LEGISLATIVE CONSENT MEMORANDUM

MODERN SLAVERY BILL: PROVISIONS RELATING TO CHILD TRAFFICKING ADVOCATES, GUIDANCE ABOUT IDENTIFYING AND SUPPORTING VICTIMS AND PRESUMPTION OF AGE

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 the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within, or modifies the legislative competence of the National Assembly.

2. The Modern Slavery Bill (the “Bill”) was introduced in the House of Commons on 10 June 2014. The Bill can be found at:

http://services.parliament.uk/bills/2014-15/modernslavery.html

Summary of the Bill and its Policy Objectives

3. The Bill is sponsored by the Home Office. The Bill consolidates and simplifies existing slavery and trafficking offences into one piece of legislation to provide clarity and focus when prosecuting those involved in slavery and trafficking.

4. The Bill is in 5 parts:
   - Part 1 consolidates the current offences of slavery and human trafficking whilst increasing the maximum penalty for such offences.
   - Part 2 provides for two new civil preventative orders, the Slavery and Trafficking Prevention Order and the Slavery and Trafficking Risk Order.
   - Part 3 establishes the office of Anti-slavery Commissioner and sets out the functions of the Commissioner.
   - Part 4 introduces a number of measures focussed on supporting and protecting victims, including a statutory defence for slavery or trafficking victims and special measures for witnesses in criminal proceedings.
   - Part 5 relates to general matters such as consequential provisional and commencement.

Provisions in the Bill for which consent is sought

5. The consent of the Assembly is sought for clauses 41, 42 and 43 of the Bill at introduction. These clauses have now been renumbered 43, 44 and 45 in the copy of the Bill as amended in Public Bill Committee. The clauses themselves have not changed but have been renumbered due to other amendments made elsewhere in the Bill.

6. Clause 43 (child trafficking advocates) provides the Secretary of State with a power to make arrangements so specialist child trafficking advocates are
available to support and represent children who there is reason to believe may be victims of trafficking.

7. Clause 44 (guidance about identifying and supporting victims) requires guidance to be issued to public authorities and other persons as considered appropriate by the Secretary of State in relation to identifying and supporting victims. Such guidance will cover how to identify a person who may be a victim of slavery/human trafficking and any arrangements for determining whether a person is to be treated as a victim of slavery/human trafficking; and the provision of assistance and support to such individuals.

8. Clause 45 (presumption of age) reflects the presumption in an existing EU directive where the age of a person subject to human trafficking is uncertain and there is reason to believe the person is a child, the person is presumed to be a child.

9. All the provisions outlined above apply in relation to Wales.

10. These provisions do not provide any powers for the Welsh Ministers to make subordinate legislation.

11. It is the view of the Welsh Government that the provisions of clauses 43, 44 and 45 fall within the legislative competence of the National Assembly for Wales in so far as they relate to the subject of “social welfare” under the social welfare heading at paragraph 15 of Schedule 7 to the Government of Wales Act 2006. It is also the view of the Welsh Government that the provisions of clauses 43 and 45 relate to the subject of “protection and well-being of children” under the same heading.

Advantages of utilising this Bill rather than Assembly legislation

12. 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 practicable and proportionate legislative vehicle to enable these provisions to apply in relation to Wales. The Modern Slavery Bill makes provision in both devolved and non-devolved policy areas, to help tackle human trafficking and modern slavery both through clarifying the criminal offences which apply, and providing for further protection and support for victims of these offences. It is practical for the Bill to make provision for Wales in both devolved and non-devolved areas, to ensure that the devolved and non-devolved aspects are fully integrated, and to ensure that victims of modern slavery and human trafficking in Wales would be provided with further protection and support in a timely manner.

Financial implications

13. There are no financial implications for the Welsh Government.
Leighton Andrews AM
Minister for Public Services

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