

Committee for Enterprise, Trade & Investment Report on its Consideration of the Legislative Consent Memorandum Concerning the Housing & Planning Bill (HPB)

Background

1. The Minister for Enterprise, Trade & Investment [wrote to the Committee](#) on 9th October 2015 to advise that the Secretary of State for Business, Innovation & Skills (BIS) had informed him that proposed provisions to amend the Estate Agents Act 1979 included in the UK Housing Bill are required to enable the Secretary of State for BIS to appoint a new lead enforcement authority as necessary by means of a tender process. The enforcement authority could be any trading standards department in GB or DETI in Northern Ireland (through the Trading Standards Service). The inclusion of DETI in the proposals will allow DETI's Trading Standards Service to be placed on an equal footing as their equivalents in the rest of the UK.
2. The Minister informed that he had agreed to the BIS Secretary of State's request to seek the consent of the Assembly to include Northern Ireland in the amendment of the UK-wide Estate Agents Act 1979 (EAA).

Committee Consideration

3. The Committee noted the following in the [Legislative Consent Memorandum](#):
 - The HPB will amend the EAA to define the lead enforcement authority as the Secretary of State for BIS or "a person whom the Secretary of State has arranged to be the lead enforcement authority". This could be a weights and measures authority in GB or DETI in Northern Ireland.
 - The amendment enables the possible appointment of DETI as the lead enforcement authority for the EAA. The amendment would allow DETI to use the enforcement powers in the event that DETI was at some time in the future to be appointed as the lead enforcement authority for the UK.
 - Without an amendment to the EAA the BIS Secretary of State will have no option other than to renew the contract of the current provider in 2017. The current provider is Powys Council. The amendment would allow the Secretary of State to invite alternative tenders from other weights and measures authorities in GB and DETI.
 - The provision deals with a relatively minor amendment to the Estate Agents Act 1979. The use of a LCM is considered the most effective vehicle for updating the legislation as it applies to Northern Ireland.
 - BIS carried out a broad ranging consultation in 2011. The Consumer Council for Northern Ireland was included in the consultation. There were no responses from Northern Ireland on this proposal.
4. The Committee asked the Department if, when the legislation is changed, it is envisaged that Trading Standards Service would respond to a tender for the appointment of a new lead enforcement authority for the UK. The [Department responded](#) that it considers it unlikely that DETI would respond to any tender to become the lead enforcement authority for the EAA but that, on balance, DETI should be included in the proposed amendment of Estate Agents Act 1979 so that DETI is treated on an equal footing with all the other existing enforcement authorities in the UK.

Committee Position

5. 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 updating the UK-wide Estate Agents Act 1979 and a related provision amending Schedule 5 of the UK-wide Consumer Rights Act 2015 as they apply in Northern Ireland law at the same time as the rest of the UK.
6. 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 in the Housing and Planning Bill dealing with enforcement of the estate agents legislation"

List of Appendices

Appendix 1 –The Legislative Consent Memorandum

Appendix 2 – Departmental Papers