

LEGISLATIVE CONSENT MEMORANDUM LOCAL GOVERNMENT FINANCE BILL

Legislative Consent Motion

1. "In accordance with Standing Order 29.6 it is proposed that the National Assembly for Wales, agrees that provisions of the Local Government Finance Bill in so far as they fall within the legislative competence of the National Assembly for Wales should be considered by the UK Parliament"

Background

2. The Legislative Consent Motion at paragraph 1 above has been tabled by Carl Sargeant AM, Minister for Local Government and Communities, under Standing Order 29.6 of the Standing Orders (SO) of the National Assembly for Wales (the National Assembly). This Legislative Consent Memorandum is laid under SO 29.2(iii). SO 29 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly if a UK Parliamentary Bill makes provision in relation to Wales or an amendment is tabled, for a purpose that falls within the legislative competence of the National Assembly.
3. The Local Government Finance Bill (the Bill) was introduced to Parliament on 19 December 2011. The Bill can be found here:

<http://services.parliament.uk/bills/2012-13/localgovernmentfinance.html>

Summary of the Bill and its policy objectives

4. The Bill is sponsored by the Department for Communities and Local Government. It is the UK Government's aim that the Bill will reduce the deficit by delivering economic growth and decentralising control over finance.
5. The Bill will introduce a rates retention scheme, enabling local authorities in England to retain a proportion of the business rates generated in their area. This will give local authorities a strong financial incentive to promote local economic growth.
6. The Bill will also provide a framework for the localisation of support for council tax in England, which, alongside other council tax measures, will give councils increased financial autonomy and a greater stake in the economic future of their local area, while providing continuation of council tax support for the most vulnerable in society.

Provisions which require the consent of the National Assembly and policy objectives

7. Since the introduction of the Bill in December 2011, the UK Government has introduced a number of further provisions by way of Government amendments.

8. A number of amendments were tabled by the UK Government on 17 May 2012, this was at the request of the Welsh Government. These amendments proposed that the Welsh Ministers be given executive powers to require specified authorities in Wales to introduce localised council tax reduction schemes in Wales, and prescribe for the parameters within which such schemes should operate.
9. It is the view of the Welsh Government that the provisions referred to in paragraph 8 fall within the National Assembly's legislative competence as set out in Subject 12 (local government finance) of Part 1 of Schedule 7 to the Government of Wales Act 2006.
10. Amendments tabled on 17 May also provide the Welsh Ministers with executive powers to introduce regulations which provide for powers to investigate and prosecute fraud and overpayment errors in relation to council tax.
11. It is the view of the Welsh Government that the provisions referred to in paragraph 11 also fall within the National Assembly's legislative competence as set out in Subject 12 (local government finance) of Part 1 of Schedule 7 to the Government of Wales Act 2006.
12. Technical amendments tabled on 14 May, which update out of date cross referencing within section 141 of the Local Government Finance Act 1988, correct a previous oversight in the Local Government Finance Act 2003.
13. It is the view of the Welsh Government that the provisions referred to in paragraph 12 also fall within the National Assembly's legislative competence as set out in Subject 12 (local government finance) of Part 1 of Schedule 7 to the Government of Wales Act 2006.
14. Clauses 7 and 12 of the Bill, which amend Schedule 9 to the Local Government Finance Act 1988 and Schedule 2 to the Local Government Finance Act 1992, enable the Welsh Ministers, by regulations, to require authorities to publish prescribed information about council tax and non-domestic rating in a prescribed manner.
15. It is the view of the Welsh Government that the provisions referred to in paragraph 14 fall within the National Assembly's legislative competence as set out in Subject 12 (local government finance) of Part 1 of Schedule 7 to the Government of Wales Act 2006.
16. The tabled amendments may be accessed on the Parliamentary website at: <http://services.parliament.uk/bills/2012-13/localgovernmentfinance.html>
17. The amendments to existing clauses in the Bill and the new clauses will:

a) Enable the introduction of a scheme to provide support for Council Tax in Wales

The executive powers provided to the Welsh Ministers in the Bill will enable them to make regulations which will require a specified authority in Wales to

make a council tax reduction scheme. In accordance with this regulation making power, Welsh Ministers will be able to impose requirements in relation to matters which are to be included in such schemes.

The matters that can be prescribed for by the Welsh Ministers are broadly similar to those that billing authorities in England will be required to include in their schemes under the provisions of the Bill.

The regulations that Welsh Ministers may make, may:

- Require a person or body specified in the regulations ('specified authorities') to introduce a council tax reduction scheme that specifies the reductions which are to apply to the amounts of council tax payable, along with the dwellings and the persons to which the scheme applies;
- Impose requirements on the person or body making the scheme regarding particular matters that must be included in the scheme; and
- Make other provisions in relation to council tax reduction schemes.

The detailed provisions that can be included within the regulations that may be introduced include:

- The application of schemes:
 - the regulations are to prescribe the dwellings that a scheme must apply to; and
 - the date by which a scheme must be made, and the first financial year to which it must relate.
- Persons entitled to reductions:
 - the regulations may prescribe the classes of person who are entitled to a reduction under a scheme, and/or may allow the specified authorities to determine classes of person who are to be entitled to a reduction under the scheme.
- Reductions:
 - the regulations may prescribe reductions, including the maximum and minimum reductions, to which persons in each class are to be entitled; and
 - under the regulations specified authorities may be allowed to determine such reductions, or the regulations may provide that they may not do so.
- Other matters: The regulations can;
 - prescribe for the procedure by which a person may apply for a reduction;
 - prescribe for the procedure by which a person can appeal against decisions affecting their entitlement to a reduction under a scheme;
 - prescribe for the procedure a specified authority must follow when making a scheme;
 - either require or allow functions conferred by the regulations to be jointly exercised by specified authorities;

- provide for a default scheme that will take effect if a specified authority does not make a scheme in accordance with the regulations;
 - place requirements on specified authorities regarding the review, revision or replacement of schemes;
 - enable reasonable charges to be made for supplying copies of documents relating to schemes;
 - require the specified authorities to provide Welsh Ministers with information about schemes.
- Transitional provision:
 - The regulations can include transitional provisions regarding the commencement of schemes, including treating a person who is or was in receipt of council tax benefit as having made an application for a reduction under a scheme.
 - Guidance:
 - The regulations can provide the Welsh Ministers with the power to issue guidance in relation to the operation of schemes in Wales.

b) Power to investigate and prosecute fraud

These executive powers will enable the Welsh Ministers to make regulations which introduce powers to investigate and prosecute fraud and overpayment errors which are similar to those that can currently be utilised in relation to council tax benefit fraud.

Regulations made using these powers could:

- require the provision of information;
- create offences that may be committed by a person in prescribed circumstances, including:
 - by refusing or failing, when required to do so, to provide any information or document in connection with a person's liability to pay council tax;
 - by making a false statement or representation in connection with a person's liability to pay council tax;
 - by providing, or causing or allowing to be provided, in connection with such liability, a document or information which is false;
 - by failing to notify, or causing or allowing a person to fail to notify, a matter that is relevant to such liability
- make provision for the imposition of a penalty by a billing authority on a person in prescribed circumstances.

c) Technical amendments to the Local Government Finance Act 1988

These amend references within section 141 of the Local Government Finance Act 1988 to rectify an omission when previous changes to that Act were made by the Local Government Finance Act 2003.

The 2003 Act introduced amendments to the 1988 Act which allowed the police and unitary authority settlements to be prepared separately in Wales. Consequential amendments to provisions which provided the power for local authorities, through regulations, to set off payments of non domestic rate (NDR) receipts and refunds of Revenue Support Grant (RSG) against payments to them of RSG and redistributed NDR should have been made at the same time.

The amendment corrects that oversight and will ensure that the Welsh Ministers can continue to make regulations which allow for revenue settlement payments to be made to local authorities in the most efficient and common sense manner.

d) Publication of prescribed information relating to council tax and NDR by local authorities

Clauses 7 and 12 of the Bill amend Schedule 9 to the Local Government Act 1992 and Schedule 2 to the Local Government Act 1988 respectively. These amendments allow regulations to be made requiring local authorities to publish prescribed information regarding NDR and council tax in a prescribed manner, for example, on authorities' websites.

Advantages of utilising this Bill

18. 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 appropriate and proportionate legislative vehicle to enable these provisions to apply in Wales at the earliest opportunity. These provisions will allow the Welsh Ministers to introduce appropriate legislation in accordance with Welsh priorities and concerns, prior to the abolition of Council Tax Benefit in March 2013.

Financial implications

19. The financial implications of any subsequent consultation, legislation or guidance arising from a future decision to exercise the powers to make regulations under the relevant provisions will be subject to full consideration of affordability and to a Regulatory Impact Appraisal which would include an analysis of costs and benefits.

Carl Sargeant
Welsh Minister for Local Government and Communities
May 2012