

**Committee for Enterprise, Trade & Investment Report on its Consideration of the Legislative Consent Memorandum concerning the extension to Northern Ireland of certain provision in the Small Business, Enterprise and Employment Bill**

**Background**

1. The Legislative Consent Memorandum (LCM), which is at Appendix 1, covers a range of measures relating to opportunities for small businesses to innovate and grow by introducing tougher rules to tackle misconduct by directors of companies and ensuring a strong regulatory regime for those who administer insolvencies within the UK.
2. The overall purpose of the Bill is to introduce measures that are designed to help fulfil the UK Government's commitments on transparency and trust made at last year's G8 Summit in Northern Ireland. In addressing these commitments, the Bill contains a number of provisions relating to company filing requirements, shareholding, transparency of ownership, company directors' conduct and insolvency.

**Committee Consideration**

3. The Committee was made aware of the Small Business, Enterprise & Employment Bill as a result of correspondence from the Minister in August 2014. On 15 August 2014, the Department wrote to the Committee advising of the Minister's intention to seek a LCM and that this LCM would be referred to the Committee for consideration. The Committee received notification that the LCM had been laid in the Assembly Business Office on 20 November 2014.
4. The Committee at its meeting on 25 November 2014 agreed to a request from the Committee for Finance and Personnel asking that the Committee keep it informed of any developments in this area as the policy has an incidental read out to effects on the law of contract.
5. At its meeting on 2<sup>nd</sup> December 2014, the Committee received an oral briefing from Department officials on the matter. Members had queries in relation to two matters.
6. The Committee enquired whether it would be more appropriate to include the measures in the Northern Ireland Insolvency (Amendment) Bill, which is currently at committee stage, rather than allowing Westminster to legislate in this area. The Department responded by outlining that the Department could not have used that Bill to make these types of amendments because the scope of that Bill is limited to amending the Insolvency (Northern Ireland) Order 1989 and it would not confer the right to amend the Company Directors Disqualification (Northern Ireland) Order 2002.

7. The Committee enquired about the reasons why the Legislative Consent Memorandum does not contain provisions to legislate for the statutory regulation of Insolvency Practitioners within Northern Ireland which was raised during the Second Stage of the Insolvency (Amendment) Bill. The Department responded by outlining that had they known that the matter was going to be raised they could have taken the option of including it in this Legislative Consent Motion but that it is too late to do so now as the Bill has entered the House of Lords and the Department considers it too late to make a major amendment at this stage. The Department is actively looking at the possibility of including the provisions required in the current Insolvency (Amendment) Bill by way of an amendment to that Bill at Consideration Stage.
8. The Hansard of Committee proceedings is included at Appendix 2.

### **Committee Position**

9. Having carefully considered the proposals in the LCM, the Committee is of the view that this legislative Consent Motion, is the most appropriate means of legislating in this area and will ensure that relevant law is updated in Northern Ireland simultaneously with Great Britain, precluding any legislative gap, and avoiding potential disparity between NI and GB companies. It will also ensure that potential loopholes and inequalities, preventing Northern Ireland from lagging behind the rest of the UK in terms of company legislation will be avoided.
10. The Committee therefore supports DETI in seeking the Assembly's endorsement of the Legislative Consent Motion:

*“That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Small Business, Enterprise and Employment Bill, as amended in Committee in the House of Commons dealing with assignment of receivables contained in clauses 1 and 2; business payment practices in clause 3; liability of bodies concerned with accounting standards in clause 37; an companies transparency , company filing requirements, and directors ‘ disqualification in Parts 7 to 9 and Schedules 3 to 6 and 8”*

### **List of Appendices**

***Appendix 1*** – Departmental Papers

***Appendix 2*** – Minutes of Evidence