottish Ministers should have equivalent powers to those of the Secretary of State, in having the ability to refer subsidies or schemes to the Competition and Markets Authority.**

**10. The Committee understands that the Scottish Government is continuing discussions with the UK Government to seek amendments to the Bill to address its key concerns. So far, no agreement has been reached. We ask the Scottish Government to keep this Committee updated on the outcome of those discussions.**

**11. For now, due to the potential constraints on Scottish Ministers to act in areas of devolved competence, we note that the Scottish Ministers cannot recommend to the Scottish Parliament that it gives its consent to the Bill.**

**12. If the Scottish Government (alongside other devolved Governments) is unsuccessful in securing necessary amendments to remove the barriers to recommending consent, the UK Government will decide how to proceed with this Bill. It would be regrettable if the Bill was passed without amendment in many of the areas highlighted in the legislative consent memorandum.<sup>vi</sup>**

---

**iii Alexander Burnett and Jamie Halcro Johnston dissented.**

**iv Alexander Burnett and Jamie Halcro Johnston dissented.**

**v Alexander Burnett and Jamie Halcro Johnston dissented.**

13. **The Committee draws this report to the attention of the Constitution, Europe, External Affairs and Culture Committee and the Rural Affairs, Islands and Natural Environment Committee to consider the issues raised within their respective remits .**



# Introduction

14. Section 52 of the Internal Market Act 2020 amended schedule 5 of the Scotland Act 1998 to provide that subsidy control is reserved.
15. [The Subsidy Control Bill](#) (“the Bill”), sponsored by the Department for Business, Energy and Industrial Support (BEIS) was introduced in the House of Commons on 30 June 2021. The aim of the Bill is to establish a domestic subsidy control regime for the whole of the UK “that reflects the UK’s strategic interests and particular national circumstances, providing a legal framework within which public authorities make subsidy decisions”.<sup>1</sup>
16. Whilst an EU member, the UK was subject to the EU’s state aid regime which regulated subsidies capable of affecting trade between Member states. The UK did not have an internal regime for regulating subsidies capable of affecting competition and investment *within* the UK. The new regime, put in place by the Bill, will regulate subsidies capable of affecting external trade and subsidies capable of affecting competition and investment within the UK.
17. The Bill places an obligation on public authorities to consider seven main principles (A - G) before granting a subsidy. Six of these principles were agreed between the UK and the EU under the Trade and Cooperation Agreement (TCA). An additional principle “focused on protecting the UK internal market” was proposed by the UK Government during its consultation. In addition to the main principles, there are nine energy and environment principles that must be taken account of by public authorities when making a scheme or giving a subsidy related to energy and environment.
18. The Bill gives the Secretary of State the power to issue guidance on the meaning and effect of the principles and how public authorities should comply with their duty to consider the principles.
19. Kwasi Kwarteng MP, Secretary of State for Business, Energy and Industrial Strategy explained the UK Government’s thinking:
  - ” Taking a coherent, UK-wide approach to subsidy rules is important, as having different rules in different parts of the UK could undermine fair and open competition, discourage investment and bring uncertainty and additional costs to supply chains and consumers. The devolved administrations are and will remain responsible for spending decisions on devolved subsidies within any subsidy control system. The UK Internal Market Act 2020 reserved subsidy control, however we recognise the proposed legislation affects the executive competence of Scottish Ministers and will therefore be seeking Legislative Consent Motions.<sup>2</sup>

# Legislative Consent Memorandum

20. The Parliament's standing orders require that in the case of any relevant UK Government Bill, a legislative consent memorandum (LCM) should normally be lodged "no later than 2 weeks after introduction". On 14 July 2021, the Minister for Parliamentary Business (MfPB) wrote to the Presiding Officer advising that the Scottish Government was unable to finalise the LCM within 2 weeks. The reason given was it had only been given sight of the final draft of the Bill the evening prior to introduction.
21. On 19 October 2021, following the Committee's request for an update, the [MfPB responded](#) that the Bill raised a number of issues relating to, and potentially impacted on, a number of areas of devolved competence and the Scottish Government was carefully considering matters. It expected that the LCM would be lodged around the time of commencement of the House of Commons Committee stage.<sup>3</sup>
22. Kate Forbes, Cabinet Secretary for Finance and the Economy, [lodged the LCM](#)<sup>4</sup> on 25 October 2021. On 9 November 2021, the Parliamentary Bureau referred it to this Committee to consider and report. The Bill contains no provisions delegating power to make subordinate legislation, within devolved competence. As such, the remit of the Delegated Powers and Law Reform (DPLR) Committee is not engaged.
23. We considered and agreed our approach to scrutiny on 24 November 2021. We sought written views, heard evidence from a panel of witnesses on 12 January 2022 and on 19 January 2022 took evidence from Ivan McKee, the Scottish Government Minister for Business, Trade, Tourism and Enterprise.

## The Bill applied to Scotland

24. The legislative consent memorandum details the various and diverse ways in which the Bill impacts on devolved powers; most commonly in the area of economic development, but as explained by the Scottish Government:

” there is the potential for many other devolved areas to be impacted as well, according to the subject matter / objective of any given subsidy. References to the impact on economic development should therefore be read with that in mind.<sup>4</sup>

25. In a briefing for the Constitution, Europe, External Affairs and Culture Committee for its UK internal market inquiry, Dr Christopher McCorkindale, pointed to the effect of the Bill on the use of past and future devolved powers saying:

” by virtue of clause 1(7), all (past and future) Acts of the Scottish Parliament and Scottish Statutory Instruments (but not Acts of the UK Parliament, where a contrary intention is expressed in the relevant statute) are to be read as being subject to the subsidy control requirements contained in the Bill. The Bill cuts across devolved competence in significant ways.<sup>5</sup>

26. The LCM lists the following provisions as requiring the consent of the Scottish Parliament:

Part 1 – Overview and key interpretation

Part 2 – Subsidy Control Requirements (clauses 12-31 and 33)

Part 3 – Exemptions (clauses 35 – 51)

Part 4 – CMA: Referrals and Functions (clauses 52 – 69)

Part 5 – Enforcement (clauses 70 – 77)

Part 6 – Miscellaneous & General (clauses 78 – 83, 86, 89, 90 and 91)

Schedules 1 – 3.

27. [Annex A of the Bill's Explanatory Notes](#) sets out the parts of the Bill for which the UK Government is seeking legislative consent. The UK Government does not agree that legislative consent is required from the Scottish Parliament for Part 1, or for clauses 63 - 69, 70-75 and 80-92.

28. The LCM explains the Bill's key provisions as follows (emphasis added):

- provision of a **baseline legal framework** to enable public authorities to award subsidies in line with the subsidy control principles;
- the extension of the remit of the UK subsidy control regime from the current externally-facing regime to **include the UK Internal Market**;
- the introduction of a small number of prohibitions to prevent public authorities granting subsidies with overly **distortive or harmful economic impacts**;

- in limited circumstances, provision for various **streamlined / fast-track subsidy award pathways**, some of which are yet to be defined;
  - a requirement for public authorities to use the **UK transparency database**, to enable basic expenditure monitoring and scrutiny under the regime;
  - establishment of the **Subsidy Advice Unit** (located within the Competition and Markets Authority - CMA) to provide monitoring and oversight of the new regime. The Subsidy Advice Unit will also possess limited advisory functions for subsidies that it considers to be more likely to distort UK competition and investment and international trade;
  - empowering the Secretary of State for Business, Enterprise and Industrial Strategy to **refer certain proposed or awarded subsidies** (and proposed or made subsidy schemes) to the Subsidy Advice Unit **for review**, as well as impose limited 'cooling-off' periods post-review;
  - enabling of interested parties to **challenge subsidy decisions** on judicial review grounds in the Competition Appeal Tribunal;
  - provision for the Secretary of State for Business, Energy and Industrial Strategy to issue **statutory guidance** on the application of the subsidy control regime.
29. **The Scottish Government's position is that due to the potential constraints placed on Scottish Ministers to act in devolved areas of competence, it does not recommend that the Scottish Parliament gives its consent to the UK Parliament legislating in this area for Scotland.**

## Committee consideration

30. It is worth noting that before the Committee had an opportunity to consider the LCM and the Scottish Government's position, many of the concerns had, to a considerable extent, been aired already at Westminster.
31. For example, the day after the Scottish Government lodged its LCM, Ivan McKee, the Minister for Business, Trade, Tourism and Enterprise, gave evidence to the UK Parliament's Public Bill Committee. Thereafter, in the [Committee Stage in the House of Commons](#), 87 amendments to the Bill and three new clauses were proposed (and debated) but none of the areas of amendment sought by the Scottish Government were agreed to. Five minor UK Government amendments, related to transparency obligations and drafting, were passed. No non-government amendments or new clauses were added to the Bill.

32. **The Committee did not receive a clear explanation why it took nearly four months, after the Bill's introduction, to lodge the legislative consent memorandum. We note that it was laid the day before the Minister's appearance before the Public Bill Committee at Westminster.**
33. **The Welsh Parliament legislative consent memorandum was laid on 13 July 2021. The Scottish Parliament was in recess during July and August. The Scottish Government lodged its legislative consent memorandum on 25 October 2021. The Government's delay in lodging its legislative consent memorandum curtailed this Committee's opportunity for scrutiny and prevented us from influencing and adding weight, where appropriate, to arguments at an earlier stage. This is unsatisfactory. The Committee's concerns in this regard are drawn to the Parliament's attention.**

34. Nevertheless, given the breadth of concerns about the potential impact of this Bill, the Committee felt it important to seek some written views and take evidence from a panel of witnesses before hearing itself from the Minister for Business, Trade, Tourism and Enterprise. We are grateful to all those who provided evidence.

# Subsidies and the Scottish economy

35. In his evidence to us, Professor David Bell observed that although the UK spends less on State Aid (subsidies) than most EU countries, Scotland spends significantly more on 'enterprise and economic development' than the UK as a whole. He told the Committee:

” It is spending on “enterprise and economic development” that is more likely to be targeted on individual companies and is therefore more likely to have to be registered as a “subsidy” under the Subsidy Control Act. And spending in this area is 46 per cent higher in Scotland than the UK average. The relatively high level of spending on “enterprise and economic development” in Scotland suggests that there will be significant scope for conflict between the Scottish Government and the UK Government in relation to subsidy control.<sup>6</sup>

36. The LCM (paragraph 31) states that the Bill's over-arching principles will apply to all subsidies and will therefore impact economic development and many other areas of devolved competence:

” Every time the Scottish Ministers wish to exercise their powers to give funding or support to a particular area of devolved competence, there will be new constraints on these powers. For example, grants to support the tourism industry and grants to public transport providers fall within devolved areas and would now be impacted by the Bill.<sup>4</sup>

**37. The Committee is concerned at the potentially greater impact on Scotland's economy and the impact on Scottish Ministers' powers, given Scotland's proportionately higher spend on enterprise and economic development compared to the rest of the UK.**

**38. The Committee is also concerned at the suggestion that the Bill will create significant scope for conflict between the Scottish and UK Governments.**

## Opportunities within the new regime

39. Witnesses and submissions identified aspects of the Bill which are necessary or beneficial. Professor Fothergill said there is a clear need for rules of this kind to govern public financial support to private sector businesses “because the alternative would be an unhelpful free-for-all” ... and that all the principles underpinning the new regime “seem reasonable”.<sup>7</sup>
40. The Law Society of Scotland said the Bill “creates a welcome opportunity for schemes that are tailored to Scottish circumstances and create pre-cleared routes for the provision of subsidies.”<sup>8</sup>
41. George Peretz QC said:
- ” the new regime avoids some of the rigidities of the State aid rules, which (in that regime) stem from the automatic unlawfulness of all subsidies over a modest de minimis threshold unless they either fall within fairly rigid prescriptive criteria laid down in block exemptions or go through the time-consuming and burdensome process of notification to the Commission for clearance. The new regime allows authorities themselves to take a view as to the economic justification of subsidies and, if they are convinced that the subsidy is justified against the economic criteria set out in Schedule 1, to issue the grant. That will generally afford more flexibility and speed, particularly in cases which do not fit readily into block exemptions.”<sup>9</sup>

42. **The Scottish Government accepts that there should be a subsidy control regime in place as does this Committee. The Committee welcomes the flexibility provided in the Bill’s proposals for a baseline legal framework for the award of subsidies, avoiding the need for central prior approval. But the level of detail on the face of the Bill is insufficient. There is no published agreed accompanying guidance and no assurance that the devolved administrations will be consulted on future guidance.**

## Streamlined subsidy schemes

43. The Bill makes provision for the UK Government to establish a “streamlined subsidy scheme”<sup>10</sup> to enable public authorities to make lower risk subsidies more quickly and easily without having to consider conformity with the subsidy control principles and without any referral to the CMA.
44. This streamlined subsidy scheme can be used by any public authority that complies with its parameters but can only be made by the UK Government and must be laid before the UK Parliament after being made (or modified).
45. The LCM (para 44) states that in the view of the Scottish Government this power [to create streamlined schemes] should be extended to Scottish Ministers – or at the very least, Scottish Ministers should have some input into the design of streamlined subsidy routes.
46. Scottish Enterprise called for a definition, in secondary legislation, of ‘streamlined subsidy schemes’<sup>11</sup> setting out the types and amounts of subsidy that will be covered. HIE noted that the previous EU regime included a fast-track procedure via the Block Exemption Regulations which covered around 90% of all State aid awarded. It said much work is needed to establish streamlined schemes to replicate this percentage “if public authorities such as HIE are not to suffer an administrative over-load.”<sup>12</sup>

47. **The Committee agrees that Scottish Ministers should have input into the design of streamlined subsidy routes and note that the UK Government has recently started to consult the devolved Governments on streamlined schemes. It would have been more helpful had the consultation been carried out at an earlier stage.**
48. **The Committee also agrees that Scottish Ministers should have the power to make such schemes, in devolved areas, for Scotland and that the Scottish Parliament should be given the opportunity to consider them in the same way the UK Parliament does.<sup>vii</sup>**

---

vii Alexander Burnett and Jamie Halcro Johnston dissented.



## Net Zero

49. During proceedings at Westminster, an amendment was proposed to add a new requirement to the subsidy control principles in schedule 1, namely that the beneficial effects of subsidies should outweigh their negative effects on “consistency with the United Kingdom achieving its net zero commitments established under the Climate Change Act 2008”.
50. However, the UK Government did not agree, saying that addition of an explicit net-zero test to the balancing test principle in schedule 1 was “unnecessary”. The balancing test means public authorities can only give a subsidy if it is considered that the beneficial effects outweigh its negative effects, in particular, negative effects on competition or investment within the UK, or on international trade or investment. The UK Government argued that although these particular negative effects were specified in principle G, the terms of the balancing test were not limited to those negative effects. The amendment was not agreed to.<sup>13</sup>
51. It is unclear from the Bill how Scotland’s (and the UK’s) net zero ambitions align with the Bill’s subsidy control principles. In his evidence, Professor Bell suggested:
- ” It would be good for the Scottish Government to seek clarity from the UK Government on the very important issue of how those principles and the UK’s ambitions towards net zero can be compatible.<sup>14</sup> (Official Report, 12 January, Col 12)
52. The Minister said:
- ” We need to be in a position where we have the ability to provide support as we see fit within a set of rules that is transparent, clear and predictable. All of that is important. If you are asking me whether I think there is a risk that, as a consequence of where we are at the moment with this Bill, we will find it difficult, more time-consuming or impossible to do things that we would otherwise do, I would say that that is absolutely the case.<sup>15</sup> (Official Report, 19 January, Col 28)
- 53. The Committee seeks clarity on the Bill’s impact on Scotland’s ability to support net zero ambitions, recognising the need for increased public and private co-investment to realise those ambitions.**

# Scottish National Investment Bank

54. The Scottish National Investment Bank was established and is funded by the Scottish Government. As a mission-led development bank, it seeks to invest in businesses or projects to support Scotland's economic development through environmental, social and financial returns.
55. One of SNIB's key missions is to achieve a just transition to net zero by 2045 by investing in sustainable technology, services and industry.
56. Professor David Bell told us that how Scottish National Investment Bank would interact with the new regime was "one of the areas left hanging". He said
- ” it is not clear how the Scottish National Investment Bank will interact with the Competition and Markets Authority as far as investment goes. In my submission, I mention the net zero ambition. It seems to me that that is one of several areas that are left hanging. There needs to be some clarity. That will be necessary for the UK as a whole. <sup>14</sup> (Official Report, 12 January, Col 7)
57. The Minister told us:
- ” Much of the bank's work involves lending at commercial rates in a commercial environment, but in a scenario of market failure or a similar scenario in which the bank felt that there was a need to lend money, given its mission, it would require clarity on what was and was not allowed. The lack of clarity in the guidance raises a concern about what may or may not be possible. <sup>15</sup> (Official Report, 19 January, Col 25)
58. SNIB itself called for greater clarity from the UK Government on the new regime to enable it to make an informed assessment of its operational constraints and obligations. In particular it seeks greater clarity around anti-crowding out, market failure and interaction with the UK-EU Trade and Co-operation Agreement (TCA).
59. SNIB observed:
- ” It goes without saying that if development banks are to be constrained to operating in areas of market failure, the new UK Subsidy Control Regime must be at least as wide as its predecessor, and/or sufficient discretion to public bodies and devolved administrations afforded. <sup>16</sup>
- 60. Given the stage at which this Bill is at, we are concerned and agree it is unsatisfactory that the position seems to be that areas in which clarity are sought by the Scottish National Investment Bank are to be left to guidance developed by officials in the Department for Business, Energy and Industrial Strategy.**

## Natural disasters and emergencies

61. Clause 43 of the Bill provides that subsidies to compensate for damage caused by a natural disaster or other exceptional circumstances are exempt from complying with the subsidy control requirements. This exemption can only be used when the Secretary of State has published a notice stating a particular emergency has occurred and therefore the 'natural disasters and other exceptional circumstances' exemption can be used.
62. Paragraph 15 of the LCM states that this impacts on the devolved area of economic development and functions and impose functions on devolved Scottish authorities. The Scottish Government considers that the Bill must extent this power to Scottish Ministers.
63. **The Committee did not take any evidence on this issue but notes the Scottish Government's position.**

# Uncertainty, administration costs and risk aversion

64. The flexibilities presented by the Bill's baseline legal framework sit alongside greater uncertainties and the likelihood of increased administration costs leading to risk aversion when it comes to considering whether to award a subsidy.
65. COSLA said: "there are certainly opportunities because of the flexibility...but these things are constrained by the issues of caution and capacity." COSLA suggested that this uncertainty could be addressed by new statutory guidelines for specific sectors and policy areas to be co-produced by the UK Government, the devolved Governments and local government. <sup>14</sup> (Official Report, 12 January, Col 5)
66. Scottish Enterprise said the introduction of new legal terminology, concepts and definitions and the need for deep and broad legal analysis to determine and demonstrate compliance with the principles, alongside new legal measures to protect the UK internal market, all increased uncertainty.
67. Both HIE and SOSE highlighted the importance of having a subsidy scheme that enables the delivery of smaller scale community projects. HIE said:
- ” There is a need for clear guidance on how far and at what scale internal market displacement assessments should be carried out. This could be detrimental to community based and small-scale cultural attractions and organisations that rely on public subsidy to survive. <sup>12</sup>
68. SOSE explained the impact on community projects:
- ” the current subsidy control regime has made such an assessment more complex given the inclusion of the UK market element...Practically speaking, since we are looking to support enterprising communities, the vast majority of projects involve some sort of a commercial element within the beneficiary, and so therefore are more likely to be deemed to be a subsidy. <sup>17</sup>
69. Professor Fothergill agreed that the new regime will create additional uncertainties for public authorities wishing to provide subsidies, saying:
- ” an assessment against principles will often be subjective and open to challenge, and in many cases risk-averse public bodies will seek reassurance that their decisions won't end up in court. Exhaustive assessments, perhaps involving consultants and lawyers, may consequently become the norm. <sup>7</sup>
70. Ivan McKee, the Minister for Business, Trade, Tourism and Enterprise said that such effects were already being felt:
- ” In the absence of the pre-authorisation process that existed previously, there is an inclination to operate on the side of safety, which means that we have to take a different view on things that we might have done in the past. That is obviously concerning. <sup>15</sup> (Official Report, 19 January, Col 25)

71. **The Committee recognises the Minister's concerns that the interim arrangements in place for the award of subsidies, following the UK's exit from the EU, are already having a "chilling" effect on economic development and business investment.**
72. **The Committee agrees that the Bill provides insufficient clarity about how the proposed new regime will work in practice.**
73. **As much of the detail is left to guidance and regulations, there is no formal mechanism for the involvement of devolved Governments or scrutiny by devolved Parliaments. The Committee agrees this is wholly unsatisfactory.<sup>viii</sup>**

---

<sup>viii</sup> Alexander Burnett and Jamie Halcro Johnston dissented.

# Competition and Markets Authority and Subsidy Advice Unit

74. The Bill establishes a Subsidy Advice Unit (within the Competition and Markets Authority) to monitor and oversee the new subsidy control regime. Certain subsidies and schemes must be referred by public authorities to the CMA before being made. The Secretary of State may also refer a subsidy or scheme to the CMA either after it has been given or made (a 'post-award referral'). In both cases the CMA will publish a report.
75. The LCM (paragraph 41) notes the Bill enables the Secretary of State (BEIS) to refer subsidies and schemes in policy areas of devolved competence to the Subsidy Advice Unit and impose (and extend) a "cooling-off" period. The LCM (paragraph 48) states that clause 55 empowers the Secretary of State (BEIS) to direct a public authority to request a report from the CMA in relation to a proposed subsidy or subsidy scheme.
76. Clause 60(4) allows post-award referral by the Secretary of State (BEIS) to the CMA and requires that this be done within 20 working days of either (a) the subsidy or scheme being entered on the Transparency database; or (b) in the case of Services of Public Economic Interest (SPEIs), the day on which the subsidy is given or the scheme is made.
77. The Scottish Government considers that both these powers should be extended to Scottish Ministers or, at minimum, the processes by which Scottish Ministers can request such a report and/or declaration and challenge any subsequent Secretary of State (BEIS) refusal should be defined.
78. Clause 61(5) implies that the Secretary of State (BEIS) may reject a CMA request for an extension but does not give any parameters for when such a rejection could be allowable. The Scottish Government considers that the Bill must be amended to outline these parameters accordingly and comparable devolved Ministers should also be empowered to reject CMA requests, or to require that the Secretary of State (BEIS) reject such a request on their behalf.
79. Clause 65(7) requires the CMA to lay before Parliament copies of reports on its five-yearly reviews on the effectiveness of the operation of the Subsidy Control Bill and its impact upon competition and investment in the UK. Given the impact of the regime upon areas of devolved policy, the Scottish Government considers this requirement must be extended to laying of the reports before the Scottish Parliament.
80. George Peretz QC referred to the position of the devolved Governments and the UK Government:
  - ” The whole point of clauses 55 and 60—you can see it in the text—is that a reference is made to the CMA in situations where the measure creates a risk of negative effects on competition or investment within the United Kingdom. Plainly, the power is intended to catch a situation whereby the Secretary of State considers that a measure undertaken by the Scottish Government or Welsh Government creates highly distortive effects in England.

” One can see the possibility of that, but if that is the intention, it is hard to see why sauce for the goose is not sauce for the gander. In a situation where an English local authority, the Secretary of State or another UK Government body acting as an English Department does something that is designed to benefit England but causes serious concern in Scotland or Wales, why should the Welsh or Scottish Ministers not be able to do the same thing if the concern is with competition or investment within the United Kingdom? I find it slightly hard to see what the argument against that is. <sup>18</sup> (Official Report, 12 January, Col 44)

81. In his briefing for the CEEAC Committee, Dr Christopher McCorkindale said:

” It is unclear why, if the ‘call in’ and referral powers are designed to protect competition and/or investment within and across the UK, these powers should vest only in the Secretary of State and not also in their devolved counterparts. As these powers stand, there is no reason of constitutional principle why the Secretary of State should have a power, for example, to ‘call in’ a subsidy granted in Scotland that they believe will have a negative impact in England, but where, for example, Scottish Ministers have no right to call in or refer a similar subsidy in England that they believe will have a negative impact in Scotland. <sup>5</sup>

82. COSLA told the Committee:

” Another thing that might to uncertainty is the Bill’s proposed UK Ministerial discretion to call in a subsidy. It would certainly be to our benefit if that was limited in some way to ensure that the use of the call-in is predictable as we try to make our subsidies. <sup>14</sup> (Official Report, 12 January, Col 5)

83. The Scottish Government argues that the powers given to UK Ministers undermine “the long-established powers of the Scottish Parliament and the Scottish Ministers to act in relation to matters within devolved competence such as economic development, the environment, agriculture and fisheries.” <sup>4</sup>

**84. The Committee supports the Scottish Government’s call for equivalent powers for the devolved administrations to refer subsidies made in other parts of the UK (including public authorities within its own jurisdiction) to the Competition and Markets Authority.**

**85. The Committee notes that the Competition and Markets Authority is a non-ministerial UK Government department and that the question of devolved representation in the Subsidy Control Unit has already been raised at Westminster.**

**86. The Committee agrees that as its supervisory role extends to the whole of the UK, membership of the Subsidy Control Unit should include devolved representation.**<sup>ix x</sup>

<sup>ix</sup> The Committee draws parallels with, for example, Ofcom, the Electoral Commission and the Health and Safety Executive (HSE), UK-wide organisations with specific

---

**Scottish representation.**

**x Alexander Burnett and Jamie Halcro Johnston dissented.**



# Transparency

87. The Bill requires public authorities to use the UK transparency database, to record awards, usually within six months of being made. A public authority must make an entry in the database for any subsidy scheme made; all schemes must be included, there is no threshold (unless an exemption applies). Public authorities must also enter details of any individual subsidy provided.
  88. There are a number of exemptions, including where a subsidy forms part of a scheme recorded on the database and the award is less than £500,000. Financial assistance which does not exceed £315,000 over three years is exempted.
  89. The information held on the database will, in principle enable third parties and anyone interested in a subsidy award to have access to information on what has been awarded and why, and, indeed, decide whether to challenge an award.
90. **We note that the specific detail of what should be included in database entries is still to be determined by regulations. Transparency and consistent application of guidelines will be a key element of the new regime and it will be important to ensure that the database contributes to this.**

# Review of a decision to make a subsidy

91. Part 5 of the Bill sets out the mechanism by which the Bill's provisions will be enforced. Clause 70 provides that an interested party may challenge a decision to make a subsidy by making an application to the Competition Appeal Tribunal (CAT) for a review of the decision. The powers of the CAT in Scotland are the same as the Court of Session's powers of review following an application to its supervisory jurisdiction.
92. The LCM (paragraph 25) notes these provisions impact on the devolved areas of justice and economic development and impose functions on devolved Scottish authorities.
93. Schedule 3 of the Bill makes clear that the ability to challenge subsidy decisions applies also where the subsidy is made in an Act of the Scottish Parliament (ASP) or other devolved primary legislation.
94. Dr McCorkindale suggests these provisions raise three issues. The first concerns the devolution settlement. His briefing paper stated:
- ” it is a novel feature of the Subsidy Control Bill that it creates a new route to challenge, and ground(s) of challenge to, the validity of an ASP that is self-contained in the substantive legislation and not made by amendment to the Scotland Act. Given the constitutional function and status of the Scotland Act, as well as the democratic quality of ASPs, there are good constitutional reasons - not least, the intelligibility of the devolution scheme as a whole - why limits to the validity of devolved primary legislation should be contained within the Scotland Act itself.<sup>5</sup>
95. George Perez QC suggested that these provisions are constitutionally significant because they represent a significant departure from the general legal position that judicial review of devolved legislation is not generally possible on the general common law grounds of irrationality, unreasonableness or arbitrariness. Dr McCorkindale agreed adding:
- ” this creates an area of uncertainty as to the grounds or intensity of the review that is to be applied when Acts of the Scottish Parliament are challenged in this way.<sup>5</sup>
96. Thirdly, Dr McCorkindale highlighted the legislative asymmetry between Acts of the Scottish Parliament which are subject to judicial review under the Bill and Acts of the UK Parliament which (consistent with UK constitutional principle) are not. He suggested that making Acts of the Scottish Parliament subject to review is not necessary as a matter of constitutional principle, nor is it required by the EU-UK Trade and Co-operation Agreement (TCA). He explained:

- ” The justification for review seems to hang on ‘practical’/policy-orientated considerations, inter alia, to guard against anti-competitive subsidies made through primary legislation and to prevent a ‘subsidy race’ between the UK’s constituent parts. What is produced, on the other hand, is a legislative opportunity (whether taken or not) for the UK Parliament to shield anti-competitive subsidies, or subsidies that impact negatively on Scotland, Wales and Northern Ireland, from strong-form review (as opposed to the voluntary and non-binding nature of the CMA referral system that applies to Acts of [the UK] Parliament) and in a way that (whether exercised or not) advantages one constituent part of the UK over the others. Nor is this position required by the terms of the TCA, which is silent on competition within and across the UK.<sup>5</sup>

97. **The Committee notes the Bill raises new and important constitutional considerations. We draw these to the attention of the Parliament and the Constitution, Europe, External Affairs and Culture Committee.**

# The inclusion in the Bill of agriculture

98. One of the Scottish Government's overarching concerns about the Bill is the inclusion of agriculture. The LCM (paragraphs 36 and 37) comments:
- ” The UK Government has not given a clear reason as to why agriculture should be included in the new regime when it is so often carved out of standard subsidy control regimes. ... One major concern about the inclusion of agriculture within the scope of this Bill is that the principles set out in Schedule 1 risk constraining our ability to develop future policies that are tailored to the needs of Scottish agriculture. We have very serious concerns about how the regime will work for CAP schemes delivering income payments and coupled support...
  - ” We also have wider concerns that including agriculture within the scope of the Bill diminishes the role of the agreed common frameworks process in this area, which was put in place specifically to manage policy divergence within the UK and any impacts this might have on the UK internal market”.<sup>4</sup>
99. Paul Scully, the Parliamentary Under Secretary of State at BEIS set out the UK Government's position:
- ” Having agriculture covered by the same single, coherent framework as other sectors will protect competition and investment within agriculture, while securing consistency for public authorities and subsidy recipients. The Bill's design ensures that public authorities are empowered to give subsidies that best fit their local needs, whether that means supporting innovation in pharmaceuticals or innovation in farming. I therefore do not agree that agriculture should be exempt from the regime.”<sup>19</sup>
100. Although the NFU was not one of the parties from whom we sought or received views, we know it is on record saying:
- ” Agricultural and rural development policy is a devolved area for very good reason. It must reflect different needs and circumstances, and our concern is that these subsidy control proposals could significantly constrain that. In our view, agricultural and rural development financial support must be kept separate from the subsidy control regime being proposed. Agricultural policy is devolved, and that should not be eroded via a backdoor of UK-wide subsidy control measures.”<sup>20</sup>
101. An amendment to remove agriculture from the scope of this Bill was unsuccessful at an earlier stage of the Bill. We note that the Scottish Government, through the Cabinet Secretary for Rural Affairs and Islands, is in continued discussions with the UK Minister about the inclusion of agriculture in this Bill.

102. **In the time available, it was not possible to consider the issues around agriculture in detail. The Committee notes that agriculture policy falls within the remit of the Rural Affairs, Islands and Natural Environment**

**Committee. The Committee asks that the Scottish Government keeps both this Committee and the Rural Affairs, Islands and Natural Environment Committee updated on the outcome of discussions about the inclusion of agriculture.**

## Detailed guidance and clarity

103. All of our evidence highlighted the urgent need for detailed guidance to provide (as the Law Society of Scotland said) “clear rules” and “legal certainty”. This is crucial. The Bill, as stands, provides only a baseline legal framework, with much of the detail still to be brought forward in secondary legislation and guidance.
104. Professor Fothergill said:
- ” the lack of detail in the Bill is very worrying, because a lot hangs on the detailed guidance that [UK Government] Ministers will undoubtedly issue as statutory instruments... There is far too much arbitrary discretion, and there has not been consultation, either of the devolved Administrations or of a wide range of interested players. <sup>14</sup> (Official Report, 12 January, Col 10)
105. HIE said that without clear guidelines, the result would be a substantial administrative workload, with a disproportionate impact on smaller public agencies. It is vital that sufficient clarity on rules and guidance is provided “so that those concerned about subsidies to their competitors are not encouraged to pursue judicial review when it may not be appropriate or may be destined to failure.” HIE also pointed more generally to the increasingly complex trade landscape and its implications for public authorities trying to navigate, interpret and design compliant interventions. It referred to the obligations arising from WTO trade agreements and the prospect of there being “in the order of 100 trade agreements.” <sup>12</sup>
106. COSLA stressed that it would be in the UK’s own interests to build in a robust consultation process. The Law Society of Scotland also supported greater consultation:
- ” with the devolved legislatures and administrations and other interests based in each of the UK jurisdictions. <sup>8</sup>
107. SOSE agreed that effective consultation would be in the wider interest, and that in their case:
- ” SOSE is an economic development agency, and therefore representative of an entity which does not exist in England and which Westminster does not have the relevant experience or understanding of dealing with. <sup>17</sup>
108. We know this is a key area of concern for the Scottish Government. In his evidence the Minister said:
- ” much of the provision remains unclear, even at this stage, due to the absence of draft subordinate legislation and detailed guidance. Notwithstanding the concerns of principle, the absence of such detail makes it difficult to give a considered view and give consent. <sup>15</sup> (Official Report, 19 January, Col 24)

109. **The Committee shares these concerns about the lack of detail, guidance and clarity in this Bill.**

## Assisted Areas map

110. In contrast to the previous EU subsidy arrangements, the Bill makes no provision for how preferential treatment might be provided for support for disadvantaged regions.
111. Professor Fothergill observed the Bill does not specify there should be an Assisted Areas map, neither is it ruled out. He questioned how “levelling up” could be pursued without such a map and proposed that a new one be developed, following full consultation. Professor Fothergill added that without a map:
- ” you would lose that facility to support the less prosperous parts of the country and would be working against the objective of levelling up.<sup>14</sup> (Official Report, 12 January, Col 22)
112. HIE said the Bill “seems to be weak on how to enable the increased levels of subsidy for areas that are lagging behind in terms of economic development” and feared that “the lack of a definite commitment to an Assisted Areas Map would damage the Highlands and Islands.”<sup>12</sup>
113. COSLA suggested a new clause in the Bill:
- ” to define what is an ‘assisted area’, as this concept existed in EU State Aid and is seen as vital to support regeneration in post-industrial areas as well as remote and peripheral ones.<sup>21</sup>
114. However, Professor Bell voiced a degree of caution, saying that the way in which assisted areas are determined is highly contested. He explained:
- ” If you are going to design a map – and I am not saying that you should not, because you might not want to spread your funding too thinly – you must have a robust mechanism. You should also bear in mind that some subsidies might not be area based or place based, although there is a strong case for that approach.<sup>14</sup> (Official Report, 12 January, Col 23)
115. The Minister emphasised:
- ” we are focused on supporting all regions and communities in Scotland to maximise their potential. That might require support to encourage investment or other activity. We want to be able to take those steps in a different way, depending on the specific needs of different parts of the country. It is important that we have that ability and that there is clarity around that, but there is no provision for that in the bill. It is interesting how that works against the UK Government’s stated aim of levelling up.<sup>15</sup> (Official Report, 19 January, Col 32)
116. The Minister did not express a view on the need for a new Assisted Areas map, saying instead:
- ” On whether there should be more detail in the bill, and certainly in the guidelines, on there being different scope to act in different parts of the country, we support that call.<sup>15</sup> (Official Report, 19 January, Col 32)

**117. The Committee notes that the Bill makes no provision for how preferential treatment might be applied to disadvantaged areas. The Committee asks the Scottish and UK Governments to address this.**



# Conclusions

118. This report is made during the concluding stages of the Bill's passage at Westminster. As already noted, the delay in receiving the legislative consent memorandum compromised the Committee's ability to scrutinise and influence the Bill at an earlier stage. It is unsatisfactory that the Committee finds itself in this position and we draw this concern to the Parliament's attention.

119. The Committee agrees with the Scottish Government and shares its concerns that the Bill gives considerable powers to UK Ministers, cutting across the devolution settlement, with the risk of UK Ministers intervening in devolved areas without proper consultation or knowledge of local circumstances.<sup>xi</sup>

120. The Committee notes that there is regular contact between the Scottish and UK Governments at official-level but so far, it has not led to Scottish Government concerns being addressed. The Committee is disappointed that these efforts appear to have been unproductive.

121. A recurring area of contention is what has been described as an asymmetry of power. This asymmetry can be seen between the UK Government and devolved Governments. The legislative consent memorandum highlights the various areas of the Bill that alter the Executive competence of the Scottish Ministers and impact devolved areas of competence.<sup>xii</sup>

122. An asymmetry of power can also be seen between communities at a local or regional level and larger businesses and entities with greater access to administrative and legal resource – both in terms of awarding subsidies and in deciding whether to challenge an award. In other words, smaller organisations and community groups may find the new regime harder to navigate. The Scottish Government will need to consider how it mitigates these effects.

123. The Committee is concerned that changes to the devolution settlement are being made in this Bill concerning the status of Acts of the Scottish Parliament, their susceptibility to judicial review and interpretation. The

---

<sup>xi</sup> Alexander Burnett and Jamie Halcro Johnston dissented.

<sup>xii</sup> Alexander Burnett and Jamie Halcro Johnston dissented.

**Committee is also concerned that changes to the devolution settlement are being made, other than in the Scotland Act.<sup>xiii</sup>**

**124. The detail of how the new subsidy control regime will operate has been left to secondary legislation and guidance. The Scottish Parliament will not have the opportunity to consider secondary legislation made under the Bill, despite the significance of its impact on devolved powers. Had the detail been included in this Bill, the Parliament would have been able to consider that detail during scrutiny of the legislative consent memorandum.<sup>xiv</sup>**

**125. The lack of detail in the Bill, the lack of statutory involvement of the devolved Governments in the development of guidance and rules, and the lack of ability for the Scottish Parliament to scrutinise any of this is concerning. We recommend that the UK Government publish draft regulations and guidance and consult on them.<sup>xv</sup>**

**126. The Committee agrees that Scottish Ministers should have equivalent powers to those of the Secretary of State, in having the ability to refer subsidies or schemes to the Competition and Markets Authority.**

**127. The Committee understands that the Scottish Government is continuing discussions with the UK Government to seek amendments to the Bill to address its key concerns. So far, no agreement has been reached. We ask the Scottish Government to keep this Committee updated on the outcome of those discussions.**

**128. For now, due to the potential constraints on Scottish Ministers to act in areas of devolved competence, we note that the Scottish Ministers cannot recommend to the Scottish Parliament that it gives its consent to the Bill.**

**129. If the Scottish Government (alongside other devolved Governments) is unsuccessful in securing necessary amendments to remove the barriers to recommending consent, the UK Government will decide how to proceed with this Bill. It would be regrettable if the Bill was passed without amendment in many of the areas highlighted in the legislative consent memorandum.<sup>xvi</sup>**

---

<sup>xiii</sup> Alexander Burnett and Jamie Halcro Johnston dissented.

<sup>xiv</sup> Alexander Burnett and Jamie Halcro Johnston dissented.

<sup>xv</sup> Alexander Burnett and Jamie Halcro Johnston dissented.

130. **The Committee draws this report to the attention of the Constitution, Europe, External Affairs and Culture Committee and the Rural Affairs, Islands and Natural Environment Committee to consider the issues raised within their respective remits .**

- [1] UK Parliament. (2021). Subsidy Control Bill. Retrieved from <https://bills.parliament.uk/bills/3015/publications>
- [2] Letter from Kwasi Kwarteng MP, Secretary of State for Business, Energy and Industrial Strategy to Chair of Select Committee on Scottish Affairs . (2021, June 30). Retrieved from <https://committees.parliament.uk/publications/6572/documents/71190/default/>
- [3] Letter from the Minister for Parliamentary Business to the Convener. (2021, October 19). Retrieved from <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-economy-and-fair-work-committee/correspondence/2021/uk-subsidy-control-bill>
- [4] The Scottish Government. (2021). Legislative Consent Memorandum - Subsidy Control Bill. Retrieved from <https://www.parliament.scot/-/media/files/legislation/bills/lcms/subsidy-control-bill/legislative-consent-memorandum-subsidy-control-bill1.pdf>
- [5] McCorkindale, C. (2021). Briefing to the Constitution, Europe, External Affairs and Culture Committee on the Subsidy Control Bill. Retrieved from <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-constitution-europe-external-affairs-and-culture-committee/correspondence/2021/subsidy-control-bill-briefing>
- [6] Bell, D. (2021). Written submission to Committee. Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-professor-david-bell.pdf>
- [7] Fothergill, S. (2021). Written submission to Committee. Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-professor-steve-fothergill.pdf>
- [8] Law Society of Scotland. (2021). Written submission to Committee. Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-law-society-of-scotland.pdf>
- [9] Peretz QC, G. (2021). Written submission to Committee. Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-george-peretz.pdf>
- [10] UK Parliament. (2021, December 14). Subsidy Control Bill Explanatory Notes . Retrieved from <https://publications.parliament.uk/pa/bills/cbill/58-02/0135/en/210135en.pdf>
- [11] Scottish Enterprise. (2021). Written submission to the Committee. Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-scottish-enterprise.pdf>
- [12] Highlands and Islands Enterprise. (2021). Written submission to Committee. Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-highlands-and-islands-enterprise.pdf>
- [13] House of Commons Library. (2021). Subsidy Control Bill: Progress of the Bill. Retrieved from <https://researchbriefings.files.parliament.uk/documents/CBP-9398/CBP-9398.pdf>

- [14] The Scottish Parliament. (2022). Official Report of the Economy and Fair Work Committee, 12 January 2022. Retrieved from <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=13515>
- [15] The Scottish Parliament. (2022). Official Report of the Economy and Fair Work Committee, 19 January 2022. Retrieved from <https://www.parliament.scot/api/sitecore/CustomMedia/OfficialReport?meetingId=13533>
- [16] Scottish National Investment Bank. (2021). Written submission to Committee. Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-scottish-national-investment-bank.pdf>
- [17] South of Scotland Enterprise. (2021). Written submission to Committee. Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-south-of-scotland-enterprise.pdf>
- [18] Hansard. (2021, October 29). Subsidy Control Bill (Second sitting). Retrieved from [https://hansard.parliament.uk/Commons/2021-10-26/debates/adc01b05-e311-4843-a36c-8da7cf90ab99/SubsidyControlBill\(SecondSitting\)](https://hansard.parliament.uk/Commons/2021-10-26/debates/adc01b05-e311-4843-a36c-8da7cf90ab99/SubsidyControlBill(SecondSitting))
- [19] Hansard. (2020, December 13). Subsidy Control Bill, Volume 705: debated on Monday 13 December 2021. Retrieved from <https://hansard.parliament.uk/commons/2021-12-13/debates/F5576CD0-8864-457E-AD24-95FA297DD7A5/SubsidyControlBill>
- [20] NFU Scotland. (2021, April 1). Union responds to UK Government Consultation. Retrieved from <https://www.nfus.org.uk/news/news/scottish-agricultural-support-arrangements-must-be-kept-separate-from-new-approach-to-subsidy-contro> [accessed 28 January 2022]
- [21] Written submission to the Committee. (2021). Retrieved from <https://www.parliament.scot/-/media/files/committees/economy-and-fair-work-committee/annex/written-submission-from-cosla.pdf>

