



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Wales Bill**

DATE **01 May 2014**

BY **Jane Hutt, Minister for Finance**

The Wales Bill was introduced in the House of Commons on 20 March 2014. The Bill was originally published in draft on 18 December 2013 for pre-legislative scrutiny. The Welsh Affairs Committee reported on the draft Bill on 28 February 2014.

This written statement is laid under Standing Order 30 - Notification in relation to UK Parliament Bills. It relates to provisions in the Bill which modify Welsh Ministers' functions, but which do not require a Legislative Consent Motion under Standing Order 29.

The UK Government's expressed policy objectives for the Bill are to make the National Assembly for Wales ("the Assembly") and the Welsh Government more accountable to the people of Wales for raising the money they spend, and to improve the system of elections to the Assembly.

For ease of reference, the provisions which modify the functions of Welsh Ministers are described in the order in which they appear in the Bill, namely clauses 6, 8, 12, 16, 19, 20, 22, 23, 24 and Schedule 1.

Clause 6 - Taxation: introductory

Clause 6 provides the structure within which the Welsh Government may legislate on tax. Clause 6 introduces a new Section 116B into the Government of Wales Act 2006. Subsections (5), (6) and (7) provide that, if the Assembly were to appoint civil servants to a body that it establishes to collect and manage devolved taxes, the Welsh Ministers must pay the salaries, expenses and pensions of those civil servants.

Clause 8 - Welsh rate of income tax

Clause 8 deals with the Welsh rate of income tax. Subsection (1) inserts Chapter 2 into the new Part 4A of GOWA 2006, consisting of sections 116D to 116K. New Section 116D confers on the Assembly a power to set, by resolution, a Welsh rate of income tax, for

Welsh taxpayers. 116D(8) requires that the Assembly's standing orders ensure that only the First Minister or a Welsh Minister may move a motion for a resolution on a Welsh rate of income tax.

New section 116J provides that the Welsh Ministers may reimburse any Minister of the Crown or any UK Government department, for example HMRC, for administrative expenses incurred through the establishment of a Welsh rate of income tax.

Clause 12 - Proposal for referendum by Assembly

Clause 12 provides the mechanism through which the Assembly can trigger a referendum on whether there should be a Welsh rate of income tax. Subsections (1) and (2) specify that the First Minister or a Welsh Minister may move a resolution in the Assembly that a recommendation should be made to Her Majesty in Council to make an Order causing a referendum to be held. If that resolution is passed by at least two-thirds of AMs, then the First Minister must write giving notice to the Secretary of State as soon as practicable.

If an Order is not laid within 180 days of the Secretary of State receiving the First Minister's letter, then the Secretary of State must write to the First Minister stating this and giving reasons for not doing so. Subsection (4) requires the First Minister to lay a copy of that notice before the Assembly.

Clause 16 - Information on Welsh land transactions

Clause 16 provides for the supply of information to HMRC about land transactions in Wales. Subsection (1) inserts a new section 116M into Chapter 3 of Part 4A GOWA 2006 imposing a duty to provide certain information to HMRC about Welsh land transactions. Section 116M(1) provides that the Welsh Government must provide to HMRC, when requested to do so, such information as HMRC may require, as this information would no longer be available to HMRC from land transaction returns. The remaining subsections of clause 116 define the information that would be required for this purpose and how it should be provided etc.

Clause 19 - Borrowing by the Welsh Ministers

Clause 19 amends sections 121 and 122 of GOWA 2006, and inserts a new section 122A, to revise the circumstances under which the Welsh Ministers may borrow and to set out the main controls and limits on such borrowing. The clause enables the Welsh Ministers to borrow, subject to HM Treasury's controls and limits, in order to:

- manage in-year volatility of receipts, where actual income for a month differs from the forecast receipts for that month;
- provide a working balance to the Welsh Consolidated Fund in order to manage cash-flow;
- deal with differences between the full year forecast and outturn receipts for devolved taxes; and
- to fund capital expenditure.

Subsection 19(3) replaces subsection (1) in section 121 of GOWA:

- re-enacting Welsh Ministers ability to borrow temporarily from the Secretary of State for Wales to provide a working balance to the Welsh Consolidated Fund and to manage in-year volatility of receipts; and
- extending the Welsh Ministers' existing borrowing powers to include borrowing from the Secretary of State across years to fund deviations between full year forecast and outturn receipts of the devolved taxes.

Subsection (3) also adds two new subsections into section 121((1A) and (1B)). Subsection (1A) would enable the Welsh Ministers to borrow to fund capital expenditure, subject to HM Treasury's approval. The borrowing must be in the form of a loan either from the National Loan Fund (through the Secretary of State) or from another lender, such as a commercial bank. The new subsection requires the Welsh Ministers to borrow by way of loan, and they are not permitted to issue Welsh gilts or bonds.

Subsection (10) inserts a new section 122A into GOWA 2006 which includes further provisions on capital borrowing. Section 122A(5), (6) and (7) contain additional rules on Welsh Ministers' borrowing to fund capital spending. Subsection (6) states that Welsh Ministers are prohibited from mortgaging or charging any property as security for money which they have borrowed (but this does not affect the rule in section 121(3) of GOWA 2006 that borrowing is to be charged on the WCF).

Clause 20 - Repeal of existing borrowing power

Clause 20 amends the Welsh Development Agency Act 1975, repealing the borrowing power which this conferred upon the Welsh Ministers, thereby removing a function of the Welsh Ministers.

Subsection (1) repeals paragraph 3 (power for Welsh Ministers to borrow money) and paragraph 6 (power for HM Treasury to guarantee money borrowed under paragraph 3) in Schedule 3 to the Welsh Development Agency Act 1975. Subsection (2) states that the repeals in subsection (1) do not affect the outstanding liability of Welsh Ministers to repay money previously borrowed under paragraph 3, nor any guarantee previously given by HM Treasury under paragraph 6.

Clause 22 - Reports on the implementation and operation of this Part

Clause 22 sets out the requirements for the Secretary of State and Welsh Ministers to report on the implementation and operation of the new financial provisions set out in Part 2 of the Wales Bill.

Clause 22(1) and (3) require the Secretary of State to publish a report on the implementation and operation of the finance provisions in Part 2 within a year of the Act being passed and thereafter before each anniversary of the Act being passed. Subsection (4) states that these reports must continue until a year after the tax and borrowing powers are fully transferred to the Assembly and the Welsh Ministers. Copies of the reports must

be laid before both Houses of Parliament and sent to the Welsh Ministers, who must lay the reports before the Assembly.

Subsections (2) and (3) require the Welsh Ministers to make and lay reports before the Assembly of the same kind and to the same timetable, and to provide a copy of each report to the Secretary of State to lay before both Houses of Parliament.

Subsections (5) and (6) set out how it is determined that a Part 2 provision is implemented, for the purpose of determining for how long the reports must continue, and Subsection (7) sets out the areas that each report must include.

Clause 23 - Local housing authorities: limits on housing revenue account debt

Subsection (1) amends Part 6 (Housing Finance) of the Local Government and Housing Act 1989 “the 1989 Act”, in relation to how that Part of the 1989 Act would apply in Wales. In doing so, the new provision reflects the effect of sections 171 to 173 of the Localism Act 2011 which only apply in England.

Subsection (2) introduces a new section 76A (Limits on indebtedness) into the 1989 Act. Section 76A confers powers upon: (i) HM Treasury to make a determination which provides for the maximum amount of housing debt which may be held, in aggregate, by Welsh Local Housing Authorities (“LHAs”) which maintain a Housing Revenue Account, and (ii) Welsh Ministers to determine both the amount of housing debt which an individual LHA is to be treated as holding and the maximum amount of such housing debt which a LHA may hold. Section 76A requires Welsh Ministers to make a determination in relation to each LHA within a 6 month time period which starts the day after HM Treasury has made a determination. The aggregate of the amounts of debt held by each LHA must not exceed the “all Wales cap” stipulated in HM Treasury’s determination. It would also be unlawful for a LHA to exceed its individual borrowing limit.

Subsection (2) also introduces a new section 76B (Power to obtain information) into the 1989 Act. Section 76B confers new powers upon the Welsh Ministers to obtain information which enables the Welsh Ministers to discharge their functions under section 76A. Section 76 B places a duty upon each LHA to supply the Welsh Ministers with information and certificates which support this information.

Subsections (3) to (7) make minor changes to section 87 of the 1989 Act.

Clause 24 - The work of the Law Commission so far as relating to Wales

Clause 24 inserts new provisions into the Law Commissions Act 1965 (the 1965 Act) in order to impose a new duty on the Law Commission to provide advice and information directly to the Welsh Ministers. This makes it clear that the Welsh Ministers would be able to refer law reform matters to the Law Commission themselves.

Clause 24(4) inserts a new section 3C into the 1965 Act to provide that Welsh Ministers must produce an annual report to be laid before the Assembly. The report must include

details of any Law Commission proposals which relate to Welsh devolved matters and either have been implemented since the last report or have yet to be implemented. If in the previous year there are proposals that have yet to be implemented, the Welsh Ministers' report must include plans for implementation, any decision not to implement, and the reasons for any such decision. If there are no outstanding Law Commission proposals on Welsh devolved matters in the year since the previous report, the Welsh Ministers would not be required to produce a report for the Assembly.

Subsection (4) also provides for a protocol about the Law Commission's work as regards Wales, to be agreed between the Law Commission and Welsh Ministers for purposes of the Law Commission's work relating to Welsh devolved matters. If a protocol is taken forward, the Welsh Ministers and the Law Commission must keep it under review from time to time and the Welsh Ministers must lay it (and any revisions) before the Assembly. The Welsh Ministers and the Law Commission must have regard to the protocol.

Finally, subsection (5) of clause 24 makes a minor amendment to section 5(4) of the 1965 Act which clarifies that the Welsh Ministers would be able to pay for the services of the Law Commission.

Schedule 1 - Referendum about commencement of income tax provisions

Schedule 1 sets out a framework for the conduct of a referendum about bringing the income tax provisions into force. In accordance with the Political Parties, Elections and Referendums Act 2000, the Secretary of State is required to consult the Electoral Commission on the intelligibility of the referendum question to be included on the ballot paper. The Secretary of State must send the First Minister a copy of the report, containing the Commission's views, as laid in Parliament. Paragraph 3(4) of Schedule 1 sets out that, as soon as practicable after receiving the report, the First Minister must lay a copy of it before the Assembly.

An Order allowing for a referendum to be held must specify the date of the poll. Paragraph 4(2) sets out that the Secretary of State (or the Lord President of the Council) may vary that date, by order, if it appears inappropriate for it to be held on that date. However, the Welsh Ministers must consent to such an order being made.

Rationale for including these provisions in this UK Bill

The Welsh Government considers it appropriate for these provisions to be made, and to be made by means of the Wales Bill, because the provisions could not be made by an Assembly Act.

Most of the provisions included above complement the enhanced legislative competence in relation to devolved taxes being conferred on the Assembly and borrowing powers being conferred on Welsh Ministers by means of the Wales Bill, or are required in order for the other provisions to work effectively.

The clause in the Bill in relation to the Law Commission was included at the Welsh Government's request.

Clause 23 on the limits on housing revenue account debt reflects an essential part of the agreement reached between HM Treasury and Welsh Ministers, and will enable Welsh local housing authorities to exit from the existing Housing Revenue Account Subsidy system.