

LEGISLATIVE CONSENT MEMORANDUM

Local Government Finance Bill – UK Legislation

Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Cabinet Secretary for Finance, Employment and Sustainable Growth, is:

“That the Parliament agrees that the relevant provision of the Local Government Finance Bill, introduced in the House of Commons on 19 December 2011, which relates to the establishment of a data sharing gateway for purposes relating to council tax liability, in so far as these matters fall within the executive competence of the Scottish Ministers, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by John Swinney, Cabinet Secretary for Finance, Employment and Sustainable Growth under rule 9.B.3.1(c)(ii) of the Parliament’s Standing Orders. The provisions referred to were introduced by amendment to the Local Government Finance Bill (“the Bill”) in the House of Commons on 17 May 2012. The latest version of the Bill can be accessed at:

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

Content of the Local Government Finance Bill 2012

3. The Bill pertains almost entirely to England. Its main purpose is to allow English local authorities to retain a proportion of their business rates receipts and to compel English local authorities to establish Council Tax reduction schemes to replace Council Tax Benefit.

Provisions which relate to Scotland

4. The UK Government introduced an amendment, along with parallel ones for England and Wales, on 17 May, when the Bill was at Committee stage in the House of Commons. This would allow the Scottish Ministers to prescribe purposes relating to Council Tax for which HMRC may supply information it holds to local authorities in Scotland. It would also allow regulations to provide for sharing between local authorities in Scotland of information supplied by HMRC. The legal gateway which the amendment would allow the Scottish Ministers to create would, in practice, be used to support the assessment of individuals’ Council Tax liabilities. There are related offence provisions for unauthorised disclosure of information so supplied, which relates to a particular person, by recipients of such information. No other part of the Bill relates to Scotland.

Reasons for seeking a Legislative Consent Motion

5. The Bill, as amended, would extend the competence of Scottish Ministers by requiring them to prescribe the purposes for which HMRC may share data it holds with local authorities in Scotland, and the purposes for further sharing of that data between

those local authorities. It therefore confers functions on Scottish Ministers and Bill is, therefore, a “relevant” Bill as defined in Standing Orders Rule 9B.3.1.(c)(ii). Standing Orders therefore require that the legislative consent of the Scottish Parliament be sought.

Consultation

6. The relevant sections of the Bill, as amended, relate to a technical matter in connection with the exchange of data between different bodies administering differing taxes. There are pre-existing legal gateways that provide for benefits data to be shared between UK Government departments and local authorities in Scotland. A further legal gateway was established in the Welfare Reform Act 2012, which was also the subject of a Legislative Consent Motion.

7. This new provision reflects that some of the constituent elements of an individual’s benefit award, upon the establishment of the new Universal Credit, will be based on data held by HMRC as well as by the Department for Work and Pensions. The Scottish Government has not conducted any open consultation on the narrow provisions. However, it continues to work closely with local authorities, as represented by COSLA, and with the relevant professional body – the Institute for Revenues, Rating and Valuation – on the development of the successor arrangements to be applied upon the abolition of Council Tax Benefit. Both organisations recognise and support the need for local authorities to be able to access relevant data.

Financial implications

8. The requirement for Scottish Ministers to prescribe in regulations the purposes for which HMRC may share data with local authorities, and for sharing between those authorities of data so supplied, will create a small administrative cost that can be managed from existing provision. There are no further costs associated with this provision.

Conclusion

9. The Scottish Government believes that allowing the Scottish Ministers to prescribe the purposes for which HMRC data may be shared with, and between, local authorities is necessary to support local assessment of individuals’ Council Tax liabilities, as will be necessary upon the abolition of Council Tax Benefit. It will facilitate the continued proactive approach by local authorities to deliver support to the most needy, help prevent fraud and contain local authorities’ administrative costs.

SCOTTISH GOVERNMENT

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