

# The Welsh Government's Legislative Consent Memorandum on the Financial Services Bill

December 2020

## 1. Background

### The Bill

1. The Financial Services Bill (the Bill)<sup>1</sup> received its first reading in the House of Commons on 21 October 2020. It is sponsored by HM Treasury.
2. The long title to the Bill, as introduced, states that it is a Bill to:

“Make provision about financial services and markets; to make provision about debt respite schemes; to make provision about Help-to-Save accounts; and for connected purposes.”

### The Welsh Government's Legislative Consent Memorandum

3. On 3 November 2020 Jane Hutt MS, Deputy Minister and Chief Whip, laid before the Senedd a Legislative Consent Memorandum (LCM)<sup>2</sup> in respect of the Bill.

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<sup>1</sup> [Financial Services Bill 2019-21 \[Bill 200\]](#)

<sup>2</sup> [Legislative Consent Memorandum on the Financial Services Bill](#), November 2020



4. The Business Committee agreed to refer the LCM to the Economy, Infrastructure and Skills Committee and the Legislation, Justice and Constitution Committee (the Committee) with a reporting deadline of 18 December 2020.<sup>3</sup>
5. The Bill largely seeks to ensure that the UK's regulatory framework for financial services continues to function effectively after the UK leaves the EU. Financial services are generally reserved to the UK Parliament.
6. However, clause 32 of the Bill provides for amendments to be made to the *Financial Guidance and Claims Act 2018* (the 2018 Act). The LCM notes:

“The *Financial Guidance and Claims Act 2018* 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).”<sup>4</sup>
7. The Senedd gave its legislative consent to the 2018 Act on 13 February 2018.<sup>5</sup>
8. The Committee considered the first part of the scheme, The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 (the Breathing Space Regulations), on 2 November 2020.<sup>6</sup> The Senedd approved the Breathing Space Regulations on 10 November 2020.<sup>7</sup> The Bill makes provision in relation to the second part of the scheme, the SDRP.

#### Provision for which the Senedd's consent is required

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9. Paragraphs 5 to 9 of the LCM set out the Welsh Government's view of the provisions in the Bill that require Senedd consent.
10. The Welsh Government and the UK Government agree that provisions in clause 32 require Senedd consent.

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<sup>3</sup> Business Committee, [Timetable for consideration of the Legislative Consent Memorandum on the Financial Services Bill](#), November 2020

<sup>4</sup> LCM, paragraph 5

<sup>5</sup> Plenary, [Record of Proceedings](#), 13 February 2018

<sup>6</sup> Legislation, Justice and Constitution Committee report, [SL\(5\)635 – the Debt Respite Scheme \(Breathing Space Moratorium and Mental Health Crisis Moratorium\) \(England and Wales\) Regulations 2020](#), November 2020

<sup>7</sup> Plenary, [Record of Proceedings](#), 10 November 2020

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## Clause 32 – Debt respite scheme

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**11.** The LCM notes:

“Clause 32 of the Bill will amend sections 6 and 7 of the *Financial Guidance and Claims Act 2018* to give the UK Government the full range of powers it needs to draft the regulations that are needed to implement SDRP effectively.”<sup>8</sup>

**12.** In summary, these amendments will allow regulations which are made by the UK Government to establish an SDRP to include provisions which can:

- compel creditors to accept amended repayment terms;
- provide for a charging mechanism through which creditors will contribute to the cost of running the scheme and repayment plans;
- include debts owed to central government departments.<sup>9</sup>

**13.** The LCM states:

“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 the provision falls within the legislative competence of the Senedd and makes provision with regard to devolved matters. All the other provisions in the Bill relate to the financial services reservation and are therefore outside the competence of the Senedd.”<sup>10</sup>

**14.** The LCM also states:

“... any regulations, to the extent that they will provide for the SDPR scheme to apply in relation to Wales, will need to be laid before and

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<sup>8</sup> LCM, paragraph 6. Sections 6 and 7 of the *Financial Guidance and Claims Act 2018* require the Secretary of State to seek advice on the establishment of a debt respite scheme and, as soon as reasonably practicable after receiving such advice, to consider making regulations to establish a debt respite scheme.

<sup>9</sup> LCM, paragraph 7

<sup>10</sup> LCM, paragraph 9

approved by a resolution of the Senedd in order for them to apply in Wales.”<sup>11</sup>

**15.** The LCM notes that the UK Government has not set a specific date to implement the SDRP, and neither has it said when it intends to make the relevant regulations.<sup>12</sup>

**16.** Paragraphs 10 and 11 of the LCM set out the reasons for making the provisions for Wales in the Bill.

**17.** The LCM states:

“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.”<sup>13</sup>

## 2. Committee consideration

**18.** We considered the LCM at our meeting on 23 November 2020.<sup>14</sup>

### Our view

**19.** We note the Welsh Government's assessment of the provisions in the Bill which require Senedd consent. We also note the reasons as to why, in its view, making provision for Wales in the Bill is appropriate.

**20.** Further, we note that any regulations made by UK Ministers, 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 for them to apply in Wales.

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<sup>11</sup> LCM, paragraph 8

<sup>12</sup> LCM, paragraph 8

<sup>13</sup> LCM, paragraph 11

<sup>14</sup> Legislation, Justice and Constitution Committee, 23 November 2020