



14 May 2015

Draft Scotland Bill “falls short” in some “critical areas”- Devolution Committee

The previous UK Government’s draft legislative clauses for the new Scotland Bill do not meet the “spirit or substance” of the Smith Commission’s recommendations on welfare and benefits, and require extensive redrafting in other key areas, a Scottish Parliamentary Committee said today.

The Devolution (Further Powers) Committee today published its unanimous interim report into the draft legislation produced by the former UK Government in the light of the recommendations of The Smith Commission. Now that a new Scottish Secretary is in place, the Committee is urging the new UK Government to take the opportunity to reflect upon the concerns highlighted during its extensive evidence gathering process.

Committee Convener Bruce Crawford MSP said:

“All political parties involved in the Smith Commission agreed to take forward its recommendations as quickly as possible while ensuring that the draft legislation met the spirit and substance of those recommendations.

“In the short period of time the Committee had to consider the legislation prior to the dissolution of the UK Parliament, we decided to focus our attention on key issues such as taxation and borrowing, welfare and benefits and The Crown Estate.

“The Committee believes that the current proposals do not yet meet the challenge of fully translating the political agreement reached in the Smith Commission into legislation. For example, as we heard in our evidence taking, there is no power for the Scottish Parliament to top up reserved benefits despite that being one of the powers highlighted at the time of publication. The Committee also seeks reassurance that any new benefits or top-up benefits introduced in Scotland would result in additional income for a recipient.

“The Committee is disappointed that the currently proposed legislation sells Smith short.”

Specifically, the Committee concluded—

Welfare

“...the Committee has concerns with a number of the welfare provisions and considers that the relevant clauses do not yet meet the spirit and substance of the Smith Commission’s recommendations and potentially pose challenges in any attempt to implement them.” (paragraph 318)

“The Committee reaffirms the agreement in the Smith Commission report that the Scottish Parliament should have the power to create new benefits in areas of devolved responsibility and also new powers to make discretionary payments in any area of welfare without the need to obtain prior permission from the DWP, whilst recognising that there will be a need for the Scottish Government to provide the DWP with early notification of its intentions because of the potential for overlap with the administrative responsibilities of the UK Government in welfare matters.” (paragraph 322)

Income Tax

“.....there are significant issues still to be resolved regarding the implementation of the new powers, such as an appropriate definition of residency for a Scottish taxpayer, the details of the administration of the new regime (who collects the tax and how it will function), the costs on business and individuals, the need to avoid double taxation and the timing and phasing of the new powers on income tax relative to those already devolved under the Scotland Act 2012.” (paragraph 503)

Fiscal Framework

“...the Committee concludes that any final detail of the fiscal framework [intergovernmental agreement setting out the principles and operation of devolved taxes and impact of that on the Barnett formula] and the other matters we have considered is provided to the Scottish Parliament before the question of legislative consent to any new bill is considered in the early months of 2016.” (paragraph 512)

Parliamentary oversight of intergovernmental relations

“The Committee concludes that ensuring that the Scottish and UK Parliaments, and other devolved assemblies, can effectively scrutinise inter-governmental relations represents a significant challenge posed by the Smith Commission for these legislatures.” (paragraph 563)

In areas such as taxation, fiscal framework and welfare ... “We recommend both Governments reach an urgent agreement on just how this [intergovernmental relations and agreements] will be achieved and for the Scottish Government to report to the Committee on what arrangements it proposes to put in place for parliamentary oversight.” (paragraphs 177 & 328)

The Crown Estate

“The Committee ... has serious concerns regarding the situation in Scotland post-devolution and the competition and confusion that may arise from the creation of ‘two Crown Estates’.” (paragraph 542)

Permanency of the Scottish Parliament

“The Committee recommends that the Scottish electorate should be asked to vote in a referendum if the issue of permanency was in question, with majorities also being required in the Scottish Parliament and the UK Parliament.” (paragraph 497)

Mr Crawford continued:

“In the immediate aftermath of the UK General Election, the Prime Minister indicated that he was committed to delivering on the recommendations of the Smith Commission.

“As a Committee we call on the new UK Government to consider our report – agreed unanimously - as a matter of urgency and to work with the Scottish Parliament to help ensure that we have legislation that achieves the objectives that all five parties on the Committee signed up for.”

Background

A copy of the Committee’s report can be found here <http://www.scottish.parliament.uk/parliamentarybusiness/81842.aspx>

Following the UK General Election, the Committee will re-commence with its detailed scrutiny of all of the provisions in any ‘Scotland Bill’ that may be introduced by a new UK Government in its first Queen’s Speech.

The Committee expects to issue a further call for evidence in mid-2015 and to take further evidence during the remainder of 2015 and early 2016, with a view to issuing a Final Report on any bill and the issue of legislative consent before the Scottish Parliament is dissolved in advance of the Scottish Parliamentary elections of May 2016.

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