

LEGISLATIVE CONSENT MEMORANDUM

MARINE NAVIGATION (NO. 2) BILL

Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Minister for Transport and Veterans, is:

“That the Parliament agrees that the relevant provisions of the Marine Navigation (No. 2) Bill, introduced in the House of Commons on 20 June 2012, relating to the Harbours Act 1964 and the Pilotage Act 1987, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by Keith Brown, Minister for Transport and Veterans, under Rule 9B.3.1(b) of the Parliament’s standing orders. The Marine Navigation (No. 2) Bill (the Bill) was introduced in the House of Commons on 20 June 2012. The latest version of the Bill and its accompanying documents can be found at:

<http://services.parliament.uk/bills/2012-13/marinenavigationno2.html>

Content of the Marine Navigation (No 2) Bill

3. The Bill amends legislation relating to pilotage and harbour authorities. In addition there are provisions covering port constables (there are no port constables in Scotland), modernisation of some of the powers of the Local and General Lighthouse Authorities in regard to commercial activities and other minor amendments to the Merchant Shipping Act 1995. The provisions contained in the Bill include both reserved and devolved matters. The devolved matters relate to amendments to the Harbours Act 1964 and the Pilotage Act 1987 which are proposed under clauses 1 to 6 of the Bill. The power to commence these clauses in Scotland is conferred on the Scottish Ministers by way of clause 13.

Provisions Which Relate to Scotland

4. The Pilotage provisions would allow Ministers to specify by order that a harbour authority is no longer a competent harbour authority and is therefore no longer required to carry out certain duties under the Pilotage Act 1987. In addition, the Bill would ensure that the master of a ship notifies a competent harbour authority of certain facts before the ship is navigated in an area for which a pilotage direction is in force (If this is not done the master commits an offence). It would also remove the restriction whereby only the master or first mate of a ship may hold a pilotage exemption certificate and extend the circumstances in which a competent harbour authority can suspend or revoke a pilotage exemption certificate.

5. The proposed amendments to the Harbours Act 1964 would allow Ministers to designate by order harbour authorities which may give general directions to shipping. Some harbour authorities may already have powers of general direction under the provisions set out in their local legislation. They would also provide a power to make Closure Orders to permit or require harbour authorities to stop maintaining harbours which are no longer commercially viable or necessary. There is no clear power

currently within the Harbours Act 1964 to close a harbour completely – either a separate act would be required or another harbour authority identified to take over the harbour.

6. The provisions would provide for a quicker and simpler method for harbour authorities to obtain general direction powers for the better management of their harbours and the power to make closure orders would allow harbour authorities to be relieved of the burden of maintaining a harbour which was no longer operational or necessary. The changes to the pilotage provisions would allow competent harbour authorities to relinquish pilotage obligations where these are no longer required and relieve the authority of that burden.

Reasons for seeking a legislative consent motion

7. For the reasons set out above, the Scottish Government believes that the changes to the Harbours Act 1964 and the Pilotage Act 1987 would have a beneficial effect if applied in Scotland.

8. This is an uncontroversial Bill dealing with technical matters and would not merit a separate Scottish Bill. Further, to include the marine navigation provisions in a Scottish Bill would be contrary to the beneficial approach to consistency in these matters. It would also mean additional delay in the implementation of the marine navigation provisions, which have been the subject of significant delay since first being proposed.

Consultation

9. These proposals were widely consulted upon (in the context of a previous consultation in 2008 on a larger Marine Bill) and attracted broad support within the industry. Accordingly no further consultation was considered necessary on this occasion.

Financial Implications

10. There are no financial implications.

Conclusion

11. The view of the Scottish Government is that the Marine Navigation (No.2) Bill, insofar as its subject matter falls within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

Scottish Government
November 2012