Report on the Supplementary Legislative Consent Memorandum (Memorandum No.3) for the Small Business, Enterprise and Employment Bill – Public Sector Exit Payments

Background


2. On 18 November 2014, the Business Committee agreed to refer the Memorandum to the Communities, Equality and Local Government Committee (‘the Committee’) for consideration. In referring the Memorandum, the Business Committee set a reporting deadline of 8 January 2015.

3. A Legislative Consent Motion (‘the Motion’), seeking the Assembly’s consent to provisions in the Bill (as outlined in the Memorandum), is expected to take place on 13 January 2015.

The Small Business, Enterprise and Employment Bill

4. The Small Business, Enterprise and Employment Bill (‘the Bill’) is sponsored by the Department for Business, Innovation and Skills. The UK Government’s main policy objectives for the Bill are to open up new opportunities for small businesses to compete, get finance to create jobs, grow, innovate and export.
5. Information on the Bill’s provisions can be found in paragraph 4 of the Memorandum.

Provisions in the Bill for which consent is sought

6. The consent of the Assembly is sought for clauses 149-151 of the Bill as amended in the Public Bill Committee (clauses 140-142 of the Bill as introduced).

7. These clauses enable HM Treasury to make regulations requiring public sector employees or office holders to repay “exit payments” they receive on leaving their employment if they later return to work in the same part of the public sector.

8. Further details on the proposed amendments can be found in paragraphs 8 to 16 of the Memorandum.

Committee consideration

9. We considered the Memorandum on 3 December 2014 and wrote to the Minister to seek clarification of the Welsh Government’s understanding of the policy intentions in relation to clauses 149-151. A copy of the Minister’s response is attached at Annexe 1.

Our view

10. We note the Minister’s response and we have no objection to the agreement of the Motion.
Ein cyf/Our ref – LF/JH/1243/12/B

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December 2014

Dear Christine

Thank you for your letter dated 5 December regarding the Communities, Equality and Local Government Committee’s consideration of the supplementary LCM no.3 for the recovery of exit payment provisions within the Small Business, Enterprise and Employment Bill.

I have set out below my understanding of the UK Government’s policy intentions relating to the questions you have raised.

**Question 1 - In relation to the power for HM Treasury to make regulations requiring the repayment of some or all of any qualifying exit payment in “specified circumstances” (as per paragraph 8a of the LCM), what the Welsh Government understands these “specified circumstances” to be;**

These ‘specified circumstances’ relate to the recovery of exit payments from individuals who previously earned over £100,000 and who return, within 12-months, to the same sub-sector from which they exited.

**Question 2 - In relation to a ‘qualifying exit payment’, the LCM states that this means a payment of a certain description made to an employee or office holder of a prescribed public sector authority when they leave the employment or office’. What public sector authorities or offices will be covered by these provisions; will they include, for example, local government officials, councillors, fire and rescue services staff and the police?**

All parts of the public-sector are within scope except the Armed Forces, National Museums, some public financial corporations, public broadcasters, the Bank of England and the Commissioner for Irish Lights. These public sector bodies being exempt due to the unique nature of their organisation.
The UK Government will set out the detail of specific bodies and sub-sectors under regulations, with public bodies and workforces classified on the basis of the department to which they are ultimately responsible. The UK Government will consult further on the final detail when draft regulations are ready for consultation.

**Question 3 - Whether there will be a minimum threshold in relation to the exit payments to be recovered and, if so, what this is likely to be;**

Recovery arrangements will apply to all exit payments made to those earning over £100,000 per annum who then seek re-employment within 12 months. Recovery will be based on the full amount being repaid if re-employed within 28 days. The amount would reduce on a pro-rata basis up to 12 months. After then no repayment would be sought. I understand that other considerations would also be taken into account, for example partial recovery where re-employment is on a lower salary, returning on a part-time basis, tax payments that may have been made and statutory entitlements.

**Question 4 - In relation to the power to waive the repayment requirement, if this is conferred on the Welsh Ministers, in what circumstances does the Welsh Government envisage using that power?**

I understand that waivers would only be agreed in very exceptional circumstances and considered on a case by case basis, following the general principle that an exception may be justified on grounds of economy, efficiency and effectiveness. That might include instances where re-employment is business led and meets robust business focused requirements. I would not envisage waivers being agreed where it is solely the individuals' desire to be re-employed in the same or similar sector.

\[Signature\]

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Y Gweinidog Cyllid a Busnes y Llywodraeth  
Minister for Finance and Government Business