

LEGISLATIVE CONSENT MEMORANDUM

ENTERPRISE BILL (SMALL BUSINESS COMMISSIONER PROVISIONS)

Draft legislative Consent Motion

1. The draft motion, which will be tabled by the Minister of Enterprise, Trade & Investment, is:

“That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Enterprise Bill dealing with: The Small Business Commissioner”

Background

2. This memorandum has been laid before the Assembly by the Minister of Enterprise, Trade & Investment under Standing Order 42A(2). The Enterprise Bill was introduced in the House of Lords on 16 September 2015. The latest version of the Bill can be found at:

<http://services.parliament.uk/bills/2015-16/enterprise.html>

Summary of the Bill and its policy objectives

3. The Bill deals with a range of Government commitments which are intended to support the growth of enterprise in the United Kingdom, included in which is the establishment of a Small Business Commissioner, to empower small businesses to resolve disputes with larger businesses and avoid future issues. It provides for HM Treasury with powers to restrict public sector exit payments and contains provisions on a range of policies which span the responsibilities of the Department for Business, Innovation & Skills, HM Treasury and the Department for Communities and Local Government.

Provisions which deal with a Devolution Matter

4. As company and contract law and business support generally are neither an excepted nor a reserved matter, the provisions in the Bill relating to a Small Business Commissioner deal with transferred matters as far as Northern Ireland is concerned, and therefore require a Legislation Consent Motion. The provision will afford small businesses in Northern Ireland equal access to the Small Business Commissioner, as those elsewhere in the UK.

5. The Scotland and Wales Governments are minded to also seek extension of the Small Business Commissioner to include their transferred matters and will seek appropriate support from the Scottish Parliament and Welsh Assembly respectively.

Reasons for making the Provisions

6. The provision relates to the promotion of enterprise and economic growth and will ensure that NI businesses are afforded the same support as their counterparts in the rest of the UK.

Reasons for utilizing the Bill rather than an Act of the Assembly

7. An Assembly Bill could not establish a UK-wide Commissioner. A UK-wide Bill will allow Northern Ireland businesses to take advantage of the expertise of a UK-wide Commissioner in the most cost and time effective manner and will ensure they are not put at an unfair disadvantage.

Consultation

8. The UK Government undertook a public consultation. While time pressures precluded consultation in Northern Ireland use was made of existing industry research and the assessment of the UK consultation responses, along with bilateral discussion with NI business representative organisations.

Human Rights and Equality

9. No Convention rights are engaged and there are no differential impacts as regards equality and good relations in relation to this provision.
10. An initial equality impact screening of the proposal relating to the extension of the remit of the Small Business Commissioner for any possible impact on equality of opportunity affecting groups listed in Section 75 of the Northern Ireland Act 1998 identified no adverse or differential aspects.

Financial Implications

11. The UK Impact Assessment estimates the 10 year cost of this initiative at £12.5m. The Department for Business, Innovation and Skills has indicated it will cover the budget costs and it is not expected that there will be any financial implications for the NI public sector budget. Confirmation of this has been requested from the Department.

Summary of Regulatory Impact

12. A comprehensive Impact Assessment was undertaken by the UK Government. This has been assessed by DETI officials and further NI assessment carried out. Based on this it is estimated that some 1,500 small businesses in NI will actively seek advice and guidance on potentially some 9,000 dispute issues, the vast majority of these will be channelled through a dedicated website. It is also estimated that on a UK basis approximately 480 complaints will be handled by the Small Business Commissioner and of these potentially 11-15 will be from NI small businesses.
13. There is no direct financial impact on the NI public sector and while the Small Business Commissioner will be publicly funded it is not expected that it will cover or subsidise the cost of mediation, as the UK Government consider these costs to business to be reasonable. It is hoped that this service will help promote a culture change in how businesses deal with each other.
14. The RIA assessment endorses the policy decision by the Minister of Enterprise, Trade & Investment that the Small Business Commissioner remit should extend to Northern Ireland, with legislative consent from the NI Assembly.

Engagement to date with the Committee for Enterprise, Trade & Investment

15. Committee was notified of the intention to progress a LCM on 20 October 2015

Conclusion

16. The view of the Minister of Enterprise, Trade & Investment is that in the interests of supporting economic growth by empowering small businesses to resolve disputes and avoid future issues, through access to general advice and guidance that the provisions of the Enterprise Bill dealing with the Small Business Commissioner should extend to Northern Ireland.

Department of Enterprise, Trade & Investment
30 November 2015