

Committee for the Economy

Report on the Legislative Consent Memorandum for the Commercial Payments Bill

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Ordered by the Committee for the Economy to be published 19 November 2026

Report: NIA 214/22-27 - Committee for the Economy

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Powers and Membership

Powers

1. The Committee for the Economy is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department for the Economy and has a role in the initiation of legislation.

2. The Committee has power to:
   - consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
   - approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
   - call for persons and papers;
   - initiate enquiries and make reports; and
   - consider and advise on matters brought to the Committee by the Minister for the Economy.

Membership

3. The Committee has nine Members, including a Chairperson and Deputy Chairperson, and a quorum of five Members. The membership of the Committee is as follows:

Mr Phillip Brett MLA (Chairperson)
Ms Diane Forsythe MLA (Deputy Chairperson)[1]
Mr Pádraig Delargy MLA
Mr David Honeyford MLA
Mr Declan Kearney MLA[2][3][4]
Mrs Julie Middleton[5][6]
Ms Sinéad McLaughlin MLA
Mr Mike Nesbitt MLA[7][8][9][10]
Ms Kate Nicholl MLA[11]

[1] On 26 February 2026 Ms Diane Forsythe replaced Mr Gary Middleton
[2] On 10 February 2025 Ms Emma Sheerin replaced Mr Phillip McGuigan
[3] On 24 November 2025 Ms Jemma Dolan replaced Ms Emma Sheerin
[4] On 2 March 2026 Mr Declan Kearney replaced Ms Jemma Dolan
[5] On 15 September 2026 Mr Peter Martin replaced Mr Jonathan Buckley
[6] On 17 November 2026 Mrs Julie Middleton replaced Mr Jonathan Buckley
[7] On 17 June 2024 Mr Doug Beattie MC replaced Mr Mike Nesbitt
[8] On 9 September 2024 Mr Colin Crawford replaced Mr Doug Beattie MC
[9] On 7 October 2024 Ms Diana Armstrong replaced Mr Colin Crawford
[10] On 7 September 2026 Mr Mike Nesbitt replaced Ms Diana Armstrong
[11] On 9 September 2024 Ms Kate Nicholl replaced Ms Sorcha Eastwood MP

Background

4. The Westminster Department for Business and Trade (DBT) introduced the Commercial Payments Bill in the House of Lords on 19 May 2026.

5. The UK Government's stated policy intentions for the Commercial Payments Bill are to enhance and strengthen a framework of transparency, accountability and best practice for payment terms in commercial contracts; to make provision for interest on late payment of commercial debts and to expand the powers and functions of the Office of the Small Business Commissioner (SBC), in order to facilitate a more productive economy.

6. The Bill seeks to tackle late payments between businesses and improve the flow of cash through supply chains, facilitating a more productive economy by improving payment practices by:
   - Imposing a maximum payment period of 60 days, with strictly limited exemptions;
   - Making some changes to the treatment of retention clauses, periods and payments in construction contracts;
   - Mandating interest on late payments at 8% above the Bank of England base rate;
   - Giving suppliers the right to a penalty payment where a purchaser raises a dispute late or without sufficient information;
   - Setting a time limit for raising disputes to encourage businesses to raise them as soon as possible so they can be resolved before the payment becomes late; and
   - Prohibiting the deduction and withholding of retention payments under the terms of a construction contract.

7. The Bill also deals with the role of the Office of the Small Business Commissioner (SBC). This is described as an independent public body established by the UKG under the Enterprise Act 2016 to tackle overdue payments and unfavourable payment practices in the private sector. It is responsible to DBIST. Its mission is described as to make life easier for small businesses by getting money moving through the economy and streamlining support. It is described as achieving this by supporting small businesses to get paid quickly and on time, influencing larger businesses to reduce their payment times to suppliers and working with all businesses to improve the culture of payment practices across the whole of the UK.

8. The Department clarified that the SBC has no existing powers to investigate businesses. Its existing powers are limited to reviewing complaints made by small businesses about larger businesses. There is also no existing power to adjudicate payment disputes or launch an investigation into the payment practices of a larger business. This means SBC has no power to compel the larger business to provide information, undertake enforcement action or levy financial penalties. After considering a complaint, the only power SBC currently has available is to publish a report regarding that complaint. There is no existing power for the SBC to recover costs. Instead, its functions throughout the UK

including NI are currently funded entirely through a grant from the Department for Business, Innovation, Science and Trade (DBIST)

9. The Bill provides for new powers for the Office of the Small Business Commissioner to:

- Investigate larger businesses suspected of conducting poor payment practices and breaching payments legislation;
- Adjudicate contractual payment disputes between small and larger businesses outside of the court process and make binding interim decisions; and
- Take enforcement action against larger businesses that persistently pay their suppliers late or fail to comply with late payment legislation, including the ability to issue financial penalties

10. The Department clarified that adjudication is to be an impartial and confidential process aimed at swiftly resolving contractual payment disputes between small and larger businesses. An adjudicator will have the power to make decisions about any amounts owed under a contract as well as any statutory compensation or interest due. The intention is for regulations to be brought forward so as to allow costs associated with adjudication to be recovered from the larger business. Small businesses will not be required to pay costs unless their claim is frivolous or vexatious.

11. The Bill provides power for the Secretary of State for DBIST to make regulations to give the SBC the power to recover the costs of the investigations, including relevant administrative or legal costs associated with the investigation where the SBC is satisfied that the larger business has engaged in persistent poor payment practices.

12. The Department has also advised that the SBC will be given the power through regulations to enforce a company's reporting requirements including the power to issue enforcement notices against companies that fail to report or report false payment practice information. Failure to comply with notices may result in a financial penalty and where a financial penalty is issued, the regulations can provide for the SBC to have the power to recover costs associated with it.

13. The Department of Finance clarified that the Bill will ensure that prompt payment measures will apply equally to construction contracts and that construction retention payments will be banned in GB. The Bill will apply the prompt payments measures in construction contracts in NI. However the Department of Finance is planning to undertake a consultation on proposals relating to the use of alternatives to retentions in construction contracts in NI with a view to bringing forward related legislation in the next mandate. Thus the construction retention measures are not to be applied in NI.

Consideration of the Legislative Consent Memorandum by the Committee

14. The Committee was briefed by the Department at its meeting of 30 September 2026. A number of key issues were discussed, which included: the role of the Office for the Small Business Commissioner; thresholds for investigation and recuperation in respect of late payments; construction retention payments and

related Department of Finance legislation; small business protections; and the Common Framework for late payments and related matters.

15. The Department of Finance clarified that the Commercial Payments Bill will ensure that prompt payment measures will apply equally to all construction contracts (both government and across the wider economy) and that construction retention payments will be banned in 2 years' time in GB. Although the retention payment changes won't apply for contracts awarded in NI, DoF advised that the Bill may have consequences for NI which Construction and Procurement Delivery (CPD) will be looking into.

16. For Northern Ireland, it is understood that the prompt payments measures (including fines and interest for late payment etc.) will also apply in construction (both government procured construction and construction across the wider economy). The Department of Finance is planning to undertake a consultation on proposals relating to the use of alternatives to retentions in construction contracts in NI with a view to bringing forward related legislation in the next mandate.

17. The Committee noted departmental assurances and explanations and generally welcomed the legislation as an opportunity to promote small business growth. Some members recorded disappointment that an opportunity to standardise construction contract practices across the whole of the UK was not to be realised in the present Bill.

18. The Committee therefore agreed to seek further information from the Department of Finance in respect of the possible impact for NI of the changes to construction retention payments in GB and a timeline for the consultation and legislation for the development of NI alternatives to construction retention payments.

19. Given the anticipated benefits of the legislation to the small business sector in NI and given the time constraints, the Committee agreed to support the related Legislative Consent Motion with the caveat that the departments adequately engage with and inform business stakeholders of the changes and that clarity is provided in respect of the way forward regarding construction retention payments.

20. The Committee agreed this report on 18 November 2026 and ordered it to be published in order to inform the relevant Legislative Consent Motion debate

Appendices

Appendix 1: Written submission

Departmental written submissions in respect of the Commercial Payments Bill

Written response from the Department of Finance

Appendix 2: Minutes of Evidence

Minutes of Evidence – 30 September 2026

Appendix 3: Minutes of Proceedings

Minutes of Evidence – 30 September 2026

Minutes of Evidence – 4 November 2026

Minutes of Evidence – 18 November 2026