

LEGISLATIVE CONSENT MEMORANDUM

FINANCE (NO. 2) BILL

Draft Legislative Consent Motion

1. The draft motion, which will be tabled by the Minister of Finance and Personnel, is:

“That this Assembly agrees that the provisions in the Finance (No. 2) Bill dealing with Air Passenger Duty should be considered by the UK Parliament”

Background

2. This memorandum has been laid before the Assembly by the Minister of Finance and Personnel under Standing Order 42A(2). The Finance (No. 2) Bill was introduced in the House of Commons on 27 March 2014. The latest version of the Bill can be found at:

<http://services.parliament.uk/bills/2013-14/financen2.html>

Summary of the Bill and its policy objectives

3. The UK Finance (No. 2) Bill was introduced by the Government shortly after the Budget to bring its tax proposals into law. The Bill will act to reform Air Passenger Duty (APD) with effect from 1 April 2015. Air Passenger Duty is currently levied on the basis of four destination bands. These relate to the distance from London and are currently Band A (0 - 2,000 miles); Band B (2,001 – 4,000 miles); Band C (4,001 – 6,000 miles); and Band D (over 6,000 miles).
4. The number of destination bands will be reduced from four to two by merging the bands B, C and D. As part of this reform, the higher rates which apply to aircraft with an authorised take off weight of 20 tonnes or more and with fewer than 19 seats will be set at six times the reduced rates (they are currently twice the standard rates). The new banding structure and rates are as follows:

From 1 April 2015			
Bands (distance in miles from London)	Reduced rate (lowest class of travel)	Standard rate ¹ (other than the lowest class of travel)	Higher rate ²
Band A (0 – 2000 miles)	£13	£26	£78
Band B (over 2000 miles)	£71	£142	£426

^[1] If any class of travel provides a seat pitch in excess of 1.016 metres (40 inches) the standard rate is the minimum rate that applies.

^[2] The higher rate applies to flights aboard aircraft of 20 tonnes and above with fewer than 19 seats

Provisions which deal with a Devolution Matter

5. The Finance Act 2012 devolved to the NI Assembly the power to set APD rates on direct long haul flights from Northern Ireland for destinations in APD bands B, C and D. With effect from 1 January 2013, the NI Assembly legislated to set these devolved rates at £0 through the Air Passenger Duty (Setting of Rate) Act (Northern Ireland) 2012.
6. While Section 30(A) of the Finance Act 1994 (as amended) authorises the Assembly to set the rate for certain classes of carriage (i.e. as defined by the banding structure), the Assembly does not have the power to determine those bands and the Finance (No. 2) Bill, as introduced in the House of Commons on 27 March 2014, has reformed those bands to which the rates set by the Assembly will apply.
7. Therefore the provisions deal with a devolution matter as they change the legislative competence of the Assembly, by amending the banding structure to which it can set the rates of APD.

Reasons for making the Provisions

8. Budget 2014 announced that the number of Air Passenger Duty destination bands will be reduced from four to two. This will contribute to the UK's growth opportunities by cutting APD rates on flights to many emerging market destinations such as China, India and Brazil. This will in effect bring the overall UK banding structure into line with the approach which has been taken in Northern Ireland where the same rate is applied to the current Bands B, C & D.

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

9. The Assembly currently has no powers to legislate in relation to the APD banding structure, it only has the authority to set the rates that are applied.

Consultation

10. Budget 2011 launched a UK-wide consultation on APD, which included questions as to whether the APD banding structure should be reformed; and APD should be devolved to Northern Ireland.

Human Rights and Equality

11. There are not considered to be any human rights or any differential equality implications arising from the reform of the APD banding structure.

Financial Implications

12. As the NI Executive has already set the rate for the current bands B, C and D to zero, there is not expected to be a direct financial impact of this reform of APD.

Summary of Regulatory Impact

13. It is considered that the regulatory impact of the changes on businesses will be negligible, given that the rates applied to each of the current affected bands is zero.

Engagement to date with the Committee for Finance and Personnel

14. The Finance Minister wrote to the Finance and Personnel Committee Chairperson on 25th March 2014 to inform him of his intention to lay a Legislative Consent Memorandum in the Assembly in respect of the reform of APD.

Conclusion

15. The view of the Minister of Finance and Personnel is that in keeping with the arrangements put in place for the devolution of rate setting powers in respect of the direct long haul flights, but not the banding structure to which those rates are applied, that the Assembly should support a Legislative Consent Motion in the terms of the draft set out in paragraph 1 of this Memorandum.

Department of Finance and Personnel

10 April 2014