

Report on the Legislative Consent Memorandum for the Financial Services Bill

December 2020

Introduction

1. On 10 November 2020 the Business Committee agreed, in accordance with Standing Order 29.4(i), to invite this Committee to consider the Legislative Consent Memorandum on the Financial Services Bill (“the LCM”), and to report to the Senedd by 18 December 2020. The Committee considered the LCM on 2 December 2020.

Background

2. The Financial Services Bill (“the Bill”) was introduced in the House of Commons on 21 October 2020 and second reading was on 9 November 2020. The LCM for the Bill was laid on 3 November 2020 by Jane Hutt MS, Deputy Minister and Chief Whip.

The Bill

3. The purpose of the Bill sponsored by HM Treasury is to make provision about financial services and markets; debt respite schemes; Help-to-Save accounts; and for connected purposes. The UK Government’s stated policy objective is to ensure the UK’s regulatory framework continues to function effectively for the UK after leaving the EU, and it considers the Bill an important first step in taking responsibility for financial services regulation, and ensuring that the UK maintains the highest regulatory standards and remains an open and dynamic global financial centre.



Provision in the Bill for which consent is sought

Clause 32

- 4.** Clause 32 relates to personal debt management and assists individuals with the management of their debts, helping them to resolve difficulties in repayment and to repay what they owe to creditors in a managed way. Consent is required because this provision falls within the legislative competence of the Senedd and makes provision with regard to devolved matters.
- 5.** The Financial Guidance and Claims Act 2018 (“the 2018 Act”) made provision for the creation of a debt respite scheme. The scheme consists of two parts: Breathing Space and the Statutory Debt Repayment Plan (“SDRP”).
- 6.** The Explanatory Note (EN) to the Bill explains that the first part of the scheme is Breathing Space, which “offers people in problem debt a 60-day moratorium on enforcement action, fees and certain forms of interest while they engage with professional debt advice.” The Government is delivering this part of the scheme through the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020, which have been approved by Parliament and will come into force on 4 May 2021.
- 7.** It goes on to explain the second part of the scheme is the SDRP. This plan could be offered to people in problem debt and would provide a revised agreement between the debtor and their creditors as to the amount owed on their debts and the timetable over which they have to be repaid. The EN states there is currently no statutory debt solution focused entirely on repayment in England, Wales and Northern Ireland, and the Government believes that providing a solution with the same legal protections from creditor action as apply in Breathing Space should encourage more people to access debt advice sooner and repay their debts to a manageable timetable.
- 8.** Clause 32 of the Bill will amend sections 6 and 7 of the 2018 Act to give the UK Government the full range of powers it needs to draft the regulations that are needed to implement the SDRP effectively.
- 9.** In summary, these amendments will allow regulations to be made relating to the SDRP which can:

 - a. compel creditors to accept amended repayment terms;
 - b. provide for a charging mechanism through which creditors will contribute to the cost of running the scheme and repayment plans;

and

- c. include debts owed to central government departments.

Legislative Competence

10. Schedule 7A to the Government of Wales Act 2006 reserves financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance. This reservation applies to all other provisions of the Bill. However, debt respite schemes, debt advice and debt management are not reserved. In seeking legislative consent, both the UK Government and the Welsh Government consider that the SDRP scheme would not fall within any reservation and have therefore sought legislative consent for clause 32.

Reasons for making these provisions for Wales in a UK Bill

11. The LCM explains that the SDRP will enable an individual to repay their debts to a manageable timetable, with legal protections from creditor action for the duration of their plan. This will offer people in Wales, who are experiencing problem debt, an opportunity to take better control of their finances.

12. The LCM states that the development of the SDRP will require input from the Welsh Government and a wide range of stakeholders in designing any scheme. It is the view of the Welsh Government that it is appropriate to deal with this provision in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable the development of the regulations that will allow the second part of the debt respite scheme, i.e., the SDRP, to apply in Wales, subject to full consideration of the details of any proposed scheme by the Senedd and the approval of the regulations implementing it.

13. The UK Government has not set a specific date to implement the SDRP, nor when it intends to make the regulations. However, section 7(8)(b) of the 2018 Act states that any regulations, to the extent that they will provide for the SDRP scheme to apply in relation to Wales, will need to be laid before and approved by a resolution of the Senedd in order to apply in Wales. This will enable the Senedd to fully consider the implications of the SDRP in Wales, and to consider and approve the regulations together with any amendments (that may be included within the regulations) to an existing Measure or Act of the Senedd.

14. The LCM also states that there are no financial implications of the provision in the Bill that is in competence and for which consent is sought.

Committee View

15. The Committee is satisfied that the current Bill makes provision for a purpose within the legislative competence of the Senedd and that an LCM is necessary under Standing Order 29, and sees no reason to object to the Senedd agreeing to a Legislative Consent Motion associated with this Memorandum.