

LEGISLATIVE CONSENT MEMORANDUM

ENTERPRISE AND REGULATORY REFORM BILL

Supplementary Legislative Consent Motion

1. “To propose that the National Assembly for Wales, in accordance with Standing Order 29.6, agrees that provisions of the Enterprise and Regulatory Reform Bill relating to the Green Investment Bank (the “GIB”), in so far as they fall within the legislative competence of the National Assembly for Wales, should be considered by the UK Parliament.”

Background

2. The supplementary Legislative Consent Motion at paragraph 1 above has been tabled by Edwina Hart AM, Minister for Business Enterprise Technology and Science, under Standing Order 29.6 of the Standing Orders (“SO”) of the National Assembly for Wales (the “National Assembly”). This Legislative Consent Memorandum is laid under Standing Order 29.2. Standing Order 29 prescribes that a Legislative Consent Motion must be tabled, and a Legislative Consent Memorandum laid, before the National Assembly if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within the legislative competence of the National Assembly or has a negative impact on that competence.

3. The Enterprise and Regulatory Reform Bill (the “Bill”) was introduced into the House of Commons on the 23 May 2012. The Bill can be found at:

<http://services.parliament.uk/bills/2012-13/enterpriseandregulatoryreform/documents.html>

Summary of the Bill and its Policy Objectives

4. The Bill is sponsored by the Department of Business, Innovation and Skills (“BIS”). The main purpose of the Bill is to encourage long term growth and simplify regulation. The Bill aims to:

- overhaul the employment tribunal system, and transform the dispute resolution landscape;
- improve the effectiveness and efficiency of competition enforcement and the competitiveness of markets, by strengthening the regime and improving the speed and predictability for business;
- set the purposes of the GIB and ensure its independence;
- strengthen the framework for setting directors’ pay by introducing binding votes;
- extend the Primary Authority scheme, reduce inspection burdens on business and strengthen the legal framework for sunset clauses on regulation;

- repeal unnecessary legislation, cutting the burden on business and citizens.

5. The Bill extends to Wales.

Provisions in the Bill for which consent is sought

6. The relevant provisions contained in the Bill are:

Part 1: Sections 1- 6 - The Bill proposes to grant the Secretary of State the power to designate the GIB for the purposes of the provisions in the Bill. The designation of the GIB would then enable the Secretary of State to give financial assistance to the GIB under the provisions of the Bill. Designation can only occur where the following conditions are satisfied:

- The GIB is wholly owned by the Crown;
- The GIB's objects in its articles of association are so that the GIB may "engage only in activities that involve, or are incidental or conducive to, making, facilitating or encouraging investments that it considers likely to contribute to the achievement of one or more of the green purposes in the United Kingdom."
- The Secretary of State has laid before Parliament a copy of an undertaking provided to the Bank by the Secretary of State which secures the Bank's independence from Government.

7. The Bill defines the green purposes as:

- The reduction of greenhouse gas emissions.
- The advancement of efficiency in the use of natural resources.
- The protection or enhancement of the natural environment.
- The protection or enhancement of biodiversity.
- The promotion of environmental sustainability.

8. The financial assistance provided by the Secretary of State may be in any form and subject to any such terms and conditions as the Secretary of State considers appropriate. Financial assistance may only be provided where the Crown's shareholding in the GIB is more than half of the issued share capital. The designation also results in some reporting and accounting requirements.

9. It is the view of the Welsh Government, therefore, that these provisions fall within the National Assembly's legislative competence under Part 1 of Schedule 7 to the Government of Wales Act 2006 in relation to the subjects of Economic Development in paragraph 4 and the Environment in paragraph 6.

Policy context

10. The UK Government is to establish the world's first investment bank dedicated solely to greening the economy, complementing other green policies to help accelerate additional capital into green infrastructure. This transition to a green economy presents significant growth opportunities for UK-based businesses, both at home and abroad. It will require unprecedented investment in key green sectors - an estimated £200 billion is needed for the energy system alone over the period to 2020. Capitalised with £3 billion, the GIB will play a vital role in addressing market failures affecting green infrastructure projects in order to stimulate a step up in private investment.

11.. The GIB is a UK policy initiative designed to help meet environmental objectives and promote economic growth. It links to other UK initiatives including the creation of a National Infrastructure Plan, reforms to the electricity market, changes to the climate change levy, the introduction of a renewable heat incentive, the review of waste policy and the reviews of Ofgem and Ofwat.

Advantages of utilising this Bill

12. It is the view of the Welsh Government that it is appropriate to consider and approve these provisions in this UK Bill as it represents the most appropriate and proportionate legislative vehicle to enable these provisions to apply in relation to Wales. It is also to ensure consistency in the operation of the Green Investment Bank across England and Wales, whilst having regard to the Welsh Government's future aspirations for financial arrangements to assist the economy.

Financial implications

12. There are no anticipated financial implications for the Welsh Government of any subsequent implementation of the relevant provisions of the Enterprise and Regulatory Reform Bill which cannot be absorbed as part of existing obligations. The initial funding for the GIB will come from the UK Government and it is expected to attract significant private sector investment through its London-based fundraising operation from pension funds, foreign sovereign wealth funds, energy companies and banks. As a result, it is expected to become self-funding through the charging of fund management fees on the investments it secures. No contribution from Welsh Government is anticipated by BIS."

Edwina Hart AM

Minister for Business, Enterprise, Technology and Science.

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