

LEGISLATIVE CONSENT MEMORANDUM

Financial Services 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 Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Financial Services Bill (“the Bill”) was introduced in the House of Commons on 21 October 2020. The Bill and accompanying documents can be found at: <https://services.parliament.uk/Bills/2019-21/financialservices.html>

Policy Objectives

3. The UK Government’s stated policy objective is to ensure the UK’s regulatory framework continues to function effectively for the United Kingdom (UK) after leaving the European Union (EU). The UK Government consider the Bill is an important first step in taking responsibility for financial services regulation, ensuring that the UK maintains the highest regulatory standards and remains an open and dynamic global financial centre.

Summary of the Bill

4. The Bill is sponsored by Her Majesty's Treasury (HM Treasury) and the key provisions in the Bill seek to:
 - ensure the UK's regulatory framework continues to function effectively for the UK after leaving the EU.
 - enhance the UK’s world-leading prudential standards and promote financial stability by enabling the implementation of the full set of Basel III standards, a new prudential regime for investment firms, and giving the Financial Conduct Authority the powers it needs to oversee an orderly transition away from the LIBOR benchmark.
 - promote openness between the UK and international markets by introducing a new mechanism to simplify the process whereby overseas investment funds can be marketed in the UK and delivers a Ministerial commitment to provide long-term access between the UK and Gibraltar for financial services firms.
 - introduce a number of measures to maintain an effective financial services regulatory framework and sound capital markets.
 - to make provision about debt respite schemes.

Provisions in the Bill for which consent is required

5. The Financial Guidance and Claims Act 2018 made provision for the creation of a debt respite scheme. The scheme consists of two parts: Breathing Space¹ and the Statutory Debt Repayment Plan (SDRP).
6. Clause 32 of the Bill will amend sections 6 and 7² 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.
7. In summary, these amendments will allow regulations to be made relating to the SDRP which can:
 - a) compel creditors to accept amended repayment terms;
 - b) provide for a charging mechanism through which creditors will contribute to the cost of running the scheme and repayment plans; and
 - c) include debts owed to central government departments.
8. The UK Government has not set a specific date to implement the SDRP, nor when they intend to make the regulations. However, any regulations, 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.
9. 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.

Reasons for making these provisions for Wales in the Financial Services Bill

10. The SDRP will enable an individual to repay their debts to a manageable timetable, with legal protections from creditor action for the duration of their plan. This will offer people in Wales, who are experiencing problem debt, an opportunity to take better control of their finances. The

¹ The first part of the scheme, Breathing Space is being introduced through the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020.

² 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.

development of the SDRP will require input from the Welsh Government and a wide range of stakeholders in designing any scheme.

11. 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.

Financial implications

12. There are no financial implications relating to the provision within the Bill that is in competence.

Conclusion

13. It is the view of the Welsh Government that it is appropriate to deal with this provision in this UK Bill to enable the development of the regulations that will allow the second part of the debt respite scheme, i.e., the SDRP to be implemented. When implemented, the SDRP will offer people in Wales, who are experiencing problem debt, an opportunity to take better control of their finances and find a sustainable pathway out of debt.
14. Any regulations, 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, the Senedd. This will enable the Senedd to fully consider the implications of the SDRP in Wales and to consider and approve the regulations together with any amendments (that may be included within the regulations) to an existing Measure or Act of the Senedd.

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3 November 2020