

# LEGISLATIVE CONSENT MEMORANDUM

## ENTERPRISE BILL

### (Public sector employment: restrictions on exit payments)

#### Draft Legislative Consent Motion

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

*“That this Assembly endorses the principle of the extension to Northern Ireland of provisions dealing with public sector exit payments contained in the Enterprise Bill.”*

#### Background

2. This memorandum has been laid before the Assembly by the Minister of Finance and Personnel 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 Enterprise Bill deals with a number of government initiatives intended to support the growth of enterprise in the United Kingdom.
4. The Bill also contains measures to restrict public sector exit payments. Under these measures the total value of exit payments that an individual, who exits public sector employment on terms of redundancy or early exit may receive, would be capped at £95,000.
5. The cap will apply to the wide range of exit payments made in relation to leaving public sector employment, including; voluntary and compulsory redundancy; ex gratia and special severance payments; compensation in lieu of notice; and payments made to eliminate or reduce an actuarial reduction to a pension on early retirement. Payments in respect of death or ill-health and injury would not be within the scope of the policy.
6. Under the proposal a statutory power would be established for the Department of Finance and Personnel to make regulations for the restriction of public sector exit payments, including for the purposes of:

- prescribing what payments to an employee or post holder are within the scope of the restriction;
- providing that certain payments or category of payments are exempt from the restriction, and
- allowing for a different amount to be substituted for the restriction set by the Act.

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

7. Arrangements for public sector compensation payments are devolved to the Northern Ireland Assembly except where specific exemptions apply such as employment in the United Kingdom Civil Service or international public sector organisations.

### **Reasons for making the Provisions**

8. The principal intent of this proposal is to ensure public sector exit payments are fair, proportionate and represent value for money for tax payers as a whole. Consequently it is appropriate that Northern Ireland public servants should be treated in the same way as the rest of the public sector on this matter.

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

9. Although public service pension and compensation arrangements are a transferred matter, a long standing convention of parity exists between Northern Ireland and Great Britain in this area. Accordingly, the normal approach for the Northern Ireland schemes is to implement changes in pension policy as a consequence of policy decisions taken at a central government level, and in line with changes made for the equivalent schemes in Great Britain rather than to develop or formulate policy separately.
10. HM Treasury anticipates that the Enterprise Bill will receive Royal Assent by March/April 2016. An Assembly Bill to effect this policy could not receive Royal Assent in a comparable timeframe. Should the Assembly be required to legislate on this matter it will take some months to complete the legislative passage of a Bill. It is extremely unlikely this could be achieved before the dissolution of the Assembly for the elections planned for May 2016, thus resulting in the policy being implemented to a much later timescale for public service employees in Northern Ireland.
11. A Legislative Consent Motion is therefore the most effective means to ensure public servants in Northern Ireland are not treated more favourably than the rest of the public sector for the purposes of these exit payments, and at a cost to the public purse.

12. The policy is targeted on the public sector. The proposed approach contains flexibility to further refine the effects for that sector in Northern Ireland regulations as required.
13. Conferring legislative consent will also be consistent with the approach already taken to the policy for recovery of exit payments made to public servants on re-employment. On 13 January 2015 the Assembly gave legislative consent for the exit payment recovery policy to be extended to Northern Ireland by the Small Business, Enterprise and Employment Act 2015. Under this proposal the Enterprise Bill will amend the Small Business, Enterprise and Employment Act 2015 so that the new provisions to cap public sector exit payments will be added to and complement those for recovery of exit payments on re-employment already in place in that Act.

### **Consultation**

14. HM Treasury consulted on the proposed scope, level and design of the policy for a public sector exit cap between 31 July 2015 and 27 August 2015. On 17 September 2015 HM Treasury published its response to the consultation which outlined its intention to proceed to legislate for the policy in the Enterprise Bill.
15. On 7 August 2015 Secretary of State for Business, Enterprise and Skills requested legislative consent for Northern Ireland provisions on a public sector payment cap. On 23 September 2015 Minister of Finance and Personnel confirmed agreement in principle for a Legislative Consent Motion, subject to agreement of the Northern Ireland Executive and consultation with the Committee for Finance and Personnel.
16. The Department of Finance and Personnel has consulted with public sector trade unions on the policy at the Collective Consultation Working Group which is the recognised interdepartmental forum for consultation with TUS on public sector pension reform issues.

### **Human Rights and Equality**

17. Convention rights are not engaged. The Department of Finance and Personnel has conducted a Policy Screening exercise on the policy to restrict public sector exit payments in Northern Ireland based on available data. The screening exercise concluded that an equality impact assessment is not required. The screening document is available at: <https://www.dfpni.gov.uk/publications/policy-screening-%E2%80%93-cap-exit-payments-made-public-sector-workers-%E2%80%93-legislative-consent>

## **Financial Implications**

18. The sum of exit payments made to an individual would be capped at £95,000. The actual effects will depend on numbers of individuals who currently qualify for payments in excess of the threshold and who volunteer, or who are otherwise selected, for early exit. By way of illustration, in the context of the Northern Ireland Civil Service, the proposed cap of £95,000 would begin to have an impact on individuals eligible, through length of service, for the maximum 21 months' salary on voluntary exit and earning over £54,286 per annum.

## **Summary of Regulatory Impact**

19. The provisions of the Bill dealing with the restriction of public sector exit payments have no impact on employment, and there is no cost to business, social economy enterprises or the voluntary sector.

## **Engagement to date with the Committee for Finance and Personnel**

20. The Department wrote to the Committee for Finance and Personnel on the background, scope and legislative options for this policy on 16 September 2015. A further written update was provided on 20 October 2015. The Department has advised the Committee that officials are available to provide further evidence as required.

## **Conclusion**

21. It is entirely appropriate that Northern Ireland public servants should be treated in the same way as their counterparts in the rest of the United Kingdom on this matter. The use of the Legislative Consent Motion presents the most prudent option for ensuring the same protections for the public purse, and the same principles for value and proportionality in the public sector, are seen to be applied consistently in Northern Ireland to the same timescale as the rest of the United Kingdom.

**Department of Finance and Personnel**  
**22 October 2015**