

CYBER SECURITY AND RESILIENCE (NETWORK AND INFORMATION SYSTEMS) BILL

Background

1. This memorandum has been laid before the Assembly by the Minister of Finance under Standing Order 42A(4)(b).
2. Standing Order 42A - Legislative Consent Motions, details the procedure for seeking the agreement of the Assembly to the United Kingdom Parliament considering provisions of a Bill which deal with a devolution matter. Paragraph (2) of Standing Order 42A prescribes that a legislative consent memorandum shall be laid in respect of any devolution matter for which a legislative consent motion is proposed. 3. Under Standing Order 42A (4)(b) I am laying this memorandum explaining why a legislative consent motion is not being sought currently as further work is required to conclude the analysis of the Devolution and Windsor Framework impact.

Summary of the Bill and its policy objectives

3. The Cyber Security and Resilience (Network and Information Systems) Bill (the 'Bill') was introduced in the House of Commons on 12 November 2025 and the DSIT Secretary of State (Minister Lloyd CBE) wrote to the Minister for Finance that same day seeking agreement in principle to progress the Legislative Consent process in the Northern Ireland Assembly. The latest version of the Bill can be found at: <https://bills.parliament.uk/bills/4035>
4. The Bill will reform and add to the existing [Network and Information Systems \(NIS\) Regulations 2018](#).
5. The key provisions of the Bill cover:
 - bringing more entities into scope of the regulatory framework,
 - empowering regulators and enhancing oversight, and
 - ensuring the regulatory framework can keep pace with the ever changing cyber landscape.
6. In particular, the Bill seeks to:
 - bring data centres (which house and process much of the data generated in the UK), large load controllers (which ensure appliances

continue to be powered with the electricity they need by responding to electricity usage signals) and managed service providers (organisations which provide an ongoing managed IT service) into the scope of the regulations,

- enable designated competent authorities (CAs, also referred to as regulators) to designate “critical suppliers” where an essential, digital or managed service which they regulate relies on a supplier and an incident affecting the network and information systems which that supplier relies upon could cause significant disruption to the relevant service,
- make provision regarding the designation of operators of essential services (an "OES") by a regulator and the duties which will apply to them,
- give the Secretary of State the power to introduce a Statement of Strategic Priorities to set outcomes for regulators to achieve and expectations for the implementation of the NIS Regulations, and
- give the Secretary of State powers to make regulations to make further provision in relation to specified network and information systems and to persons with functions under the regulations. Such powers could be used to bring new sectors and subsectors in scope of the regulations and to make changes to the responsibilities and functions of NIS regulators.

UK Government view on the need for consent

7. The Department of Science Innovation and Technology (DSIT) consider that all the Bill provisions are reserved under both the telecommunications and national security reservations. The implementation of the NIS Regulations and the Bill relate in part to devolved matters as some of the essential services are in devolved sectors. Some provisions in the Bill alter the executive functions of the Department of Finance, designated as the Network and Information Systems (NIS) Competent Authority.
8. DSIT have provided a Devolution Analysis which states that consent is required for Clauses 12, 17, 19, 20, 21, 22, 29, 31, 32, 33, 34, 35, 45, 48, 49 and 50 and 51 as set out below.
9. Once the Devolution Analysis has been fully considered, there is a possibility this list may change, and consent may also be required for a number of other clauses.

Provisions in the Bill for which UK government are seeking consent

10. **Clause 12: Critical suppliers** – these clauses will enable regulators to designate “critical suppliers” within their sectors, where an essential, digital or managed service they regulate relies on a supplier and an incident affecting the network and information systems which that supplier relies upon could cause significant disruption to the relevant service. These suppliers will then be subject to the NIS Regulations. It places procedural requirements on regulators in making a designation, including the following: (i) providing reasons to the person they are proposing to designate; (ii) taking into account any representation that person makes; and (iii) consultation requirements, including a requirement to consult certain other relevant regulators. It also introduces a requirement for regulators to coordinate with certain other relevant regulators in exercising their functions under the NIS Regulations.
11. **Clause 17: Powers to impose charges** – these clauses amend the powers for regulators to charge fees under the NIS Regulations.
12. **Clause 19: Guidance** – this clause amends what must be included in the guidance issued by regulators.
13. **Clause 20: Powers to require information** – this clause amends powers for regulators to request information.
14. **Clause 21: Financial penalties** – a) Introduces a new maximum penalty of 4% turnover, in addition to the current numerical cap of £17m, whichever is higher. b) Simplifies the penalty structure from three bands to two and removes the need for a distinction between material and non-material contraventions, as well as the differentiation between the two “material contravention” bands. c) Enables regulators to consider all relevant circumstances of a case when determining penalties, including patterns of noncompliance and proportionality of fine levels.
15. **Clause 22: Enforcement and appeals** – amends the functions of regulators in relation to enforcement.
16. **Clauses 29, 31–35: Power to make regulations relating to cyber security** – these clauses create a delegated power that enables the Secretary of State to make regulations for certain specified purposes relating to network and information systems. (29) Provides the Secretary of State with the power to make regulations for certain specified purposes. This includes regulations which confer functions (including discretions) on regulators. (31) Allows regulations made under clause 29 to authorise regulators to take certain steps in relation to enforcement and financial penalties. (32) Allows regulations to

make provision in respect of financial penalties, so could be exercised to place functions on regulators in relation to financial penalties. (33) Allows regulations made under clause 29 to confer functions on regulatory authorities relating to information sharing and guidance. (34) Allows regulations made under clause 29 to make provision in respect of fees, so could be exercised to place functions on regulators in relation to fees. (35) Allows regulations to confer functions and provide for the delegation of functions by a regulatory authority.

17. **Clauses 45, 48, 49, 50, 51: Directions to regulatory authorities** – directions for national security persons. (45) Enables the Secretary of State to delegate the monitoring of the compliance with a direction to a regulator. Monitoring compliance with a national security direction is not a current function of the NIS regulators. (48) Regulators will be able to issue contravention notices, that include financial penalties that the regulator is minded to impose, where a regulated entity has failed to comply with these requirements. (49) Outlines the penalties that can be imposed for non-compliance. (50) Regulators will be able to issue enforcement notices, that include financial penalties, where a regulated entity has failed to comply with the requirements in a contravention notice. (51) Sets out how penalties may be enforced in England, Wales, Scotland and Northern Ireland.

Reasons for not seeking a Legislative Consent Motion at this time

18. Whilst consent is not being requested at this time, formal consent will be sought for the provisions which fall within the remit of the Department for Finance following conclusion of the Devolution and Windsor Framework analysis. Executive agreement will be sought and the Committee for Finance briefed further. The Assembly will appreciate that the content and timing of any Westminster Bill are outside the control of Northern Ireland departments.

Engagement to date with the Committee for Finance

19. The Committee for Finance was notified about this Bill on 08 September 2025. Officials also provided a verbal briefing to the Committee on 26 November.

Conclusion

20. It is my view, in the interests of good government, the provisions of the Bill dealing with devolution matters should be agreed and as such it is my intention to bring forward a Legislative Consent Motion and further Memorandum as soon as possible following the Executive's agreement.

Department of Finance

[Date]