

AIR PASSENGER DUTY (SETTING OF RATE) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department of Finance and Personnel in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Finance Act 2012 enables the devolution to the Assembly of the power to set the rates of Air Passenger Duty (APD) on direct long haul flights (Bands B, C and D) that take off from Northern Ireland. Powers to set the rate of APD on short haul (Band A) routes have not been devolved as part of the Finance Act 2012.
4. This Bill sets the rate of APD to be applied to passengers on these direct long haul flights that take off from Northern Ireland (APD Bands B, C and D) on or after a day to be appointed by order. By setting the rates of duty for these flights this Bill acts as the next step in devolving these powers to the Northern Ireland Assembly. The appointed day will be determined by the Department of Finance and Personnel, in conjunction with HM Revenue and Customs. The intention is that this should occur as soon as possible after this Bill has been passed by the Northern Ireland Assembly to permit the new rates becoming effective from 1 January 2013, or as soon as possible after that date.
5. This Bill acts to set the rate as zero for all direct long haul flights from Northern Ireland, following through on the Executive's policy commitment as laid out in the 2011-15 Programme for Government.
6. This Executive commitment to eliminate APD followed the Government announcement in September 2011 that, effective from 1 November 2011, APD for passengers travelling on direct long haul routes departing from airports in Northern Ireland would be cut to the lower short-haul (Band A) rate and, to provide a lasting solution, that these aspects of APD would be devolved to the Northern Ireland Assembly. The Executive considered that were the existing Band A rates to be maintained this would still have Northern Ireland at a competitive disadvantage with the South where the equivalent rate is much lower.

CONSULTATION

7. The Northern Ireland Executive consulted on its commitment to eliminate APD on direct long haul flights as part of its wider consultation on the Programme for Government, which was launched on 17 November 2011. No comments were received on this commitment. The Programme for Government was subsequently agreed and published on 12 March 2012.
8. The UK Government launched a consultation on APD in March 2011, which included a question on whether APD should be devolved to Northern Ireland. That consultation closed on 17 June 2011 and the Department of Finance and Personnel submitted a response (<http://www.dfpni.gov.uk/dfp-response-to-apd-consultation.pdf>). In total around 100 responses commented on the broader issue of APD and devolution (across the UK) including 26 responses from interested parties in Northern Ireland. This included nine district councils, Chambers of commerce, representatives of the local airports, political representatives and tourist organisations.
9. In relation to Northern Ireland, stakeholders highlighted the lack of alternative road or rail travel options to Britain and the competition effects of substantially lower rates of duty in the Republic of Ireland, which they considered to threaten the viability of direct services between Belfast and long haul destinations including the United States.
10. On 28 May 2012, the Assembly agreed that provisions in clause 189 of, and schedule 23 to, the Finance Bill, as introduced in the House of Commons on 10 May 2012 dealing with the devolution of Northern Ireland long haul rates of APD should be considered by the UK Parliament.

OPTIONS CONSIDERED

11. The main options considered were:
 - To set the rates for Northern Ireland at the Band A short haul rates - currently £13 for economy passengers and £26 for premium passengers;
 - To set the rates for Northern Ireland at a level similar to that which applies in the South – currently €3 for all passengers; and
 - To reduce the rates for Northern Ireland to zero.
12. The first option was rejected as this would leave Northern Ireland at a significant disadvantage to flights taking off from the South. The second option was rejected as the revenue when set against the costs of collection would not have been sufficient to justify the duty. Reducing the rates to zero as proposed in the Bill is therefore the preferred option as this will provide a competitive advantage and hopefully help to attract additional new routes.

OVERVIEW

13. The Bill has four clauses. A commentary on the provisions follows. Comments are not given where the wording is self-explanatory.

COMMENTARY ON CLAUSES

Clause 1: Setting of rate of air passenger duty

This clause sets the rate of APD at £0 for the purposes of subsections (3)(a) and (b), (4)(a) and (b), (5)(a) and (b) and (5A)(a),(b) and (c) of section 30A of the Finance Act 1994. In essence this provides for a zero rate of duty for passengers on direct long haul flights that take off from Northern Ireland (Bands B, C and D). The change will have effect in relation to the carriage of air passengers beginning on or after the relevant day (as defined in section 30A of the Finance Act 1994). It is intended that this will be the 1 January 2013, or as soon as possible after that.

Clause 2: Payments to HMRC

This clause permits the Department of Finance and Personnel (DFP) to pay to HMRC such sums as DFP thinks fit towards any expenditure incurred by HMRC in connection with APD chargeable at the rate set, or proposed to be set, for the purposes of the statutory provisions referred to in clause 1(1) of the Bill. The clause will enable payments to be made to HMRC for collecting information on behalf of the Department of Finance and Personnel, relevant administration costs incurred, functions related to the register of companies for Northern Ireland purposes and any other costs that HMRC may incur in connection the exercise of the devolved powers.

Clause 3: Commencement

This clause provides for the commencement of the provisions of the Bill.

Clause 4: Short Title

This clause provides that the new legislation shall be known as the Air Passenger Duty (Setting of Rate) Act (Northern Ireland) 2012.

FINANCIAL EFFECTS OF THE BILL

14. The EU Azores criteria requires the Executive to meet the full financial consequences of the decision to devolve the power to set APD rates for direct long haul flights from Northern Ireland. The overall revenue costs associated with the devolution of direct long haul APD rates, and the setting of these to zero, will be paid for by a reduction in Northern Ireland's block grant and is expected to cost in the region of £5 million per annum. This block grant adjustment would be increased over time to reflect general growth in the economy but the precise mechanism for this has not yet been finalised. The administrative costs, in terms of payments that would be made to HMRC for a zero rate, under clause two of the Bill, are expected to be negligible (less than £5,000 per annum). A Memorandum of Understanding has been established with HMRC

which deals with the administrative issues and costs associated with the devolution of direct long haul APD rates for Northern Ireland.

HUMAN RIGHTS ISSUES

15. The provisions of the Bill are considered to be compatible with the European Convention on Human Rights

EQUALITY IMPACT ASSESSMENT

16. There are not considered to be any differential equality implications arising from this Bill and there should be no disproportionate impact (favourable or unfavourable) on any of the Section 75 sub groups.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

17. It is considered that the regulatory impact of the changes on businesses will be negligible, given that one-off compliance costs as well as the administrative burden of the changes are expected to be minimal. The changes could also have the potential to make Northern Ireland more attractive, help to rebalance the economy, increase tourism and make the region more competitive. The changes will enable the Executive to meet its commitment to provide a zero rate of APD on direct long haul flights, as stated in the 2011-15 Programme for Government, by 2013/14.

LEGISLATIVE COMPETENCE

18. The Minister of Finance and Personnel had made the following statement under Section 9 of the Northern Ireland Act 1998:

“In my view the Air Passenger Duty (Setting of Rate) Bill would be within the legislative competence of the Northern Ireland Assembly.”

RECOMMENDATION

19. The Minister with responsibility for the Bill, Sammy Wilson, MP, MLA, the Minister of Finance and Personnel, has made the following recommendation as required under Section 30A(12) of the Finance Act 1994.

“As Minister of Finance and Personnel, I recommend this Bill to the Assembly as is required by Section 30A(12) of the Finance Act 1994.”