

**From the Office of the
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Your reference:

Our reference: SUB/113/2012



17 May 2012

LEGISLATIVE CONSENT MOTION: THE SUPPLY OF INFORMATION FROM HM REVENUE AND CUSTOMS FOR RATES PURPOSES

You will be aware from earlier correspondence from my Department of 11 May that a range of welfare reform changes are to be introduced from 1 October 2013. The current system of supporting households with rate payments will be taken out of the social security system from April 2013 and this is one of a number of issues being considered by both the Executive Sub Committee on Welfare Reform and the Executive itself.

Earlier correspondence advised on the implications of this change. Should the Executive agree to the position that has been put forward by myself and the Social Development Minister this would see the current rates support element of Housing Benefit continuing, for an interim period, pending consideration by DSD of strategic alternatives. The immediate shortfall in funding is to be subsidised from public expenditure in the short term.

These changes will apply equally to the other Devolved Administrations and relevant English local authorities in relation to Council Tax support and from next April these schemes will be localised. To facilitate this change, the Local Government Finance Bill, passing through Westminster, contains powers to allow local authorities in the rest of the UK to have direct and indirect access to data from HM Revenue and Customs for council tax purposes – primarily for the new localised council tax support schemes. This information would include earnings, savings, tax credits and capital assets, either provided directly by HMRC or indirectly as part of Universal Credit information.

Similar provision is to be made, by way of an amendment to the Bill, to cover Northern Ireland for rates purposes. This power is needed to preserve the status quo

locally, as well as any replacement rates support scheme. The draft legislative amendment is attached (**Annex A**).

You will wish to note that the reference to prescribed rates purposes aligns with GB provisions (in both the Local Government Finance Bill and Welfare Reform Act (c. 5) 2012 – substituting ‘rates’ with ‘council tax’) and also the provisions likely to be contained in the forthcoming Northern Ireland Welfare Reform Bill. This is intended to ensure that all eventualities relating to rates support purposes can be covered.

You will wish to note that the NI Assembly is prohibited from establishing a legal gateway by way of an Act of the Assembly, or instrument made under such an Act.

Legislative Consent Motion

The need for a legislative consent motion has only arisen recently, as a result of legal advice on draft amendments bringing Northern Ireland within the scope of the Local Government Finance Bill. Up to this point my Department had been advised that there was no scope for the NI Assembly to legislate on this matter. The latest advice is that Westminster must bring forward the necessary primary legislation but can delegate powers to the Department of Finance and Personnel to legislate on the detail through subordinate legislation. This brings the matter within the remit of a legislative consent motion (under Assembly Standing Order 42A).

As you will be aware I need the agreement of both the Executive and the Assembly to such a motion. That motion will seek consent to Westminster considering amendments to the Local Government Finance Bill, dealing with the power for HM Revenue and Customs to supply information for purposes of rates in Northern Ireland.

Timing

I appreciate that the consideration period for this issue is short – Assembly consent is needed by the end of June or early July at the latest, prior to the final amendment stage of the Bill in the House of Lords. Amendments to the Local Government Finance Bill, for the various regions, will be tabled next week. I need to be in a position to lay a Legislative Consent Memorandum as soon as possible after the Northern Ireland amendment is tabled, likely to be Tuesday 22 May, in order to ensure that the Committee is afforded their full formal consideration period. This will be subject to Executive agreement.

Absence of consent

Should the legal gateway not be provided the assessment of rates support locally would be dealt with differently (in terms of available HM Revenue and Customs information) to the equivalent schemes in the rest of the UK. Lower income households would have to produce supporting evidence in making a claim for rates support. This would also create problems with normal verification processes. The upshot would be that the most vulnerable in society would face lengthy delays in their claims for help, which could also adversely affect the numbers of people claiming support.

Should consent not be obtained I would have to give consideration to alternative legislative vehicles, which could involve Westminster legislating for this under the auspices of the Northern Ireland Act 1998. I trust that this will not be necessary and would ask for the Committee's support in ensuring that the provisions can be introduced in time.

Conclusion

While the issues of rates support and information sharing for rates purposes are undoubtedly interrelated I can assure you that agreement to legislation providing for the supply of information from HM Revenue and Customs would not prejudice in any way any views that the Committee may have, or indeed future decisions that may be taken by the Executive on a interim or long term replacement for the rates element of Housing Benefit.

In that respect I would be grateful if they could be viewed as two separate matters. The data sharing provision is about gaining legislative cover to allow for the supply of HM Revenue and Customs information for rates purposes.

I would hope to lay a legislative consent memorandum immediately following Executive agreement. In the meantime the Committee may wish to initially consider the matter in advance based on the latest draft of the Memorandum.

A **draft** legislative consent memorandum is attached for Members consideration.

The Committee is asked to:

- (i) note the timescales relating to the legislative consent motion;
- (ii) support in principle the legislative consent motion, relating to the UK Parliament legislating for the supply of information from HM Revenue and Customs for rates purposes in Northern Ireland; and
- (iii) note that Regulations will be brought forward by my Department, subject to the NI Assembly procedures, to prescribe those rates purposes.

My officials are available to brief the Committee further on these matters.

Yours sincerely



Sammy Wilson MP MLA

DRAFT LEGISLATIVE CONSENT MEMORANDUM

LOCAL GOVERNMENT FINANCE 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 UK Parliament should consider amendments to the Local Government Finance Bill, as introduced in the House of Lords on [] May 2012, dealing with the power for HMRC to supply information for purposes of rates in Northern Ireland”

Background

2. This memorandum has been laid before the Assembly by the Minister of Finance and Personnel under Standing Order 42A(2), following the tabling of amendments to the Local Government Finance Bill in the House of Lords. The Local Government Finance Bill was originally introduced in the 2010-12 session of Parliament on 19 December 2011, carried over into the current session and re-introduced in the House of Commons on 10 May 2012. The latest version of the Bill can be found at:

<http://services.parliament.uk/bills/2010-11/localgovernmentfinance.html>

Summary of the Bill and its policy objectives

3. The Local Government Finance Bill was introduced by the Government to make provision about non-domestic rating and council tax in GB as well as grants to local authorities.
4. In Northern Ireland the current system of supporting households with rate payments will be taken out of the social security system from 1 October 2013. These changes will apply equally to other Devolved Administrations and English local authorities in relation to council tax support and from next April these schemes will be localised.
5. To facilitate this change, the Local Government Finance Bill, passing through Westminster, contains powers to allow local authorities in the rest of the UK to have direct and indirect access to data from HM Revenue and Customs for council tax purposes – primarily for the new localised council tax support schemes.

6. Similar provision is to be made, by way of an amendment to the Bill, to cover Northern Ireland for rates purposes. The amendment to the Bill will enable HM Revenue and Customs to provide information to the Department of Finance and Personnel (DFP), namely to Land and Property Services, and the Northern Ireland Housing Executive for rates purposes. This is intended to ensure that all eventualities relating to rates support purposes can be covered. The type of information that is likely to be provided will relate to a person's income, capital, savings, entitlement to tax credits, etc.
7. Subsection 1 of the amendment to the Bill makes provision that a Revenue and Customs official may supply information held in connection with a Revenue and Customs function. More generally the amendment makes provision in relation to who the information may be provided to, the unlawful disclosure of that information and the offences associated with this.
8. Subsection 2 of the amendment states that information may be supplied to a qualifying person. This covers the Department of Finance and Personnel, the Northern Ireland Housing Executive and also persons authorised to exercise functions of (or providing services to) those bodies relating to rates.
9. The information may be supplied, for prescribed purposes relating to rates. Those purposes will be prescribed in regulations by the Department of Finance and Personnel. The Regulations will set out the specific purposes for which the information may be supplied. The intention is that this will focus upon the provision of rates support (reliefs and allowances) and improving the take up of rates reliefs and allowances. The Regulations will be subject to the Assembly's negative resolution procedure.
10. Subsection 3 makes provision allowing qualifying persons to use information held for one rates purpose for another purpose, subject to those purposes being prescribed purposes relating to rates.
11. Subsection 4 provides that the power may also enable information to be supplied to another qualifying person for use in the same or other circumstances relating to rates purposes. This could be used to allow information to be shared between the various bodies that administer rates support.
12. In relation to unlawful disclosure subsection 5 of the amendment makes provision that a person is guilty of an offence where information provided to them is unlawfully disclosed. Subsections 6 and 7 make provision in relation to penalties, where an offence has been committed, and the circumstances under which an offence will not be deemed to have been

committed. Unauthorised disclosure of information would be an offence subject to a fine or imprisonment or both.

Provisions which deal with a Devolution Matter

13. The amendment to the Local Government Finance Bill deals with a devolution matter as it confers Regulation making functions on the Department of Finance and Personnel, permitting the disclosure of HM Revenue and Customs data to a number of bodies and persons for prescribed rates purposes. The Regulation making functions will enable the Department of Finance and Personnel to prescribe those rates purposes, with the regulations subject to the Assembly's procedures.
14. While the legal gateway permitting the supply of information from HM Revenue and Customs for rates purposes cannot be provided for by an Act of the Northern Ireland Assembly, or a resolution under such an Act, the amendment to the Bill does confer functions on Northern Ireland bodies.
15. Generally the provisions in the amendment relating to rates purposes, information sharing and unlawful disclosure in Northern Ireland align with those brought forward for the supply of information from HM Revenue and Customs for council tax purposes in the rest of the UK. They are also similar to the information sharing provisions contained within the Welfare Reform Act (c. 5) 2012 and the provisions that are to be brought forward through the Northern Ireland Welfare Reform Bill.

Reasons for making the provisions

16. If the inclusion of the relevant information sharing provision is agreed to by both the Executive and the Assembly this will enable information to be shared for rates purposes, including providing rates support to low income households. Should this legal gateway not be provided the assessment of rates support locally would be dealt with differently (in terms of available HM Revenue and Customs information) to the equivalent schemes in the rest of the UK. Lower income households would have to produce supporting evidence in making a claim for rates support. This would also create problems with normal verification processes. The upshot would be that the most vulnerable in society would face lengthy delays in their claims for help, which could also adversely affect the numbers of people claiming support.

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

17. The legislative consent motion being tabled in the Assembly seeks agreement to the UK Parliament considering amendments making provision

for a legal gateway that would permit the supply of information from HM Revenue and Customs, to qualifying persons, for prescribed rates purposes in Northern Ireland.

18. Section 18(4)(e)(ii) of the Commissioners of Revenue and Customs Act 2005 (c. 11) specifically excludes any Act of the Northern Ireland Assembly, or an instrument made under such an Act, creating an information sharing gateway with HM Revenue and Customs. As a result it is necessary to legislate for the legal gateway through a Westminster Act rather than an Act of the Assembly. Regulation making powers, to prescribe rates purposes in Northern Ireland, will be conferred on the Department of Finance and Personnel.

Consultation

19. The amendment to the Local Government Finance Act deals with the sharing of information from HM Revenue and Customs. While this relates to rates purposes and is connected to wider welfare reform issues the Department considers that this is a technical change, which serves to continue current data sharing powers and does not require consultation.

Human Rights and Equality

20. There are not considered to be to be any human rights or any differential equality implications from the Bill amendment dealing with the supply of information from HM Revenue and Customs for rates purposes in Northern Ireland.

Financial Implications

21. Agreement to the amendment to the Local Government Finance Bill, relating to the supply of information from HM Revenue and Customs, is not expected to have significant implications for Northern Ireland in terms of AME or DEL funding.

Summary of Regulatory Impact

22. A Regulatory Impact Assessment examines the impact on businesses of any new burden. There are not considered to be any new regulatory impacts on businesses arising from the supply of information from HM Revenue and Customs.

Engagement to date with the Committee for Finance and Personnel

23. The Finance and Personnel Committee has received written briefing on the issue of rates support and the sharing of information from HMRC. [Officials have also briefed Members in oral session].

Conclusion

24. The view of the Minister of Finance and Personnel is that, in the interests of an efficient rating system and effective sharing of information for the purposes of providing rates support, the Assembly should support a Legislative Consent Motion in the terms of the draft set out in paragraph one of this Memorandum.

Department of Finance and Personnel

May 2012

