

LEGISLATIVE CONSENT MEMORANDUM

Small Business, Enterprise and Employment Bill

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 Small Business, Enterprise and Employment Bill (the “Bill”) was introduced in the House of Commons on 25 June 2014. The Bill can be found at:

<http://services.parliament.uk/bills/2014-15/smallbusinessenterpriseandemployment.html>

Summary of the Bill and its Policy Objectives

3. The Bill is sponsored by the Department for Business, Innovation and Skills (“BIS”). The main policy objectives of BIS for the Bill are to open up new opportunities for small businesses to compete, get finance to create jobs, grow, innovate and export.
4. The Bill makes provision about:
 - improved access to finance for businesses and individuals;
 - regulatory provisions relating to business and certain voluntary and community bodies;
 - the exercise of procurement functions by certain public authorities;
 - the creation of a Pubs Code and Adjudicator for the regulation of dealings by pub-owning businesses with their tied pub tenants;
 - the regulation of the provision of childcare and provision about information relating to the evaluation of education;
 - the regulation of companies;
 - company filing requirements;
 - disqualification from appointments relating to companies; and provision about insolvency;
 - the law relating to employment; and for connected purposes.

Provisions in the Bill for which consent is sought

5. For ease of reference, the provisions for which consent is sought are listed below in the order in which they appear in the Bill at introduction, followed by a description of each of the provisions in turn.

Part 1 – Access to Finance	Clause 9	Exports
Part 6 – Education and Training	Clauses 67-69	Education evaluation

Part 1 – Access to Finance

Clause 9 – Exports - Power of the Secretary of State under section 1 of the EIGA 1991

6. The Secretary of State exercises powers under the Export and Investment Guarantees Act 1991 (EIGA) through UK Export Finance (UKEF)¹ to provide support for UK exports and investments overseas.
7. UKEF is the UK's official Export Credit Agency. The principal ways in which support is provided to exports is through risk protection in the form of:
- i. contracts of insurance issued to exporters against the risks of non-payment under supply contracts supply contracts with overseas buyers, and to overseas investors against certain political risks; and
 - ii. guarantees to banks against the risks of not being repaid loans advanced to overseas buyers/borrowers which finance the purchase of supplies from UK exporters; working capital loans to exporters and calls made under contract bonds issued to overseas buyers in respect of contracts with UK exporters.
8. The provision would broaden the Secretary of State powers to provide financial support for exporters and exporting supply chains in the UK.
9. The broadened powers will ensure that UK exporters and those who may wish to export are able to receive support similar to that available to their overseas competitors.
10. The provision will also give UKEF:
- a more generalised ability to assist and support businesses in the UK that are, or wish to become, involved in exporting or exporting supply chains, for example, by providing guarantees of general working capital facilities or by providing information or advice;

¹ The Export Credits Guarantee Department operates under the name of UK Export Finance (UKEF).

- the ability to support exports of intellectual property rights and other intangibles;
 - more flexibility when supporting UK exports, in particular where there are complex contracting chains and financing arrangements or where exports are made via overseas subsidies or joint venture companies; and
 - more scope to support projects and business ventures overseas to which goods or services sourced from UK exporters are directly or indirectly supplied.
11. The provision applies in relation to Wales.
 12. These provisions do not include powers for Welsh Ministers to make subordinate legislation.
 13. It is the view of the Welsh Government that this provision falls within the legislative competence of the National Assembly for Wales in so far as it relates to economic development, which includes the promotion of business and competitiveness under paragraph 4 of Part 1, Schedule 7, to the Government of Wales Act 2006.

Advantages of utilising this Bill rather than Assembly legislation for the access to finance clauses

14. It is the view of the Welsh Government that it is appropriate to consider and approve this provision in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable the provisions to apply in relation to Wales. This will ensure a level playing field for businesses in Wales with the rest of the UK.

Financial implications

15. There are no financial implications for the Welsh Government in consenting to this provision.

Clauses 67-69 - Education Evaluation

16. The Education Evaluation clauses are a set of three clauses which seek to make the sharing of information between the Welsh Ministers, UK Government Departments, schools, colleges and other assessment centres easier. The aim is to enable parents and students to make more informed choices as to education and employment destinations; help schools and colleges to assess their information, advice and guidance services; and inform Government about which qualifications and courses lead to sustained employment and higher incomes.
17. The three clauses amend the following Acts: the Education and Skills Act 2008; the Apprenticeships, Skills, Children and Learning Act 2009; and the Further and Higher Education Act 1992.

Clause 67 - Assessment of effectiveness

The Education and Skills Act 2008

18. Clause 67 enables information to be shared between the Welsh Ministers and other persons. For example, the Higher Education Funding Council for Wales (HEFCW) and the Student Loans Company for the purpose of assessing the effectiveness of education or training. This clause extends an existing power to share information for the purpose of assessing the effectiveness of education or training in respect of persons who are not yet aged 19.
19. Pathways through education are important and can lead to differences in employability and lifetime earnings. To build up an accurate picture which links what and how young people study with where that learning takes them, the Welsh Ministers need to have relevant and reliable data, and to be able to make connections which provide valid evidence of student progression.
20. Through the Education and Skills Act 2008, the Welsh Ministers already have a legislative gateway to enable further education student data to be linked with related HMRC earnings and employment records. (Current Higher Education outcome data is collected through HESA²). However, legislation is required to extend this to include schools and higher education student information. Extending the current gateway to include schools and higher education student data will allow the Welsh Ministers (and HEFCW, for example) to hold this linked data in an anonymised form and analyse it, to provide new and improved information on learning outcomes by tracking students through education into the labour market.

Clause 68 - Qualifications

Apprenticeships, Skills, Children and Learning Act 2009

21. Clause 68 enables a person in Wales to share student information that it holds with the Welsh Ministers, an information collator or a prescribed person or a person falling within a prescribed category of persons. Regulations will determine the circumstances in which such sharing may take place, the type of student information which may be shared and the persons and categories of person with whom any person may share student information.
22. The Welsh Ministers are planning to introduce a set of consistent measures for the post-16 sector which will enable learners and parents to make decisions on future learning using transparent performance information.
23. The measures will be compiled through a data checking exercise which relies on the Welsh Ministers ability to share learner level data back to schools and colleges; this means providing a reliable source of comparative information, which allows schools

² The HESA (Higher Education Statistics Agency) Destination of Leavers from Higher Education surveys run at i) six months (DLHE) and ii) three and half years after graduation (LDHLE).

and colleges to monitor their own performance and to compare their performance with others.

24. Whilst there is a legal basis on which to collect learner-level information from Awarding Organisations, and thereafter to share this information back to schools for checking prior to publication of externally held examination results and information on My Local School, the Welsh Ministers do not have legislation in place to undertake the same process for colleges and other assessment centres. It is proposed to use this legislation to secure the data collection and quality assurance processes that ensure the publication of robust performance measures that enable learners and parents to make decisions on.

Clause 69 - Destinations

The Further and Higher Education Act 1992

25. Clause 69 enables the Welsh Ministers to share with further education institutions information relating to their former students, including information on the activities of such students once they have left the institution. Regulations will prescribe what those activities are.
26. The Welsh Ministers are planning to introduce a destination performance measure, to provide valuable information on how young people progress, having left school or college. The availability of this data provides a basis for schools and colleges to tailor their curriculum offer and their provision of information, advice and guidance and to reduce the number of students who might otherwise become NEET i.e. not in education, employment or training.
27. In order for schools and colleges to use destination measures to support self-improvement, they need student level data to be available to them. Whilst legislation enables the Welsh Ministers to share student level destination data with schools, it does not enable them to share student level destination data with colleges. This clause will allow the Welsh Ministers to give colleges the same level of access to student level data.
28. All the provisions outlined above extend, and apply in relation, to Wales.
29. Clause 67 contains no new powers for the Welsh Ministers to make subordinate legislation. Clause 68(2) contains a power for the Welsh Ministers to make regulations. These regulations are subject to annulment in pursuance of a resolution of the National Assembly for Wales. Clause 69(3)(b) contains a power for the Welsh Ministers to make regulations. These regulations are subject to annulment in pursuance of a resolution of the National Assembly for Wales.
30. 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 education, vocational, social and physical training and the careers service, and the promotion of advancement and application of knowledge under paragraph 5 of Part 1, Schedule 7 to the Government of Wales Act 2006.

Advantages of utilising this Bill rather than Assembly legislation

31. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practicable and proportionate legislative vehicle to enable these provisions to apply in relation to Wales. The interconnected nature of the relevant Welsh and English administrative systems mean that it is most effective and appropriate for the Bill provisions for both to be taken forward at the same time in the same legislative instrument.

Financial implications

32. There are no financial implications for the Welsh Government in consenting to these provisions.

Mrs Edwina Hart MBE CStJ AM
Minister for Economy, Science and Transport
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