Department for the Economy
An Roinn Geilleagair
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Peter McCallion
Clerk to the Committee for the Economy
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Our ref: CQ DfE 430/26
Your Ref: EC2026:1064

Date: 19 October 2026

Dear Peter

COMMERCIAL PAYMENTS BILL LCM

Thank you for the Committee's interest in the Commercial Payments Bill (CPB). In response to the request sent to our officials, please see the following update.

The Office of the Small Business Commissioner (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 no existing power to adjudicate payment disputes or launch an investigation into the payment practices of a larger business. This means it has no power to compel the larger business to provide information, undertaken enforcement action or levy financial penalties. After considering a complaint, the only power it currently has available is to publish a report regarding that complaint. As such there is no existing power for the SBC to recover costs. Instead, its functions are currently funded entirely through a grant from the Department for Business, Innovation, Science and Trade (DBIST).

The CPB is seeking to introduce new powers for the SBC to adjudicate payment disputes and make adjudication awards, investigate persistent poor payment practices, undertake enforcement action and levy financial penalties.

Adjudication will 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 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.

Investigations can take place where the SBC is satisfied that a larger business has persistently engaged in poor payment practices. This can include breaches or attempts to circumvent provisions in the CPB. The CPB will allow the SBC to compel parties to provide information relating to the investigation and undertake enforcement action, including the power to levy financial penalties. The Bill provides power for the Secretary of State to make regulations to give the SBC the power to recover the costs of the investigations, include 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.

In relation to enforcing Payment Reporting data, the intention is for the SBC to be given the power through regulations to enforce a company's reporting requirements under section 3 of the Small Business, Enterprise and Employment Act 2015 (SBEEA), including the power to issue enforcement notices against companies that fail to report or report false 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.

The SBC is also being given the power to provide training to businesses. This can be provided for a fee to cover the costs of the training. Undertaking training will be entirely voluntary but aimed at supporting business compliance.

Prospective change in the future in relation to the SBC sees the following regulation powers include:

a. Regulations in relation to the SBC adjudication scheme - these detail how the scheme may operate.
b. Regulations in relation to investigations - these include how investigations may operate.
c. Regulations in relation to financial penalties following an investigation – these may make further provision about the imposition of a financial penalty on a larger business following an investigation into its payment practices.
d. Regulations in relation to enforcement of a section 3 SBEEA requirement – these relate to action which the SBC may take to enforce qualifying companies' reporting requirements.

All of these regulations are subject to consultation and the consent of Devolved Governments where appropriate.

Regulations are already in place which make further provision about the meaning of a "small business" in relation to the SBC's functions under the Small Business Commissioner (Scheme and Scope) Regulations 2017. The intention is for regulations to also be laid relating to the size thresholds for exemptions to 60-day maximum payment terms.

Where the SBC is satisfied that a larger business has persistently engaged in poor payment practices it will have the power to make recommendations, issue enforcement and publication directions and levy financial penalties – these will go into the Consolidated Fund. The intention is for the regulations to give the SBC the power

to recover some or all of the costs of that investigation, including the administrative and legal costs associated with undertaking the investigation.

DfE officials have contacted the SBC directly to facilitate communication between them and the Committee about an evidence session as requested.

During the CPB's passage through the House of Lords, amendments to the Bill have been tabled and accepted. These are now included in the latest draft of the Bill and will be reflected in the Department's further engagement with the Assembly in relation to the LCM.

This information is fully disclosable under Freedom of Information.

Yours sincerely



Brendan Heaney
Departmental Assembly Liaison Officer

Northern Ireland
Assembly

Committee for the Economy

Departmental Assembly Liaison Officer
Department for the Economy
abu@economy-ni.gov.uk

Our Ref: **EC2026:1064**

2 October 2026

Dear DALO,

Commercial Payments Bill LCM

Please accept the Committee's thanks for the evidence provided by officials at the meeting of 30 September 2026, in respect of the Commercial Payments Bill Legislative Consent Memorandum laid under SO 42A (4)(b).

A number of key issues were discussed, which included: the Legislative Consent Memorandum and the anticipated approval by the Minister; 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 related matters.

The Committee indicated its support for the anticipated legislative consent motion.

The Committee also agreed to write to the Department seeking detail on existing and anticipated thresholds for investigation and recuperation in respect of late payments.

The Committee also agreed to seek an oral and written evidence session on the Office of the Small Business Commissioner seeking an update on its role and work in Northern Ireland.

A written response on or before 16 October 2026 would be greatly appreciated. The Committee would also greatly appreciate any related background policy information that the Department can provide.

If you require further information or clarification in respect of the above, please do not hesitate to contact me.

Peter McCallion, Clerk to the Committee for the Economy, Northern Ireland Assembly
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Email: committee.economy@niassembly.gov.uk **Tel. 028 9052 1821**

Yours sincerely,

Peter McCallion

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Clerk to the Committee for the Economy

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Date: 21 October 2026

Dear Peter

LEGISLATIVE CONSENT MEMORANDUM – COMMERCIAL PAYMENTS BILL

The Department provided an update to the Committee on 1 June 2026 regarding the laying of the Commercial Payments Bill in the House of Lords. Subsequently, officials provided an oral briefing on the 30 September 2026.

Officials have been engaging with counterparts from the Department for Business, Innovation, Science and Trade, who are seeking a Legislative Consent Motion relating to the Bill and the Department has been preparing for this in anticipation of tabling a Legislative Consent Motion before the Assembly.

I would be grateful if you could bring this to the attention of the Committee as the Legislative Consent Memorandum is to be laid in the Assembly shortly.

The Bill is cross-cutting and therefore aspects of it should be considered by other Committees, in particular the Committees for Justice and for Finance.

The Minister is keen to ensure that the Committee has further opportunity to consider the devolved implications of the Bill.

Yours sincerely

BRENDAN HEANEY
DEPARTMENT FOR THE ECONOMY
ASSEMBLY LIAISON OFFICER

Departmental Assembly Liaison Officer
Brendan Heaney

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Our Ref: CQ DfE 450/26
Your Ref: EC20026: 1174

Date: 10 November 2026

Dear Peter

Commercial Payments Bill LCM

Thank you for your letter of 4 November. In response I can provide the following update.

The Commercial Payments Bill (CPB) contains a number of measures addressing payment practices under construction contracts, and corresponding amendments are made to the Construction Contracts (Northern Ireland) Order 1997 (the Order) to seek to ensure that these measures will operate effectively in the north of Ireland. The CPB makes amendments to the Late Payment of Commercial Debts (Interest) Act 1998 (LPA) and the Order, for example clause 2 of the CPB which makes specific provision for payment terms for construction contracts and amendments to the Order. This approach seeks to ensure that when the CPB provisions amending the LPA come into force, the legislative changes will operate effectively for construction contracts in the north of Ireland in tandem with Britain. These will be applied here under the LCM.

The matters within the CPB that do not extend here are amendment to payment reckoning periods under the Housing Grants, Construction and Regeneration Act 1996 (HGCRA), and the ban on the deduction and withholding of retention sums under a construction contract.

The CPB changes how time periods are calculated under the HGCRA, so that the exclusion of Christmas Day, Good Friday and bank holidays applies only to adjudication. The Department for Business, Innovation, Science and Trade (DBIST) notes that there is no equivalent provision in the Order and therefore no corresponding amendment. As such, existing legislation here will continue to govern the calculation of time periods. Section 39(4) of the Interpretation Act (Northern Ireland) 1954, which governs the Order, requires that where the time limited by an enactment for the doing of anything expires or falls upon a Sunday or a public

holiday, the time so limited shall extend to and the action may be done on the first following day that is not a Sunday or a public holiday.

In regard to the measures on withholding of retention sums under a construction contract, Clauses 12 to 17 of the CPB, which initiate the transitional period of two years for the phasing out of retentions (with an additional year for retentions which are withheld under the terms of contracts signed during the transitional period), are intended to come into force via Commencement Regulations at a date to be confirmed. DBIST does not envisage that this will be before mid-2028, but a final decision on this has not yet been made.

As the abolition of retentions represents a significant change for the industry and its clients, in addition to allowing for a transitional period to phase retentions out, it is also essential to improve quality and reduce defects and allow time for the market for alternative forms of surety to develop. Therefore, DBIST is working with the industry, through the Construction Leadership Council, which has appointed a new industry advisor to lead work to address the key issues of alternatives to retentions and improving quality.

This includes:

a. Developing the market for alternative forms of surety, including bonds and insurance products, and how better information about competence, quality and building safety can broaden the market and reduce premia; and
b. Evaluating existing approaches to quality management and defect reduction, and how these can be integrated into projects, which is intended to inform the publication of guidance to the industry on this.

DBIST is not planning for any other secondary legislation to be made for retentions, as all the policy is on the face of the CPB and, whilst there is a power to amend the definition of retention, they do not believe that they will need to use this power at this early stage of policy implementation.

The policy responsibility for construction contracts, including retentions, is transferred to the north of Ireland and rests with DoF. In earlier discussions on the CPB and what the LCM was set to cover, when asked about the measures on the area of withholding of retention sums under a construction contract, DBIST took the view that it would be too complex to include the north of Ireland within these provisions, and that it would be more appropriate for the Executive to make the necessary changes. DoF has agreed to take this area forward through its own policy and legislative development.

DoF has highlighted that local policy development on this issue will provide the opportunity for further scrutiny of the impact that a ban on retentions would have, and will allow consideration of alternative mechanisms for securing contractor performance here, particularly as DBIST have not yet fully developed this area. DoF are engaging with DBIST on the alternatives and intend to consult on potential changes before bringing forward a Bill in the Assembly. Whilst ultimately the amendments to the Order in relation to this area may well correspond closely with the final amendments to the HGCRA in Britain, DOF's desire is that their approach will allow for differentiation if

desired and also provide greater opportunity for scrutiny and tailored local consultation here.

Yours sincerely



BRENDAN HEANEY
DEPARTMENTAL ASSEMBLY LIAISON OFFICER

Northern Ireland
Assembly

Committee for the Economy

Departmental Assembly Liaison Officer
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Our Ref: **EC2026:1174**

4 November 2026

Dear DALO,

Commercial Payments Bill LCM

At its meeting of 4 November 2026, the Committee considered recent Departmental correspondence (Your Reference: CQ DfE 430/26) in respect of the Commercial Payments Bill legislative consent memorandum.

The Committee agreed to write to the Department welcoming the application of the measures in the Bill and the positive impact they are expected to have on small businesses. The Committee also agree to seek clarity as to why the aspects of the Westminster Commercial Payments Bill which deal with construction payments are not being taken forward in Northern Ireland at this time.

I have written in similar terms to the Department of Finance.

As the timescales for the Committee to report on the LCM are very limited, it is requested that you respond at your earliest convenience in writing on or before Tuesday 10 November 2026.

The Committee would also greatly appreciate any related background policy information that the Department can provide.

If you require further information or clarification in respect of the above, please do not hesitate to contact me.

Yours sincerely,

Peter McCallion

Peter McCallion
Clerk to the Committee for the Economy

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From: Department for the Economy

Date: 22 October 2026

COMMERCIAL PAYMENTS BILL – LEGISLATIVE CONSENT MEMORANDUM

Dear Colleagues,

Please find attached the Legislative Consent Memorandum relating to the Commercial Payments Bill, which is being laid before the Assembly in accordance with Standing Order 42A (4) (a).

Should you require any further information or clarification, please do not hesitate to contact me.

Kind regards,

Michael Bradford
Business and Employment Regulation Division
Department for the Economy

LEGISLATIVE CONSENT MEMORANDUM

COMMERCIAL PAYMENTS BILL

Draft Legislative Consent Motion

1. The draft motion, which will be tabled by the Minister for the Economy, is:

> ***"That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Commercial Payments Bill, as introduced in the House of Lords on 19 May 2026, dealing with the implementation of legislative measures to tackle the detrimental impacts of late payments on business, and to strengthen a framework of transparency and best practice in the world of doing business, as contained in Clauses 1-11, 18-26, 28-33, and Schedule 1, Part 2 of Schedule 2, Schedule 3, and Schedule 4."***

Background

2. This memorandum has been laid before the Assembly by the Minister for the Economy under Standing Order 42A(2). The Commercial Payments Bill was introduced in the House of Lords on 19 May 2026. The latest version of the Bill can be found at:

Commercial Payments Bill [HL]

Summary of the Bill and its policy objectives

3. The Bill aims to make provision about payment terms in commercial contracts; to make provision about interest on late payment of commercial debts; to expand the powers of the Small Business Commissioner (SBC) in relation to payment disputes and poor payment practices, and to amend the Enterprise Act 2016 (EA) in connection with other functions of the SBC.

The Bill also seeks to ban retention clauses in construction contracts, but these provisions are not extended to the North of Ireland.

Provisions which deal with a Devolution Matter

4. Most of the provisions within the Bill fall under the legislative competence of the Assembly as they deal with transferred matters. Clauses in the Bill relating to payment terms in commercial contracts, interest on late payment of commercial debts, expanding the powers of the SBC in relation to payment disputes and poor payment practices, and amendments relating to other functions of the SBC are devolved to the North of Ireland.

5. Clause 1 inserts new section 2B into the Late Payment of Commercial Debts (Interest) Act 1998 (LPA). It provides that, unless there is an exemption that applies to them, businesses purchasers must pay their suppliers within 60 days of the trigger event specified in the contract, which must be one of the four set out in subsection (1). If no trigger event is specified in the contract, businesses have 30 days to pay from the latest of those trigger events. Public authorities must pay their suppliers within 30 days. One of the trigger events set out in section 2B is the completion of an acceptance or verification procedure. The Bill also inserts section 2C into the LPA which sets out the provisions on acceptance and verification procedures and provides that unless there is a longer acceptance and verification procedure expressly provided for as a contractual term, there is an implied term that the procedure is completed by the end of 30 days from the day the supplier performs the relevant contractual obligation. For long acceptance and verification procedures, this period can be longer, but it is void if it is not fair and reasonable, having regard to the matters set out in Schedule 2 of the Unfair Contract Terms Act 1977.

6. Clause 2 inserts new section 2D into the LPA. It applies equivalent maximum payment periods to relevant construction payments, with payment due within 60 days beginning with the payment due date, or 30 days where the purchaser is a public authority. It also ensures that where the payee serves a notice where the payer (or specified person) has failed to serve a Payment Notice, the final date for payment cannot be postponed further than the permitted maximum period.

7. Clause 3 inserts new section 2E into the LPA. It exempts certain contracts from the payment-term restrictions in clauses 1 and 2, including where the purchaser is smaller than the supplier by headcount, where both parties are

large undertakings, or where the Secretary of State has made regulations excluding a description of contract. The delegated powers in new section 2D(4) and (8) are subject to devolved consent requirements.

8. Clause 4 inserts new section 2F into the LPA. Where Sections 2B, 2C, and 2D LPA introduce maximum payment periods that apply to relevant payments under the LPA, section 2F provides the Secretary of State with powers to shorten these payment periods by regulations. Delegated powers in new section 2F(1), 2F(3), 2F(5) and 2F(6) are subject to devolved consent requirements.

9. Clauses 5-7 relate to statutory interest under the LPA. Clause 5 inserts new section 2G into the LPA which states that the right to statutory interest is an implied contractual term. Clause 6 substitutes subsection 4 of the LPA which relates to the period for which statutory interest runs. Clause 7 inserts new clause 6A into the LPA which treats contract terms that exclude or vary the right to statutory interest as void.

10. Clause 8 inserts new section 11A into the LPA which implies a term into contracts that allows a supplier to recover a penalty sum from the purchaser where a dispute is raised after the last dispute day.

11. Clause 9 inserts new section 15A into the LPA which defines terms relating to construction contracts.

12. Clause 10 and Schedule 1 set out further amendments of the LPA, Part 2 of the Housing Grants, Construction and Regeneration Act 1996 (HGCRA) and the Procurement Act 2023 (PA). The subject matter of these clauses is transferred to Northern Ireland insofar as they relate to the LPA. Part 1 of Schedule 1 sets out further amendments of the LPA. Part 2 of Schedule 1 makes consequential amendments to other enactments. Part 3 of Schedule 1 amends section 68 of the PA to make clear when sums must be paid under a public contract. This will require consent. It also inserts new section 68A which deals with public construction contracts, and new section 68B which replicates an existing power to shorten implied payment terms. It also amends sections 69 (payment compliance notices) and 73 (implied payment terms in sub-contracts). It further amends section 88 and introduces new sections 88A, B, and C, which deal with implied terms in regulated below threshold contracts: this Part does not apply to a transferred North of Ireland authority, other than procurement under a reserved procurement arrangement (see section 88(4)) and therefore no LCM is required to cover this for the North of Ireland. For the North of Ireland, paragraphs 21 and 22 of Part 3 of Schedule 1 apply to contracting authorities that are not transferred North of Ireland authorities, and to transferred North of Ireland authorities when procuring under a reserved UK procurement arrangement.

13. Clause 11 makes clear that the amendments made to the LPA or the HGCRA do not affect contracts entered into before the date those provisions come into force. The subject matter of this provision is transferred in Northern Ireland to the extent that it relates to transferred provisions in the Bill.

14. Clause 18 and Part 2 of Schedule 2 set out further amendments to the HGCRA 1996 and Construction Contracts (Northern Ireland) Order 1997 (CCNI).

15. Clause 19 amends the EA by inserting new sections 2A to 2G. These provisions establish the SBC adjudication scheme. The delegated powers in new section 2G are subject to devolved consent requirements.

16. Clause 20 inserts new sections 2H to 2P and Schedule 1A into the EA. These provisions confer new powers on the SBC to investigate the payment practices of larger businesses, issue directions following an investigation, impose financial penalties for non-compliance with enforcement directions, and require information to be provided to the SBC. New section 2P gives the Secretary of State power to make regulations about investigations, recommendations, reports, directions, and the power to require information; those powers are subject to devolved consent requirements.

17. Clause 21 replaces section 3 of the EA which relates to the powers of the SBC to publish and give advice to businesses.

18. Clause 22 confers new powers on the SBC to provide training to businesses about matters relating to transactions between businesses, and transactions between businesses and public authorities, or arrange for another person to provide training, and to charge a fee for such training.

19. Clause 23 inserts sections 12A and 12B to the EA to provide the Secretary of State with powers to transfer some or all of the SBC's functions to a public body by Regulations, and to make transfer schemes.

20. Clause 24 inserts new section 12C to the EA and provides that the term "business" includes "Duchy business" and defines what that means. The effect of this clause is to clarify how the new SBC regime applies to businesses owned by the Duchies.

21. Clause 25 amends the delegated power in section 3 of the Small Business, Enterprise and Employment Act 2015 (SBEE) and introduces further detail on that power in inserted section 3A, which relates to reporting on payment practices and performance, to make provision about enforcement and financial penalties.

22. Clause 26 and Schedule 4 make consequential and further amendments of Part 1 of the Enterprise Act 2016 and other enactments.

23. Clauses 28-33 set out general provisions for the Bill, covering the power to make consequential provision, interpretation, extent, commencement and transitional provision, and the short title.

24. Schedule 3 inserts Schedule 1A into the EA which confers new powers on the SBC to investigate payment practices of larger businesses.

25. As all the provisions of the Bill relate to matters which fall within the legislative competence of both the Scottish and Welsh Parliaments, DBT have also engaged with them and obtained their legislative consent.

Reasons for making the Provisions

26. The measures in this Bill seek to enhance and strengthen a framework of transparency and best practice in the world of doing business, and are intended to champion and be welcomed in particular by small businesses. This Bill builds upon good working relations and agreements in place between the Westminster Government and the devolved administrations in the area of Late Payments, as formalised through the Late Payment Common Framework (LPCF). It is beneficial to businesses and the enforcement body to ensure a consistent legislative and enforcement regime at the earliest possible opportunity.

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

27. Much of the existing body of legislation on Late Payments, although in the transferred field, already operates in a manner that supports businesses, is agreed as part of the LPCF, and is underpinned by good working relations between the Westminster Government and devolved administrations. As such, it would be more efficient to have the transferred provisions dealt with within this Bill included as part of the ready-made vehicle of a Westminster Bill than to promote a specific Assembly Bill.

Consultation

28. A consultation was carried out by the Department for Business, Innovation, Science and Trade (DBIST) on the prospective measures within the Bill from 31 July 2025 to 23 October 2025, with the Westminster Government response to the consultation published on 24 March 2026. Responses were received from businesses and stakeholders here during the consultation, in addition to a joint DBIST & SBC roundtable being specifically held with business representatives in Belfast. DBIST have noted that there is widespread support throughout the business community for these late payment initiatives.

29. Analysis of the Bill indicated that it is cross-cutting, with amendments to late payment policy being considered by the Department for the Economy (DfE); criminal and civil offences and sanctions being considered by the Department of Justice (DoJ); and the amendments to the operation of the Construction Contracts (Northern Ireland) Order 1997, the Procurement Act 2023, and policy updates in the area of retentions in construction contracts (that will not be extended to the North of Ireland in the LCM) being considered by the Department of Finance (DoF).

Human Rights and Equality

30. The Westminster Government considers that the Bill is compatible with the European Convention on Human Rights (ECHR). Accordingly, Lord Leong CBE has made a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect.

Financial Implications

31. DBIST believe that there should be no financial implications for the North of Ireland within this Bill – the SBC, particularly the enforcement network, will be funded by the Westminster Government. A Ways and Means resolution will be laid by DBT in the House of Commons in order to gain authorisation to make that public expenditure. The full impact assessment can be found at:

Prompt Payments Primary Legislation Impact Assessment

Summary of Regulatory Impact

32. DBIST believe there will be a negative net impact on business due to financial penalties and adjudications against them, but this is counteracted by the net social benefit of businesses being paid on time and fairly. The full impact assessment can be found at:

Prompt Payments Primary Legislation Impact Assessment

Engagement to date with the Committee for the Economy

33. Officials appeared and provided an oral briefing to the Economy Committee on 30 September 2026.

Conclusion

34. It is the view of the Minister for the Economy that it is in the interests of having clear and consistent legislation that ensures parity in the field of Late Payments, whilst promoting clear and consistent conditions within which to do business, that so far as the provisions of the Bill deal with a devolution matter, they should extend to Northern Ireland. The Minister for the Economy is supportive of the proposal and recommends to the Assembly that consent should be sought.

Department for the Economy

22 October 2026