

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 22 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/2012-13/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 has been made, by way of an amendment to the Bill, to cover Northern Ireland for rates purposes. The amendment to the Bill enables 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 to a qualifying person.
8. Subsection 2 of the amendment states that the reference to a qualifying person refers to 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. Subsection 8 outlines that there are certain cases where an offence will not occur, with subsection 9 outlines

applicable defences. Subsection provides a meaning of “lawful authority” the purposes of the section.

13. Subsection 11 provides definitions of “Revenue and Customs official”, “rates” and “prescribed” for the purposes of the section.
14. Subsections 12 to 14 deal with the procedural issues relating to consent requirements, Assembly Controls, in relation to any Statutory Rule made under the new power.
15. Subsection 15 makes provision for the coming into force of the section.

Provisions which deal with a Devolution Matter

16. 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.
17. 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.
18. 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

19. 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

20. 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.
21. 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

22. 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

23. 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

24. 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

25. 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

26. The Finance and Personnel Committee has received full written briefing on the issue of rates support and the sharing of information from HMRC, and has been passed information to the Committee as soon as possible upon receipt at official level. [Officials have also briefed Members in oral session].

Conclusion

27. 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