

LEGISLATIVE CONSENT MEMORANDUM

GROWTH AND INFRASTRUCTURE BILL

AMENDMENTS TO THE LOCAL GOVERNMENT FINANCE ACT 1988

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 Growth and Infrastructure Bill relating to amendments to the Local Government Finance Act 1988, 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 SO29.2. SO29 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 Growth and Infrastructure Bill (the “Bill”) was introduced into the House of Commons on the 18 October 2012. The Bill can be found at:

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

Summary of the Bill and its Policy Objectives

4. The Bill is sponsored by the Department for Communities and Local Government (“CLG”). The main purpose of the Bill is to encourage economic growth and increase investment. There are three main sections to the Bill: promoting growth and facilitating provision of infrastructure and related matters: other infrastructure provisions: economic measures.

The main elements of the section of the Bill that covers promoting growth and facilitating provision of infrastructure, and related matters, are: the option to make planning applications directly to the Secretary of State, when a local planning authority has been designated (clause 1); broadening the powers of the Secretary of State to award costs between the parties at planning appeals (clause 2); limits on the powers that local planning authorities have to require information with planning applications (clause 4); allowing for the reconsideration of economically unviable affordable housing requirements

contained in section 106 agreements (clause 5); excluding the right to apply for land proposed for development to be registered as a town or village green to safeguard against the system being used to stall or stop development, while protecting existing registered greens (clause 6); and enabling the relaxation of the requirements in regulations made under section 109 of the Communications Act 2003 for installation of electronic communications apparatus (clause 7).

The main elements of the section of the Bill that covers other infrastructure provisions are (clauses 8 to 21): modifying special parliamentary procedure to ensure that the procedure will consider orders under the Planning Act 2008 and Acquisition of land Act 1981 only to the extent that these authorise compulsory acquisition of land falling into a special category; enabling the Secretary of State to direct that business and commercial projects of national significance can be considered under the infrastructure regime contained in the Planning Act 2008, to enable these applications to proceed faster than they currently do ; and similarly speeding up processes for holders of consents under section 36 of the Electricity Act 1989, by putting them in the same position as holders of development consent orders made under the Planning Act 2008 and therefore allowing them to be varied by the relevant Secretaries of State to take account of, for example, changes in technology and design.

Many, though not all, of the Bill's provisions amend the law in England only and either do not apply in Wales or restate the existing law in Wales.

Provisions in the Bill for which consent is sought

5. Sections 41 and 52 of the Local Government Finance Act 1988 provide that a revaluation should be undertaken in 1990 and take place every five years thereafter. In relation to England, clause 22 of the Bill as introduced amends the Local Government Finance Act 1988 so as to change the date of the next non-domestic rating revaluation from 1 April 2015 to 1 April 2017. Since the introduction of the Bill in October 2012 the UK Government has introduced a number of provisions by way of Government amendments. The relevant amendment in respect of which this LCM is laid was tabled on the 12 December at the request of the Welsh Government is proposed as clause 22(a), the number of which could be subject to change, which makes amendments to the Local Government Finance Act 1988 to allow the Welsh Ministers to make an order which will enable them to change the date of the next revaluation of non-domestic rated properties revaluation exercise to 1 April in either 2016, 2017, 2018, 2019 or 2020. The amendment will also require the subsequent re-establishment of the five year revaluation cycle, the timing of which will depend on the date that is chosen for the next revaluation.

It is the view of the Welsh Government that these provisions as they relate to the timing of the Non Domestic Rates revaluation, fall within the National Assembly's legislative competence as set out in subject 12 (local government) of Part 1 of schedule 7 to the Government of Wales Act 2006 ("GOWA 2006"). The subject matter specifically refers to local government finance

which ordinarily is considered to cover matters such as council tax and non-domestic rating.

As drafted, the order-making power referred to above will be subject to the draft affirmative resolution procedure in the Assembly which is considered to provide an appropriate level of Assembly scrutiny. The affirmative resolution procedure is a stringent form of Assembly control requiring positive approval by Assembly members who will therefore be afforded the opportunity to scrutinise an order made under the new power.

Advantages of utilising this Bill

6. It is the view of the Welsh Government that it is appropriate to deal with 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 at the earliest opportunity. Waiting for similar provisions to be included in an Assembly Bill could lead to a delay which would lead to Wales being at a disadvantage in comparison with the position in England. The provisions will allow the Welsh Ministers to introduce appropriate secondary legislation in accordance with Welsh priorities.

Financial implications

7. There are no anticipated financial implications for the Welsh Government of any subsequent implementation of the relevant provisions of the Growth and Infrastructure Bill which cannot be absorbed as part of existing obligations.

Edwina Hart AM

Minister for Business, Enterprise, Technology and Science

December 2012