

LEGISLATIVE CONSENT MEMORANDUM

ENTERPRISE BILL: NON-DOMESTIC RATING PROVISIONS

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within, or modifies the legislative competence of the National Assembly.
2. The Enterprise Bill (the “Bill”) was introduced in the House of Lords on 16 September 2015. The Bill can be found at:
<http://services.parliament.uk/bills/2015-16/enterprise.html>

Summary of the Bill and its Policy Objectives

3. The Bill is sponsored by the Department for Business, Innovation and Skills (“BIS”). The UK Government’s main stated policy objectives for the Bill are to:
 - Cement the UK’s position as the best place in Europe to start and grow a business, by cutting red tape and making it easier for small businesses to resolve disputes quickly and easily; and
 - Reward entrepreneurship, generate jobs and higher wages for all, and offer people opportunity at every stage of their lives.
4. The Bill is in nine parts:
 - Part 1 makes provision to establish a Small Business Commissioner;
 - Part 2 provides for an extension of the Business Impact Target to include regulators and supports a shift in the way regulation is delivered by regulators through the Growth Duty and Regulators’ Code;
 - Part 3 provides for the simplification of the Primary Authority Scheme;
 - Part 4 makes provisions to introduce a target for the total number of apprentices working in public sector bodies and to prevent misuse of the ‘Apprenticeship’ term;
 - Part 5 makes provisions to introduce a legal obligation for insurance claims to be paid within a reasonable timeframe;

- Part 6 provides for the Valuation Office Agency (“the VOA”) to share non-domestic rates information about properties and ratepayers with local government and also reforms the non-domestic rates appeals system;
- Part 7 makes provisions updating the Industrial Development Act 1982;
- Part 8 makes provisions to cap exit payments for public sector workers; and
- Part 9 makes general provisions in relation to consequential amendments, transitional and saving provisions and commencement.

Provisions in the Bill for which consent is sought

5. Part 6 clause 22 relates to the Disclosure of Her Majesty’s Revenue and Customs (“HMRC”) information in connection with non-domestic rating (NDR). The Bill amends Part 3 (non-domestic rating) of the Local Government Finance Act 1988 to create a legal gateway to enable the VOA, as an executive agency of HMRC, to share NDR information with a qualifying person, for a qualifying purpose.
6. A qualifying person includes: billing authorities, major precepting authorities, a person authorised to exercise functions on behalf of or provide services to a billing or a major precepting authority, the Secretary of State, the Welsh Ministers and any person prescribed by regulations made by the Secretary of State or the Welsh Ministers.
7. Under these provisions a qualifying purpose is specified as:
 - Enabling or assisting a qualifying person to carry out any functions conferred by or under Part 3, provided that they are not functions of the Secretary of State or the Welsh Ministers;
 - Enabling or assisting the Secretary of State or the Welsh Ministers to carry out functions conferred by or under Part 3 in relation to central non-domestic rating lists;
 - Any other prescribed purpose relating to non-domestic rating.
8. To prescribe a purpose for the sharing of NDR information or to prescribe a person to whom such information may be disclosed, regulations must be made which are subject to the affirmative procedure and they may only be made with the prior consent of the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”).
9. Provision is also made to place restrictions on any onward disclosure of information provided by the VOA under these provisions, including giving

the Commissioners a power to consent to information which is disclosed to be further disclosed, as well as the creation of an offence for unlawful disclosure and associated penalties.

10. The provisions apply in relation to Wales.

11. As detailed in paragraph 8, the provisions include powers for Welsh Ministers to make subordinate legislation specifying purposes for which the disclosure of information to a qualifying person may be authorised. This subordinate legislation requires prior consent of the Commissioners and is subject to the affirmative procedure.

12. It is the view of the Welsh Government that these provisions fall within the legislative competence of the National Assembly for Wales in so far as they relate to “local government finance” and “powers and duties of local authorities” under paragraph 12 of Part 1, Schedule 7 to the Government of Wales Act 2006.

Advantages of utilising this Bill rather than Assembly legislation

13. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill for reasons of timing and coherence. The interconnected nature of the relevant Welsh and English administrative NDR systems and the cross-border operation of the VOA as an agency of HMRC mean that it is effective and appropriate for provision for both the Wales and England administrations to be taken forward at the same time in the same legislative instrument.

Financial implications

14. There are no financial implications of consenting to the provisions set out in the Bill.

Leighton Andrews, AM
Minister for Public Services
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