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| Title: Impact Assessment of the Wales Bill IA No: Lead department or agency: Wales Office Other departments or agencies: BEIS, DfT, DCLG, DEFRA, HMT, HMRC, CO | Impact Assessment (IA) |
| | Date: 13/09/2016 |
| | Stage: Final |
| | Source of intervention: Domestic |
| | Type of measure: Primary legislation |
| | Contact for enquiries: Peter Newbitt 020 7270 0433 |

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|--|------------------------------------|
| Summary: Intervention and Options | RPC Opinion: Not Applicable |
|--|------------------------------------|

| Cost of Preferred (or more likely) Option | | | |
|---|----------------------------|--|---|
| Total Net Present Value | Business Net Present Value | Net cost to business per year (EANCB on 2009 prices) | In scope of One-In, Two-Out? Measure qualifies as |
| £m | £m | £m | Yes/No In/Out/zero net cost |

What is the problem under consideration? Why is government intervention necessary?

The Government established what became known as the St David's Day process in November 2014. Its aim was to determine where political consensus lay in implementing the recommendation of Sir Paul Silk's Commission on Devolution in Wales second report (Silk II) on the powers of the National Assembly for Wales. The process also looked at whether there was political consensus to implement for Wales any elements of the Smith Commission proposals for Scotland. The command paper, Powers for a purpose: Towards a lasting devolution settlement for Wales, published on 28 February 2015, set out the recommendations on which there was political consensus. These form the basis for this Bill.

What are the policy objectives and the intended effects?

The policy objectives of the Bill is to deliver those element of the St David's Day agreement which require primary legislative changes. It will create a clearer and stronger settlement in Wales which is durable and long lasting. It creates a reserved powers model for Wales so as to provide a clear separation of powers between devolved and reserved matters. The Bill also devolves a number of additional subject areas which includes taxi regulation, energy consenting up to 350MW and onshore oil and gas extraction. The Bill also removes the requirement for a referendum to be held to implement Welsh rates of income tax. It will be for the Assembly and Welsh Government to assess impact of their policy choices.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The Bill imposes no regulation itself and it would be for the Welsh Government (WG) to assess any regulation that they impose through the new powers the Bill devolves to them. The St David's Day agreement set out those recommendations from the Silk Commission second report (Silk II) which had unanimous support from all four of Wales' main political parties. The measures in the Bill strengthen the devolution settlement in Wales by moving to a reserved powers model. The Bill strengthens the powers and responsibilities of the Assembly and the WG by devolving powers in a range of subject areas. The removal of referendum requirement to implement the Welsh rates of income tax means the WG will be more accountable for money raised for spending. The Bill was published in draft and was subject to pre-legislative scrutiny from October 2015 to February 2016 by the Welsh Affairs Select Committee. The provisions were also discussed with the WG and the Assembly's Constitution Committee (CLAC) during that period.

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|--|--|------------------------|--------------------------|------------------------|-------------------------|
| Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year | | | | | |
| Does implementation go beyond minimum EU requirements? | | | | N/A | |
| Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base. | | Micro Yes/No | < 20 Yes/No | Small Yes/No | Medium Yes/No |
| What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent) | | | | Traded: | |
| | | | | Non-traded: | |

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible
SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

| Price Base Year | PV Base Year | Time Period Years | Net Benefit (Present Value (PV)) (£m) | | |
|-----------------|--------------|-------------------|---------------------------------------|----------------|----------------|
| | | | Low: Optional | High: Optional | Best Estimate: |

| COSTS (£m) | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Cost (Present Value) |
|---------------|---|--|----------------------------|
| Low | Optional | Optional | Optional |
| High | Optional | Optional | Optional |
| Best Estimate | | | |

Description and scale of key monetised costs by 'main affected groups'

This is enabling legislation: accurate estimates of costs are not available until policies are determined and implemented by the Assembly and Welsh Government. Costs of administering income tax depend on future choices by the Assembly and Welsh Government.

Other key non-monetised costs by 'main affected groups'

Employers/Business : Marginal compliance costs will depend upon design of devolved policies and devolved income tax

| BENEFITS (£m) | Total Transition (Constant Price) Years | Average Annual (excl. Transition) (Constant Price) | Total Benefit (Present Value) |
|---------------|---|--|-------------------------------|
| Low | Optional | Optional | Optional |
| High | Optional | Optional | Optional |
| Best Estimate | | | |

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

Welsh Government : Increase the accountability and autonomy of the WG. The removal of the requirement for a referendum for the devolution of income tax will allow the WG to be more accountable to the Welsh electorate. National Assembly for Wales : Increase autonomy of the Assembly. UK Government : This enables the Government to devolve further powers and responsibilities to the most appropriate level, consistent with its broader approach to devolution and decentralisation.

Key assumptions/sensitivities/risks

N/A

Discount rate (%)

BUSINESS ASSESSMENT (Option 1)

| | | | | |
|---|-----------|------|-------------------|----------------------|
| Direct impact on business (Equivalent Annual) £m: | | | In scope of OITO? | Measure qualifies as |
| Costs: | Benefits: | Net: | Yes/No | IN/OUT/Zero net cost |

Evidence Base (for summary sheets)

THE WALES BILL

The Wales Bill sets out the new reserved powers model for the devolution settlement in Wales and those new powers that are being devolved. It is a constitutional Bill: the provisions enable the devolution of powers to the National Assembly for Wales and the Welsh Government as well as clarity on what is devolved and what is not through the reserved powers model in Schedules 1 and 2. It will be for the Assembly and the Welsh Government to determine how these powers are used, and as a result, what impact their policies have for business, individuals and other affected parties. Legislation will be required in the Assembly or Welsh Ministerial executive orders to deliver the changes following the devolution of powers; it will be for the Assembly and Welsh Government to set out the impact assessment of their changes.

This Bill also removes the requirement for a referendum to trigger the devolution of an element of income tax as legislated for under the Wales Act 2014. Alongside the Bill the Government announced at the Autumn Statement & Spending Review 2015 a funding floor in the relative funding it provides to the Welsh Government. This, together with devolution of income tax, will allow the Welsh Government to grow the Welsh economy and increase its accountability to the Welsh electorate.

This impact assessment covers the impacts of devolving these powers. It does not assess how the Assembly or Welsh Government will use those powers but will rather cover the direct impacts on businesses and individuals of devolving these powers. The impact assessment splits the powers into those that are being devolved to the executive (Welsh Government) and those to the legislature (National Assembly for Wales). It also references and updates the impact assessment drafted for the Wales Act 2014 on income tax devolution. The impact assessment does not cover the Assembly procedural clauses as these would have minimal or negligible direct impacts on businesses and individuals.

Where specific functions are transferred to the Welsh Government the budget assigned to the relevant UK Government departments for those functions will be transferred. Therefore the Welsh Government will only face additional costs if in exercising these newly devolved powers they decide to provide for further regulation. The Bill does require the Assembly's standing orders are amended so that each Assembly Bill is accompanied by a justice impact test. This will help to ensure that any burdens on the justice system as the result of provisions in an Assembly Bill are adequately assessed.

The powers will be transferred to the Welsh Government at a specified date and there will therefore be transitional provisions in place.

POWERS BEING DEVOLVED

Extending Welsh Ministers' executive powers to Welsh Offshore Zone

Currently Welsh Ministers have responsibilities for marine licensing (except in relation to reserved activities) and marine conservation in the Welsh inshore area and the Bill extends existing devolved functions to the Welsh offshore area. The additional marine licensing, marine conservation, inshore and offshore energy consenting up to 350MW and fisheries functions devolved by the Bill will allow Welsh Ministers to more coherently plan for and manage their inshore and offshore marine areas. In relation to marine licensing, the transitional provisions in the Bill provide for the Marine Management Organisation to retain responsibility for determining any new licence applications which have been made before the commencement date. It is envisaged that Natural Resource Wales/Welsh Ministers will, from commencement, take over responsibility for determining applications for variations and transfers of marine licences made before the commencement date, unless alternative transitional arrangements are needed. Together the new energy consenting powers, Welsh Ministers will be able to set safety zones around those offshore renewable installations for which they will be responsible (those up to 350MW).

The fact that Welsh Ministers will cover both inshore and offshore areas should however lessen burdens on businesses as this will provide clarity over who grants licenses and consents and so aid consistency of decision making. The number of applications for marine licences in the Welsh offshore area is very small. Nonetheless there will be some benefits for businesses that would otherwise have to deal with different licensing authorities and, potentially, different regulatory regimes.

Onshore petroleum licensing

The licensing of onshore oil and gas extraction underlying Wales will be devolved to the Welsh Government. This will mean that Welsh Ministers will be able to grant licences for oil and gas extraction within the Welsh onshore area. These powers will complement the Welsh Government's existing powers over planning and environmental permits. As a result, the Welsh Government will have full control over the decisions relating to onshore oil and gas developments, including hydraulic fracturing (shale) operations.

There may be some additional administrative burdens for businesses who operate across England & Wales if the Assembly legislates for a different regime for the granting of licences in Wales. However, the nature of any burdens cannot be assessed until any new onshore licensing regime for Wales is put in place. It should be noted though that with the alignment of licensing with WG planning and environmental functions this will mean that businesses should need to only go to one decision making authority for applications for onshore oil and gas extraction.

In expectation of the devolution of onshore petroleum licensing, and following discussion with prospective licensees, no new Exploration and Development Licences will be awarded in Wales under the existing UK-wide licensing arrangements. As a consequence, no licences were issued for the 14th Landward Licensing Round which took place in 2015 and nor will any future UK-wide licensing rounds include blocks in Wales. Once the powers have been devolved, the holding of licensing rounds will be a decision for the Welsh Government. There are 19 existing licenses in, or partly in, the Welsh Onshore area. The Oil and Gas Authority assess that applications to amend these licences, for example to change a licence holder or operator, are unlikely between now and the transfer of functions to the WG. Were there to be any such changes requested during this period, the OGA would consult Welsh Government officials as necessary. There would be a minimal, temporary impact on business if such action were required. Licences which straddle the border, will be split, leaving an England licence and a Wales licence.

Onshore petroleum: right to use deep-level land in Wales

Legislative powers relating to access to land for the purpose of searching or boring for or getting petroleum within the "Welsh onshore area" (see the exception to the reservation of D2 (oil and gas) in new Schedule 7A to the Government of Wales Act 2006) will be devolved to the Welsh Government.

Section 43 of Infrastructure Act 2015 (IA 2015) provides for a right to use deep-level land (i.e. land at depths of 300 metres and below) for the purposes of exploiting petroleum and deep geothermal energy in "landward areas" in England and Wales. Sections 45 and 46 of IA 2015 give the Secretary of State the power to make regulations containing "payment schemes" and "notice schemes" requiring "relevant energy undertakings" to make payments to landowners and others in respect of the right to use deep-level land and to give notice in respect of the exercise of the right to use deep-level land. The intention is that these regulation-making powers will be exercised only if the voluntary commitments made by the industry to notify local communities and make payments in connection with the right to use deep-level land are not satisfactory.

We cannot assess the costs and benefits until, and unless, the Welsh Government has decided how it wishes to administer any such regime. However, for businesses that might operate across England & Wales, it is possible that the devolution of these powers might create some additional administrative burdens, if there were to be a markedly different regime in Wales.

Bus route registration

Currently, any operator that wants to run a local bus service must register this with the Traffic Commissioner. The Bill will devolve the power to legislate in respect to local bus service registration in Wales. This would enable the Assembly to determine the regulatory framework for local bus service registration in Wales (as is the case in Scotland) including what the rules for registration are and how they are enforced. As of 31 March 2015, there were 1483 local bus registrations in Wales, up from 1058 in 2014.

The Welsh Government already has the ability to determine a number of aspects of bus policy, including the provision of subsidies, and the Assembly has legislative competence over tendered services, concessionary fares and the facilitation of smartcard ticketing. The new powers we are devolving over local bus service registration will complement the existing powers devolved to Wales, particularly those relating to strategic transport policy and transport integration. The Assembly could decide to change the existing bus registration system, so there could be an impact on those bus operators that operate local bus services both sides of the English-Welsh border, if they had to comply with two different bus registration systems. Additional administrative costs could be borne by bus operators as the Welsh and English regimes for bus service registration become different.

The Assembly will have the powers to legislate to change the regime which local bus services in Wales are subject to. It will therefore be for the Assembly (if they decide to make any changes to the law on bus registration) to make transitional provisions to help smooth the introduction of their changes.

Taxi regulation

The Bill will devolve legislative competence over the regulation of taxis and private hire vehicles (PHVs) to the Assembly. Taxi and PHV services are currently licensed by local authorities (district council/unitary authority level) under legislation that covers England and Wales outside London. There are 22 licensing authorities in Wales. Within the legislative framework, local licensing authorities set their own policies and standards.

The Bill will devolve legislative competence over this, meaning the Assembly will be able to amend or replace the current legislation with regard to Wales.

There is the potential for the Welsh Government to have a different licensing regime for taxis and PHVs to that in England. Any taxi and PHV firms that operate across the English-Welsh border would have to work within, and comply with, different regimes if the Assembly legislates to introduce a different licensing regime in Wales.

Ports

The Bill transfers to Welsh Ministers and the Assembly a wide range of functions and powers in relation to port development policy for harbours wholly in Wales. This includes making harbour revision orders including for the largest proposed developments of harbour facilities, considering objections to harbour dues, obtaining information and forecasts from ports in Wales as well as powers in relation to pilotage. This is a major further devolution of responsibility as the Assembly currently has responsibility for small fishing and leisure ports in Wales. It will allow the Welsh Ministers to consider the development of ports in Wales as part of wider Welsh Government strategies for economic development, transport and tourism. The Government has decided that major trust ports in Wales should be reserved in light of their significance to the UK. The only major trust port in Wales is Milford Haven. Policy in relation to other ports wholly in Wales will be devolved. Milford Haven is one of the key energy ports in the UK handling 62% of all liquid natural gas that passes through UK ports, while the oil refinery and fuel storage facilities at the Haven (which are dependent on the port) play an important national role in securing supplies of road and aviation fuel. In light of the Port's strategic significance to the UK, and as it is a trust port accountable to its stakeholders, the port is reserved and so accountable to UK Ministers.

The main harbours in Wales where port development policy is to be devolved cover those owned by ABP in South Wales, - Barry, Cardiff, Newport, Port Talbot and Swansea - Stena's ports at Fishguard and Holyhead as well as the Port of Mostyn.

There is the potential for port policy to diverge between England and Wales. However with the Assembly/Welsh Government responsible for decision making for almost all ports in Wales businesses should benefit from a single governing authority overseeing ports policy. Devolved ports in Wales should also benefit from the Welsh Government being responsible for port development policy alongside important associated policy areas, such as marine licensing, economic development and surface access. This should allow a coordinated approach to decision making by the Welsh Government on these matters to the benefit of ports in Wales.

Transitional arrangements will ensure that any existing applications for harbour revision orders or harbour empowerment orders relating to ports in Wales that the UK Government is considering when the Bill comes into effect will be handled in a way that will mean no additional costs for the businesses concerned.

Planning consent for generating stations with 350MW capacity or less

The Bill will devolve to the Welsh Government consenting responsibility for all electricity generating stations up to 350MW in Wales, aside from onshore wind projects which have been devolved without a limit though the Energy Act 2016. The Bill ensures that when consent is granted for an energy generation plant in Wales, the decision on consent for the appropriate overhead line connection can (subject to capacity threshold) be decided with the main consent. It also allows Welsh Ministers to set up safety zones and to restrict navigational rights around those offshore generating stations for which they will be responsible (those up to 350MW). Furthermore it makes provisions allowing Welsh Ministers to vary existing energy consents for generating stations up to 350MW granted by the Secretary of State under either the Planning Act 2008 or the Electricity Act 1989. This will streamline the existing regime, providing Welsh Ministers with the tools to deliver Welsh Government energy policy more effectively. The change will ensure an integrated decision can be taken on both the energy generation project and any associated development. This should provide more prompt decision making, avoid the need for separate applications for associated development and provide increased certainty for developers. The reserving of planning consents for generating stations above 350MW (except onshore wind) means that those applications of national importance will continue to be considered at the UK level.

The Bill also makes transitional provision for those applications under either the Planning Act 2008 or the Electricity Act 1989 made before the coming into force of the Bill provisions, such that if an application has been accepted for consideration by the Secretary of State (which is a preliminary step in the consenting process), then it will continue on to be determined by the Secretary of State. This will provide clarity for businesses.

At present, the Planning Act 2008 forms the statutory basis for developing electricity generating stations in England and Wales above 50MW in capacity onshore, and above 100MW offshore. Under the Planning Act and earlier consenting legislation, 66 projects applications above those thresholds were received in the period 2010-2015. Of those, 10 were Welsh projects, 8 of which fell within the capacity parameters to be devolved to Wales through the Bill (i.e. up to 350MW). Over the period, the approval rate for all applications across England and Wales was 86%. Costs of determining applications can vary considerably depending on the scale and complexity of any given project.

Alignment of associated development consents

Currently it is not possible for the Secretary of State to grant consent for development associated with energy infrastructure projects in Wales.

This Bill will amend the Planning Act 2008 so that the Secretary of the State will have the power to grant consent for development associated with all energy projects (except onshore wind projects) above 350MW in Wales. This will enable integrated decisions to be taken on these nationally significant infrastructure projects resulting in more prompt decision making. It will also avoid the need for separate applications for associated development and provide increased certainty for developers.

For energy projects below that threshold which will be decided in Wales, any associated development will be decided by Welsh consenting bodies (e.g. local authorities). This will have the effect of ensuring that associated development is decided by the decision maker with responsibility for determining the main energy project.

Elections

The Bill devolves to the Welsh Assembly the arrangements for its own elections and that for local government elections. This includes competence in relation to the registration, franchise, administration and conduct of those elections. As part of this the franchise for PCC elections in Wales will be decoupled in law from the franchise for local government elections in order to ensure the PCC franchise remains reserved to the UK Government and Parliament.

The election and Assembly procedural clauses will have minimal or negligible direct impacts on businesses and individuals. Any direct impacts would come as a result of changes made by the Assembly to its electoral system.

The decoupling of the Police and Crime Commissioner (PCC) franchise will have no significant impact on businesses and individuals. Existing markings on entries on the register as required by the Representation of the People (England and Wales) Regulations 2001 (reg.42) will allow for the collation of the relevant electors for the PCC franchise in Wales.

REMOVAL OF INCOME TAX REFERENDUM

The Wales Act 2014 included provisions for the devolution of a portion of income tax to the Welsh Government and, as recommended by the Silk Commission, put in place the requirement for a referendum before this could take place. The public debate has moved on considerably since and the need for a referendum before introducing the Welsh Rates of Income Tax (WRIT) was increasingly called into question. The Government has listened and responded to this and the Bill removes the need for a referendum before the WRIT is introduced.

The option of 'do nothing' would mean that the referendum would still be required and so would not achieve the policy objective.

The Electoral Commission (EC) reported that the 2011 Assembly referendum campaign cost a total of £5.89m. This figure was less than originally expected, in part because no official "yes" and "no" campaigns were designated by the EC, and therefore no public funds were spent on their campaigning. By removing the need for an income tax referendum, the Welsh Government, being responsible for the electoral arrangements would no longer have to bear that cost. There would be savings to the Speaker's Committee as it funds the EC for any referendum campaigns. These would have included costs such as publicity campaigns the EC would have run and any funds it would have provided to designated "yes" or "no" campaigns.

If the option of 'do nothing' was chosen then all the costs associated with a referendum as highlighted above would be realised if a referendum was called.

A full impact assessment on the devolution of a proportion of income tax was published alongside the Wales Act 2014. An updated summary is below:

The Silk Commission highlighted a number of benefits of devolving an element of income tax. In particular, it recognised that income tax is the largest of the UK-wide taxes (generating around 30% of total tax revenue in Wales, some £4.85bn in 2010-11) and one that most people pay, so much of the Welsh population would have a clear interest in the decisions on income tax made by the Assembly. The Commission's poll on the question of income tax devolution found that 64% favoured it, with 33% against. The Commission noted one of the main findings of the poll was that a majority believed that if income tax powers were devolved, the Welsh Government would work harder to increase revenues and help the Welsh economy to grow.

Devolving an element of income tax would therefore provide the Welsh Government with the ability to vary its budget and clearly increase its accountability to people in Wales. It would also provide a substantial independent revenue stream against which the Welsh Government could borrow to invest in infrastructure in Wales.

The UK Government therefore believes that there would be significant benefits associated with devolving an element of income tax to the Assembly, including the ability to set separate Welsh rates of income tax for each of the three bands as recommended by the Silk Commission.

The implementation of the Welsh rates of income tax will involve some costs. Consistent with the UK Government's *Statement of Funding Policy*, these costs of devolution will need to be met by the Welsh Government. The cost of implementing the Welsh rate of income tax is difficult to estimate given the uncertain timeframe for delivery but are likely to be in the range £10m-£15m with annual running costs in the range of £2m - £5m, depending on how the Welsh Assembly wished to exercise the powers.

The costs are lower than for the equivalent change in Scotland, largely because the lower population in Wales means there will be less contact from customers. Additional costs could arise if HMRC has to expand the capacity of its Welsh language helpline to support its customers and handle specific questions. These estimates have been produced on the basis of HMRC's 2015-16 operating models and IT systems. However, HMRC is currently going through a significant change process which will, in particular, see changes to its systems and methods of interactions with customers that are highly likely impact on costs. HMRC is moving to a 'digital by default' approach, which will see a greater interaction with customers via their digital personal tax account.

Similarly any costs arising from the need to adapt benefit payment systems would fall to the Welsh Government. This may arise as a consequence of, for example, the interaction between the tax system and certain benefits operated by the Department for Work and Pensions.

Direct costs and benefits to business

All employers in the UK, regardless of where they are based, may be affected as their payroll systems will need to be able to operate PAYE at the Welsh rates of income tax for Welsh taxpayers. WRIT operate on broadly the same basis as the Scottish rates of income tax, which was introduced in April 2016 – employers and payroll providers have amended their systems to operate the Scottish rate. The fact that the two rates are designed similarly will help to reduce burdens to business.