



LEGISLATIVE CONSENT MEMORANDUM THE EMPLOYMENT RIGHTS BILL – REVISED MEMORANDUM FOLLOWING GOVERNMENT AMENDMENTS TO THE BILL AT HOUSE OF COMMONS REPORT STAGE

The Employment Rights Bill (“the Bill”) includes provisions which relate to devolved matters. The Bill was introduced to Parliament on 10 October 2024 and had its second reading on 21 October 2024. The Executive agreed that an LCM should be taken forward, at its meeting on 20 February 2025. The Legislative Consent Memorandum was subsequently laid on 21 February.

This is a multi-department LCM being led by the Department and which, following Minister Lyons’ agreement to requests from the relevant Executive Ministers, also contains provisions in the Bill which fall under the remit of the Department of Agriculture, Environment and Rural Affairs, the Department for Economy and the Department of Finance.

Officials from the departments involved in the LCM briefed the Communities Committee on the provisions contained in the LCM at their meeting on 27 February 2025. The Committee at its meeting on 13 March approved its report to the Assembly on the LCM.

House of Commons Report Stage

The House of Commons Report Stage on the Bill was held on 11 and 12 March. All Government amendments were tabled and are now in the Bill, while no opposition or backbench amendments were taken through. The Government amendments were largely on provisions that did not engage the legislative consent mechanism and therefore do not come within the scope of the LCM.

There were Government amendments to the provisions in the Bill that were included in the LCM. The Committee will be aware that the LCM already included these planned Government amendments and the Executive had given its approval that an LCM be sought on that basis. Officials can therefore confirm that the UK Government amendments are already within the scope of the current LCM, having already been taken into account in the Motion, the Legislative Consent Memorandum and other related documents.

Accordingly the Legislative Consent Motion has been updated and simply reflects the renumbering of the Bill's Clauses and Schedules following the amendments to the Bill. The text of the updated motion is provided below.

‘That this Assembly endorses, the principle of the extension to Northern Ireland of the provisions of the Employment Rights Bill, introduced in the House of Commons on 10 October 2024, relating to Statutory Sick Pay as contained in clauses 12 and 13 of the Bill; the Fair Work Agency under Part 5 of the Bill and the saving provisions as set out in Schedule 11 to the Bill as they relate to the Agricultural Wages (Regulations) (Northern Ireland) Order 1977; in relation to public sector outsourcing of relevant contracts by bodies carrying out reserved functions in Northern Ireland the protection of workers as set out in clause 30 of the Bill; the enforcement of relevant labour market legislation under Part 5 of the Bill as set out in Schedule 7 and enabling the Secretary of State for Business and Trade, with the consent of relevant Northern Ireland Departments, to increase the remit of the Fair Work Agency, in the future, on a range of labour market and employment legislation which may include Northern Ireland devolved legislation. ‘

The relevant amendments to the Bill are:

- The Bill already proposed to replace the current flat rate of Statutory Sick Pay (SSP) with a new rate, which will be the lower of the flat rate and a percentage of the employee's normal weekly earnings. The Committee had been informed that the percentage rate would be confirmed in the Bill. A Government amendment confirmed the percentage rate as 80%.
- The Bill already proposed that the Fair Work Agency would take on enforcement of SSP in GB and Northern Ireland. A Government amendment added SSP legislation for Northern Ireland into the remit of the Fair Work Agency in order to facilitate that enforcement.
- A Government amendment requires the Secretary of State to obtain the consent of the relevant Northern Ireland department before any transferred legislation relating to employment rights could be added to the FWA's remit.

Renumbered provisions in the Bill

The Bill as amended at Report Stage has been published and accordingly the clauses of and schedules to the Bill have been renumbered.

Statutory Sick Pay

Clause 10 of the Bill (Statutory sick pay in Northern Ireland: removal of waiting period) has been renumbered as Clause 12. This clause removes the three day waiting period for SSP.

Clause 11 of the Bill (Statutory sick pay in Northern Ireland: lower earnings limit etc) has been renumbered as Clause 13. This clause removes the Lower Earnings Limit and provides the percentage figure for the percentage based option.

The Fair Work Agency under Part 5 of the Bill

Clause 118 of the Bill (Abolition of existing enforcement authorities) has been renumbered as clause 145. This clause abolishes the Gangmasters and Labour Abuse Authority (GLAA) and transfers its functions to the new Fair Work Agency.

Clause 119 of the Bill (Consequential and transitional provision) has been renumbered as clause 146. The clause provides for consequential amendments and transitional provisions.

Clause 124 of the Bill (Power to make consequential amendments) has been renumbered as clause 151. The clause confers a power on the Secretary of State to, by regulations, make provision that is consequential on provisions made by the Bill.

Schedule 8 (Consequential amendments relating to Part 5) has been renumbered as Schedule 10.

Schedule 9 (Transitional and saving provisions relating to Part 5) , has been renumbered as Schedule 11.

Increase the remit of the Fair Work Agency

Schedule 5 (Legislation subject to enforcement under Part 5) has been renumbered as Schedule 7.

Schedule 7 at paragraphs 8 to 12 lists the Northern Ireland legislation that is subject to enforcement by the proposed Fair Work Agency under Part 5 of the Bill. This relates to legislation in respect of Statutory Sick Pay.

Schedule 7, Paragraph 35, gives powers enabling the Secretary of State to increase the remit of the FWA in the future on a range of labour market and employment legislation by adding to the list of Relevant Labour Market Legislation contained in Part 1 of Schedule 7. Paragraph 35(3) requires that any such changes that include Northern Ireland devolved legislation will require the consent of the relevant Northern Ireland Department or Departments.

Amendment of the Procurement Act 2023

Clause 27 of the Bill (Public sector outsourcing: protection of workers) has been renumbered as Clause 30. The clause seeks to amend the Procurement Act 2023 by allowing a UK Minister to produce and publish a code of practice in relation to the protection of worker's rights in outsourced contracts. This will apply to those bodies carrying out reserved functions in Northern Ireland.

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