

LEGISLATIVE CONSENT MEMORANDUM

IMMIGRATION BILL: LANGUAGE REQUIREMENTS FOR PUBLIC SECTOR WORKERS

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 Immigration Bill (the “Bill”) was introduced in the House of Commons on 17 September 2015. The Bill can be found at:
<http://services.parliament.uk/bills/2015-16/immigration.html>

Summary of the Bill and its Policy Objectives

3. The Bill is sponsored by the Home Office. The UK Government’s policy objectives for the Bill are to tackle illegal immigration by making it harder to live and work illegally in the UK. The intention behind the Bill is that without access to work, illegal migrants will depart voluntarily, but where they do not, the Bill contains other measures to support enforced removals.
4. The Bill makes provision about the law on immigration and asylum; access to services, facilities, licences and work by reference to immigration status; the Director of Labour Market Enforcement; language requirements for public sector workers; fees for passports and civil registration; and for connected purposes.

Provisions in the Bill for which consent is sought

5. This Memorandum relates to Part 7 of the Bill as brought from the Commons, published on 2 December 2015. It also relates to amendments to this part tabled by Lord Bates on pages 11 and 12 of the [Amendments to be moved in Committee \[Supplementary to the Second Marshalled List\] | PDF version, 206KB](#) published on the 21 January 2016. These amendments were tabled following the Welsh Government’s request that the provisions in Part 7 should not apply in respect of devolved public services in Wales.
6. Clause 47 of the Bill seeks to place a duty on public authorities to ensure that persons employed in a customer-facing role speak fluent English; and in Wales, that they speak fluent English or Welsh. A customer-facing role refers to a person who, as a regular and intrinsic part of their role, is required to speak to members of the public in English, or in Wales English or Welsh. Fluent is defined as being “a command of spoken English or Welsh which is sufficient to enable the effective performance of the person’s role”.

7. The duty will only apply to public authorities defined in the Bill, and such authorities should consider a code of practice provided for in clause 50 of the Bill when deciding how to comply with the duty. The Bill also requires such public authorities to operate procedures for handling complaints about breaches of the duty, and to have regard to a code of practice when deciding whether those procedures are adequate.
8. Clause 48 defines what is meant by a public authority and enables the Secretary of State or Chancellor of the Duchy of Lancaster (the relevant Minister) to make regulations to add, modify or remove a body with public functions. The amendment to Clause 48 of the Bill tabled by Lord Bates, as referred to in paragraph 5 above, provides that a person who exercises functions in relation to Wales is a public authority for the purposes of Part 7 in relation to those functions only if and to the extent that those functions relate to a matter which is outside the legislative competence of the National Assembly for Wales.
9. Clause 49 includes a power for the relevant Minister to extend the statutory duty to cover private and voluntary sector providers of contracted-out public services.
10. Clause 50 requires the relevant Minister to issue and keep in force codes of practice to include the required standard of spoken English, or in Wales English or Welsh; how any failures to meet that standard can be dealt with; procedures for dealing with complaints for a breach of the duty and how public authorities are to comply with the duty and their other legal obligations.
11. Clause 51 sets out the steps that the relevant Minister must take when preparing a code of practice under clause 50. The relevant Minister must consult such persons as they think appropriate and lay a draft of the code before Parliament before issuing it. It allows the relevant Minister to review, revise and re-issue the code.
12. Clause 52 set out the detail of how language requirements for public sector workers applies to public authorities exercising functions in Wales.
13. 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 the Welsh Language under paragraph 20 of Part 1, Schedule 7 to the Government of Wales Act 2006.

Whether it is appropriate for provisions to be made by means of the Bill

14. It is the view of the Welsh Government that it is appropriate for the provisions outlined in this Memorandum (Part 7 of the Bill as brought from the House of Commons, together with the amendments to clause 48 tabled by Lord Bates and referred to at paragraph 8 above), in so far as

they relate to the Welsh language, to be made in a UK Government Bill.

15. Part 7 of the Bill, together with the UK government amendments to this part tabled by Lord Bates will place a duty on non-devolved public sector authorities in Wales to ensure that each person who works for the public authority in a customer-facing role speaks fluent English or Welsh.

16. Whilst the Welsh Government does not intend to legislate in similar terms with regard to devolved public services, we recognise the importance for the UK Government, in legislating to impose language requirements on non-devolved functions of public authorities, to be able to treat the Welsh language equally with the English language within the context of the Bill's provisions.

Financial implications

17. The Welsh Government does not anticipate any financial implications for devolved public services in consenting to the provisions set out in this Memorandum.

Carwyn Jones AM
First Minister
February 2016