

# LEGISLATIVE CONSENT MEMORANDUM

## DEREGULATION BILL

### Draft legislative Consent Motion

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

*“That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Deregulation Bill, as amended following Committee Stage in the House of Commons, dealing with: Auditors ceasing to hold office as contained in clause 19 and Schedule 5; Appointment of proxies under company law in clause 20 and part 8 Schedule 6; Abolition of Office of the Chief Executive of Skills Funding in clause 49 and Schedule 13; legislation no longer of practical use in clause 82 and Schedule 20; and to extend to other workplaces, the current Northern Ireland exemption of Sikhs from requirements to wear safety helmets on construction sites in clause 7; and agrees that the UK Parliament should consider amendments to the Bill to the repeal of those provisions of the Sea Fisheries Act 1868; the Fisheries Act 1891; and the British Fishing Boats Act 1983, which are redundant”*

### Background

2. This memorandum has been laid before the Assembly by the Minister of Enterprise, Trade and Investment under Standing Order 42A(2). The Deregulation Bill was introduced in the House of Commons on 23 January 2014. The latest version of the Bill can be found at:

<http://services.parliament.uk/bills/2013-14/deregulation.html>

### Summary of the Bill and its policy objectives

3. The Deregulation Bill provides for the removal or reduction of burdens on businesses, civil society, individuals, public sector bodies and the taxpayer. These include measures relating to general and specific areas of business, companies and insolvency, public authorities and the administration of justice. In addition the Bill will repeal legislation that is no longer of any practical use.

The Bill forms part of the government’s commitment to reduce the overall burden of regulation and to ‘cut red tape’.

## **Provisions which deal with a Devolution Matter**

4. The provisions which relate to a transferred matter and require a LCM are set out in Annex A.

## **Reasons for making the Provisions**

5. Annex A sets out the reasons why the respective provisions should be made in relation to Northern Ireland. In the main, the provisions repeal redundant legislation and ensure continued parity between Northern Ireland and the rest of the UK.

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

6. Enacting the provisions stated by means of a UK-wide Bill will ensure continued parity between Northern Ireland and the rest of the UK in the most cost and time effective manner.

## **Consultation**

7. Details of any consultation carried out for the respective provisions are included within Annex A.

## **Human Rights and Equality**

8. No Convention rights are engaged and there are no differential impacts as regards equality and good relations in relation to any of the respective provisions.

An initial equality impact screening of the proposal relating to Article 13 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990, 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**

9. No public expenditure implications for the Northern Ireland devolved administration are anticipated.

## **Summary of Regulatory Impact**

10. It is considered that the regulatory impact, although minor, would be positive, as it removes regulatory burdens.

## **Engagement to date with the Committee for Enterprise, Trade and Investment**

11. The Committee have been advised of the LCM and provided with a draft of the memorandum.

### **Conclusion**

12. The view of the Minister of Enterprise, Trade and Investment is that in the interests of maintaining regulatory consistency with the rest of the UK and removing unnecessary or redundant legislation, in so far as the provisions of the Bill deal with a devolution matter, they should be considered by the UK Parliament.

**Department of Enterprise, Trade and Investment**  
**24 October 2014**



## Provisions Dealing with a Devolution Matter

Provisions included in the Bill following Committee Stage in the Commons	
Provision/Department	1. Detail; 2. Reason for making the provisions; and 3. Consultation
Auditors ceasing to hold office (Clause 19 and Schedule 5)	<p>1. These provisions will simplify business regulation, and facilitate the removal of anomalous and defunct parts of the Companies Act 2006. Specifically these provisions will amend two sections of the Companies Act relating to removal or resignation of auditors.</p> <p>2. The provisions will address an identified need to reduce the regulatory burden of the notification requirements which currently apply when an auditor resigns or is removed from office, or in some cases when the auditor is not reappointed. Chapter 4 of Part 16 of the Act currently includes unnecessary duplication such that, in many cases, both the company and auditor must notify Companies House and the audit authorities about the auditor's departure and the reasons for leaving. There are also unnecessary notification requirements between regulatory authorities. This provision ensures Northern Ireland remains consistent with the rest of the UK, avoiding any potential for inequality of regulation for both auditors and companies.</p>
DETI – Company Law	<p>3. The proposed provisions emerged following a consultation by the Department for Business, Innovation and Skills in November 2009.</p>
Amendments to the Companies Act 2006 relating to proxies (clause 20 and part 8 of schedule 6)	<p>1. This provision corrects a minor drafting error in the Companies Act 2006 in relation to the notice provisions for appointing a proxy or terminating a proxy's authority. The provisions to be repealed are redundant and were never commenced.</p> <p>2. An LCM will ensure that Company Law in Northern Ireland remains on an equal regulatory basis with Great Britain, avoiding the potential for disparity of regulation which could lead to inequality for companies in Northern Ireland in comparison to their GB counterparts.</p>
DETI – Company Law	<p>3. No objections received during Public Consultation of UK Bill.</p>
The removal of unnecessary provisions	<p>1. Part 1 of Schedule 20, which removes obsolete legislation, contains an amendment of the Companies Act 2006 which removes unnecessary provisions relating to the audit of charitable companies. The</p>

<p><b>relating to the audit of charitable companies (clause 82 and part 1 of schedule 20)</b></p> <p><b>DETI – Company Law</b></p>	<p>provisions were originally included in the Companies Act 2006 to address an anticipated transitional issue which ultimately did not arise in Northern Ireland.</p> <ol style="list-style-type: none"> <li>2. To remove obsolete legislation and ensure parity with the rest of the UK.</li> <li>3. No objections received during Public Consultation of UK Bill.</li> </ol>
<p><b>Repeals of provisions of the Newspaper Libel and Registration Act 1881 (clause 82 and part 2 of schedule 20)</b></p> <p><b>DETI</b></p>	<ol style="list-style-type: none"> <li>1. Paragraph 2 of this Schedule repeals the registration provisions in the Newspaper Libel and Registration Act 1881 regarding the compulsory need for newspaper proprietors to register their newspapers. Northern Ireland does not currently have any newspapers on the register and does not use this legislation and due to the combination of newspapers being registered as companies and the increased use of the internet for the dissemination of information, registration no longer serves a purpose in the rest of the UK also.</li> <li>2. To remove redundant legislation and ensure parity with the rest of the UK.</li> <li>3. The Department of Business, Innovation and Skills consulted on whether to repeal the registration provisions of the 1881 Act in January 2012. There was support for such repeals.</li> </ol>
<p><b>Repeal of the Aircraft and Shipbuilding Industries Act 1977 (Schedule 20, part 2, paragraph 8)</b></p> <p><b>DETI</b></p>	<ol style="list-style-type: none"> <li>1. Since the abolition of British Shipbuilders in 2013, the remaining provisions of the Aircraft and Shipbuilding Industries Act 1977 contain only redundant provisions related to the historic vesting of assets in British Aerospace.</li> <li>2. To remove redundant legislation which has no practical effect on Northern Ireland and to maintain parity with the rest of the UK.</li> <li>3. No objections received during Public Consultation of the UK Bill.</li> </ol>
<p><b>Abolition of the Office of the Chief Executive of Skills Funding (Clause 49 and Schedule 13, Paragraph 19)</b></p> <p><b>DEL</b></p>	<ol style="list-style-type: none"> <li>1. Under Clause 49, the Office of the Chief Executive of Skills Funding is being abolished and the Chief Executive's powers are being transferred to the Secretary of State.</li> <li>2. Schedule 13, Paragraph 19 makes consequential amendments to Part 4 of the Apprenticeships, Skills, Children and Learning (ASCL) Act 2009 – specifically Section 107 which currently provides that the Chief Executive of Skills funding may make arrangements with permitted recipients, including Northern Ireland, for the provision of services that are required by Northern Ireland in connection</li> </ol>



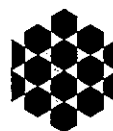
	<p>with the exercise of its functions relating to education or training. One such service currently provided by the Chief Executive of Skills Funding for Northern Ireland is the Learning Records Service which supports the sharing of data to the benefit of learners.</p> <p>3. To ensure that services can continue to be provided for Northern Ireland following the transfer of powers from the Chief Executive to the Secretary of State.</p>
<p><b>Repeal of the Milk (Cessation of Production) Act 1985 (Schedule 20, Part 6, Paragraph 35)</b> <b>DARD</b></p>	<p>1. The Act relates to the milk quota regime set up in 1984 which enabled schemes to be made allowing the payment of compensation on the cessation of milk production and the surrender of milk quota. Schemes made under the 1985 Act applied in England, Scotland and Wales. The 1985 Act also enabled an Order to be made in Northern Ireland to achieve the same purpose. The Schemes made under the 1985 Act in relation to England and Scotland were revoked with effect from 6 April 2007. The legislation is redundant. The Scheme made under the 1985 Act in relation to Wales will be automatically revoked by the repeal of that Act.</p> <p>2. To remove redundant legislation and ensure parity with England and Wales (the Scottish Government has confirmed that it intends to enact legislation to repeal the 1985 Act in relation to Scotland, and will do so at a later date).</p>
<p><b>Amendment to extend to other workplaces the current Northern Ireland exemption of Sikhs from requirements to wear safety helmets on construction sites (Clause 7)</b> <b>HSENI</b></p>	<p>1. Article 13 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990 exempts turban wearing Sikhs on construction sites, in Northern Ireland, from head protection requirements. However, the exemption does not include other workplaces that present less risk from falling objects and this creates an anomaly.</p> <p>2. An amendment to the equivalent Great Britain legislation was introduced to the Deregulation Bill at Committee Stage. This is to address the anomaly, in Great Britain, by extending the exemption to include other workplaces in addition to construction sites. A further amendment is required to amend Articles 13 and 13A of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990. This will similarly extend, to other workplaces, the current Northern Ireland exemption of turban wearing Sikhs from head protection requirements on construction sites, and will also ensure that the provision protecting turban wearing Sikhs from racial discrimination in connection with requirements to wear head protection remains consistent with the extended exemption.</p> <p>3. To correct a legislative anomaly and ensure parity with the rest of the UK. As the proposed change is a technical amendment to address a legislative anomaly and relates only to turban wearing Sikhs, a</p>

	<p>two week targeted consultation was carried out by the Health and Safety Executive for Northern Ireland (HSENI). The consultation letter was also published on the HSENI website. Two responses were received, one from Roads Service and one from Bombardier Aerospace. Neither contained any adverse comment.</p>
<p><b>Mining Industry Act 1920 (Schedule 20, part 2, paragraph 4)</b> <b>DETI - MAPB</b></p>	<ol style="list-style-type: none"> <li>1. DECC has conducted a review of the Mining Industry Act 1920 ("The 1920 Act") which deals with Mines and Minerals and have identified a number of elements within the 1920 Act which are redundant.</li> <li>2. To remove redundant legislation and ensure parity with the rest of the UK.</li> <li>3. Minerals and Petroleum Branch consulted with HSENI who had no objection to the repeal of the 1920 Act.</li> </ol>
<p><b>The Milk (Cessation of Production) (Northern Ireland) Order 1985 (Schedule 20, Part 6, Paragraph 36)</b> <b>DARD</b></p>	<ol style="list-style-type: none"> <li>1. The Order, which mirrors the Milk (Cessation of Production) Act 1985 noted previously, relates to the milk quota regime set up in 1984 which enabled schemes to be made allowing the payment of compensation on the cessation of milk production and the surrender of milk quota. The last scheme to be made under the 1985 Order was revoked with effect from 6 April 2007. The legislation is therefore redundant.</li> <li>2. To remove redundant legislation and ensure parity with England and Wales (the Scottish Government has confirmed that it intends to enact legislation to repeal the 1985 Act in relation to Scotland, and will do so at a later date).</li> </ol>
<p><b>PROVISIONS TO BE ADDED BY AMENDMENT</b></p>	
<p><b>Sea Fisheries Act 1868</b> <b>DARD</b></p>	<ol style="list-style-type: none"> <li>1. This Act was primarily to implement a 19<sup>th</sup> century convention between the UK and France concerning Channel Island fisheries.</li> <li>2. Large parts of the Act have already been repealed and the only remaining provision is to require foreign fishing vessels to carry papers proving their nationality.</li> <li>3. This provision has been superseded by requirements under the EU Common Fisheries Policy and is no longer required.</li> </ol>

<p><b>Fisheries Act 1891</b></p> <p><b>DARD</b></p>	<ol style="list-style-type: none"> <li>1. This is an Act to provide for the enforcement of a declaration between the UK and Belgium concerning the resolution of disputes between UK and Belgian fishermen prosecuting North Sea fisheries outside the Territorial Sea.</li> <li>2. The declaration, and in turn, the Act have been superseded by the introduction of the Common Fisheries Policy which sets the rules for apportioning fishing opportunities between Member States.</li> </ol>
<p><b>British Fishing Boats Act 1983</b></p> <p><b>DARD</b></p>	<ol style="list-style-type: none"> <li>1. This Act was primarily introduced to allow UK Ministers to make an Order to specify conditions that would allow a British fishing boat to qualify to fish, tranship or land sea fish into the UK.</li> <li>2. The need for such conditions has been overtaken by rules governing the EU Common Fisheries Policy.</li> </ol>



From the Office of the Minister



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**Our Ref: DETI SUB 166/2014**

Patsy McGlone MLA  
Chairman, Enterprise, Trade & Investment Committee  
Room 375  
Northern Ireland Assembly  
BELFAST  
BT4 3SW

7 April 2014

Dear Patsy

**PROPOSED EXTENSION TO OTHER WORKPLACES, OF THE EXEMPTION FOR  
TURBAN WEARING SIKHS IN RELATION TO HEAD PROTECTION**

You will already be aware of this proposal since your Committee considered a consultation document in relation to it at its 6 March meeting.

To recapitulate briefly, the background is that, following representations from the Sikh community in Great Britain, the UK Government has agreed to extend to other workplaces, the current exemption of turban wearing Sikhs in relation to requirements for head protection. The current exemption applies only to construction sites and presents a legislative anomaly as head protection is required in other workplaces where the risk from falling objects is less. Since Northern Ireland legislation provides for the same exemption, it seems appropriate that the extension should also apply here.

The consultation referred to above was targeted at interested parties and ran from 7 to 21 March 2014. Consultees included the Northern Ireland Council for Ethnic Minorities and the Northern Ireland Sikh Cultural and Community Centre. The consultation document was also published on the HSENI website. Two responses were received, one from Bombardier Aerospace and one from Roads Service. Neither included any adverse comment.

The extended exemption will be secured by means of an amendment to the Deregulation Bill currently before Parliament. Such an amendment has already been tabled in relation to the relevant Great Britain legislation and I have agreed that an amendment in respect of the Northern Ireland legislation should be tabled at the Bill's Report Stage (likely to take place within the next month or so. This will amend Article 13 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990 which provides for the exemption here.

A Legislative Consent Motion covering this and other provisions of the Deregulation Bill extending to Northern Ireland is being prepared and will be referred to your Committee for consideration.

Yours sincerely

**ARLENE FOSTER MLA**  
Minister of Enterprise, Trade and Investment



Department of

**Enterprise, Trade  
and Investment**

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## **REQUEST TO DETI FROM THE ETI COMMITTEE**

At its meeting on 11 November the ETI Committee considered the Legislative Consent Memorandum in respect of the Deregulation Bill.

In regards to the provision to extend to other workplaces the current Northern Ireland exemption of Sikhs from requirements to wear safety helmets on construction sites. Members asked the Department for clarification as to who is liable i.e. the individual or the employer, should an individual incur an injury, if that individual has opted out of wearing a safety helmet.

## **DEPARTMENTAL RESPONSE**

The current exemption in relation to construction sites is provided for by Article 13 of the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1990.

It protects employers from liability should a Sikh suffer injuries as a consequence of choosing not to wear a helmet provided.

Where a Sikh opts out of the requirement to wear a safety helmet and sustains an injury, liability is limited to the extent that injury, loss or damage would have been sustained by the Sikh even if he had been wearing a safety helmet. If a Sikh dies as a result of not wearing a safety helmet, but would still have been injured if wearing a helmet, an employer ordered to pay damages would be liable to pay only for the injury the Sikh individual would otherwise have suffered had he been wearing head protection. In such a case, however, the damages recoverable should not exceed the amount which would have been recoverable in respect of the Sikh's death.

Clause 7 of the Deregulation Bill will extend, to other workplaces, the limited liability provisions associated with this exemption."

**Prepared by: HSENI**  
**Date: 13 November 2014**

**Reply prepared by: Division/ NDPB**  
**Date:**