

Report on the Legislative Consent Memorandum for the Non-Domestic Rating (Public Lavatories) Bill

July 2019

Introduction

1. The Assembly's Economy, Infrastructure and Skills Committee (the Committee) considered the Legislative Consent Memorandum for the Non-Domestic Rating (Public Lavatories) Bill on 11 July 2019.

Background

2. On 25 June 2019 the Minister for Finance and Trefnydd laid a Legislative Consent Memorandum (LCM) for the Bill. On 2 July 2019 the Business Committee referred the LCM to this Committee for consideration, setting a reporting deadline of 11 July 2019.

3. A Legislative Consent Motion, seeking the Assembly's consent to the relevant provisions in the Bill, is scheduled for debate in Plenary on 16 July 2019. This allows only two sitting weeks' scrutiny.

4. The Bill was introduced in the House of Commons on 18 June 2019. The Bill is likely to progress rapidly through Parliament, with second reading in the House of Lords scheduled for 10 July 2019. The scrutiny timetable is therefore constrained but Welsh Government considers the Assembly should have opportunity to scrutinise the Bill before the summer recess.

Overview of the Bill

5. The Bill implements commitments made by the Chancellor of the Exchequer in the Autumn Budget 2018 to provide 100% non-domestic rates



(NDR) relief for standalone public lavatories in England. The UK Government's stated purpose is to reduce the costs of maintaining such facilities to help them to remain open.

6. Standalone lavatories in England and Wales are currently assessed for NDR purposes in the same way as other non-domestic properties - the Bill confers relief from NDR, reducing this to zero, for hereditaments in England and Wales that consist wholly or mainly of public lavatories; and for connected purposes. The provisions relate to standalone lavatories which are made available for public use, whether they are operated by private or public bodies. The LCM states that in recent years a number of local authorities have closed their public lavatories and some have transferred such properties, or responsibility for their upkeep, to other bodies. Removing the rates liability for such facilities will reduce the cost of maintaining them and may help them to remain open.

7. Primary legislation is needed to amend Section 43 of the Local Government Finance Act 1998 which sets out how a ratepayer's liability for NDR on an occupied property is to be calculated. As a result, Welsh Government considers an LCM is required.

Legislative Competence

8. Local taxes to fund local authority expenditure (for example, council tax and non-domestic rates) are exceptions to the fiscal, economic and monetary policy reservation in the Government of Wales Act 2006 (GOWA 2006) (paragraph 15 of Schedule 7A). This means that the Assembly has competence to pass primary legislation on the subject matter of business rates.

Provisions in the Bill for which consent is sought

9. The consent of the Assembly is being sought for the whole of the Bill insofar as it relates to Wales. The relevant provisions are as follows, which were included at introduction:

Clause 1

10. Clause 1 amends Part 3 of the Local Government Finance Act 1988 (the 1988 Act) by inserting a new relief into section 43, at subsection (4I). This provides that the chargeable amount in relation to a hereditament which consists wholly or mainly of a public lavatory is zero and makes a consequential change at section 43(4) to the general formula used to calculate a hereditament's chargeable amount, in order to ensure that it is subject to the new relief. The amendment in

subsection (4) has the effect that, where more than one relief applies to the hereditament, it is the relief in section 43(4I) that has effect..

Clause 2

11. Clause 2 makes consequential amendments which reflect the changes made to the 1988 Act by clause 1.

Clause 3

12. Clause 3 states that the Act extends to England and Wales.

Clause 4

13. Clause 4 outlines the short title and commencement provisions.

Reasons for making these provisions for Wales in a UK Bill

14. The LCM sets out the Welsh Government's reasons for making these provisions for Wales in the Bill, for reasons of timing and coherence so that public lavatories in Wales are treated on an equal basis to those in England. The LCM states that:

- The possibility of making this change through a future Welsh Government Bill has been discounted because there is no suitable legislative opportunity within the timescale required to enable the Valuation Office Agency to complete the necessary valuation work;
- Using a later Welsh Government Bill would result in less certainty for business and other ratepayers in Wales in the Bill; and
- The change will contribute to the delivery of public health objectives.

Our View

15. The Committee notes that Welsh Government believes the Bill is an appropriate legislative vehicle to implement this change in Wales.

16. The Committee notes that reducing the rates liability for public lavatories to zero would remove the need for rates bills to be issued for such properties and the current rates liability for public lavatories is estimated at approximately £450,000 per year.

17. The Committee is aware that Members of all parties represented in the Assembly have raised concerns over many years about the importance of access to public toilets, and the negative impact that closures have on the public, and in particular older people, disabled people and those with young children. The measure proposed by the Bill supports the public health objective of trying to keep more public toilets open.

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