

## LEGISLATIVE CONSENT MEMORANDUM

### FINANCE BILL

1. This legislative consent memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru (“the Senedd”) if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. Finance Bill (“the Bill”) was introduced in the House of Commons on 17 March 2020. The Bill can be found at:  
<https://publications.parliament.uk/pa/bills/cbill/58-01/0114/20114.pdf> .

#### Policy Objective(s)

3. The UK Government’s stated policy objectives are to deliver legislation in relation to a wide range of policies introduced at the Budget, particularly in the areas of renewing annual taxes, delivering new tax proposals and maintaining administration of the tax system.

#### Summary of the Bill

4. The Bill is sponsored by HM Treasury.
5. The key provisions of the Bill cover issues such as charge, tax rate, relief and reporting requirements for:
  - Part 1: Income Tax, Corporation Tax and Capital Gains Tax
  - Part 2: Digital Tax Services
  - Part 3: Other Taxes (including environmental taxes)
  - Part 4: Miscellaneous (including HMRC debts)

#### Provisions in the Bill for which consent is required

6. Provisions within the competence of the Senedd are contained in the clause relating to charging for allocating allowances under emissions reduction trading scheme (Clause 93 in the Bill at the time the Bill was introduced).
7. Clause 93(1) allows HM Treasury to impose charges by making provision in regulations for emissions allowances (defined by reference to a trading scheme which limits activities relating to GHG emissions, under the Climate Change Act 2008) to be allocated in return for payment.

8. Clause 93(2) states any regulations made under clause 93(1) may provide:
- for persons other than participants in a trading scheme to be allocated allowances in return for payment;
  - for imposing fees, and making and forfeiting deposits;
  - for who may be allocated an allowance in return for payment;
  - for allocations in return for payment to be overseen by an independent person, appointed by HM Treasury;
  - for imposing penalties for non-compliance with the regulations, or with a clause 93(3) scheme;
  - for imposing interest in respect of charges, fees or penalties due under the regulations;
  - for recovery of charges, fees, penalties or interest due under the regulations; and
  - for conferring appeal rights against decisions made in allocations of allowances for payment, forfeiting of deposits, and imposition of penalties (including specifying who will hear and determine such appeals).
9. Clause 93(3) allows HM Treasury to make schemes about the conduct and terms of allocation of allowances for payment, and states such schemes will have effect subject to any regulations made under clause 93(1). Clause 93(4) allows such schemes to provide:
- for who may participate in allocations in return for payment;
  - the allowances to be allocated; and
  - where and when allocations are to take place.
10. Consent is required for these provisions because they fall within the legislative competence of the Senedd in so far as they relate to environmental protection and climate change.

### **Reasons for making these provisions for Wales in the Finance Bill**

11. The highest emitters of greenhouse gases in Wales currently participate in the European Union Emissions Trading System ("EU ETS"). A replacement policy will be required within the United Kingdom at the end of the transition period to the United Kingdom exiting the European Union. In 2018, the Welsh Government jointly consulted with the other Governments of the UK nations on a UK Emissions Trading Scheme, a domestic UK-wide scheme to replace the EU ETS.
12. Provisions for establishing an emissions trading scheme are contained in the Climate Change Act 2008. However, there is no provision relating to auctioning of allowances in return for payment. Auctions usually act as the primary means by which a carbon price is established within a trading scheme. Establishing an auctioning process which is open to scheme participants in Wales ensures participants have the same access to allowances, and are subject to the same charges and penalties, as participants located elsewhere in the United Kingdom.

13. In order to avoid a policy gap, it is imperative to establish a functioning emissions trading system, including the auctioning of allowances, to come into force from the first day following the end of the transition period. Given the intention is to apply the auction within the context of a UK wide framework, with common rules for participants across the UK, it is appropriate for a UK Bill to make these provisions. Additionally, given the limited time available to bring forward legislation and the requirement for the legislation to come into force at the same time in each of the four UK nations, containing provisions within a single UK Bill is the most practical approach.

### **Financial implications**

14. There are no financial implications if the Senedd consents to the provisions applying to Wales.

### **Conclusion**

15. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as there is a need for a common, UK wide auction process for a UK-wide emissions trading scheme. Additionally, provisions need to come into force at the same time across the UK, and the urgent timing does not allow for the introduction of a Bill in Wales.

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**May 2020**