

Environment and Sustainability Committee

Report on the Energy Bill - Legislative Consent
Memorandum (emission performance standards)

Introduction

On 9 January 2013, the Environment and Sustainability Committee considered a legislative consent memorandum that relates to provisions in the UK Energy Bill that seek to establish emission performance standards to impose limits on the amount of carbon dioxide that a new fossil fuel power station can emit in any given year.

The Environment and Sustainability Committee agreed to report to the Assembly that it has **no objection to the use of this legislative consent motion, as proposed by the Welsh Government.**

Links to all of the documents referred to in this paper are provided in the final section: 'Sources and additional information'.

Background

The UK Government's Energy Bill ('the Bill') is currently being considered by the UK Parliament. It was introduced in the House of Commons and is currently at Committee stage in the House of Commons.

Sections of this Bill seek to legislate in areas of competence devolved to the National Assembly for Wales. Convention requires that the National Assembly for Wales ('the Assembly') considers consenting to this. The Assembly does this through considering a legislative consent motion tabled by the Welsh Government.

Further information on legislative consent motions is provided in the Research Service's quick guide *The Constitution Series: 6 Legislative Consent Motions*.

The legislative consent motion is drafted as follows:

To propose that the National Assembly for Wales, in accordance with Standing Order 29.6, agrees that provisions of the Energy Bill relating to establishing emission performance standards to impose limits on the amount of carbon dioxide that a new fossil fuel power station (i.e. one powered by coal, oil or "natural" gas) can emit in any given year, in so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament.

The Welsh Government published a legislative consent memorandum ('the memorandum') on 5 December 2012 that explains this in more detail.

Principally, the memorandum sets out that the provisions in the Bill for which consent is sought are contained within:

- Clauses 38-40; and
- Schedule 5.

Policy intent

Paragraph five of the memorandum sets out the policy intent in more detail. A concise summary is provided in the box below.

Summary of policy intent

The elements of the Bill for which consent is sought seek to:

- create a duty not to exceed an annual carbon dioxide emissions limit;
- provide for a suspension of the emissions limit in exceptional circumstances; and
- create a duty to put in place monitoring and enforcement arrangements.

The Welsh Government's memorandum states:

The aim of these provisions are to standardise across the UK permitted Carbon Dioxide emissions level for energy generation and to ensure a common environmental UK standard so as to ensure compliance with Climate Change targets.

These provisions, if applied to Wales, will mirror those that will apply in England, Scotland and Northern Ireland.

Conclusion

No representations have been made to the Committee that conflict with the Welsh Government's statement in the memorandum that:

[...] it is appropriate to deal with these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in relation to Wales and acknowledge the powers of the Welsh Ministers, whilst ensuring consistency in emissions relating to energy generation across the UK.

The Environment and Sustainability Committee agreed to report to the Assembly that it has no objection to the use of this legislative consent motion, as proposed by the Welsh Government.

Sources and additional information

- A copy of the **legislative consent memorandum** is available at: <http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs.htm?act=dis&id=241254&ds=12/2012>
- The **Energy Bill** is available on the UK Parliament's website at: <http://services.parliament.uk/bills/2012-13/energy.html>
- The **Research Service's Quick Guide** *The Constitution Series: 6 Legislative Consent Motions* is available at: <http://www.assemblywales.org/qg07-0006.pdf>

- **Standing Orders** can be viewed at <http://www.assemblywales.org/bus-home/bus-assembly-guidance.htm> (Standing Order 29 sets out the process for considering a legislative consent memorandum).