

## **PARLIAMENTARY BUREAU**

### **LEGISLATIVE CONSENT MEMORANDUM -**

### **ELECTRONIC TRADE DOCUMENTS BILL (UK LEGISLATION)**

#### **Introduction**

1. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

#### **Electronic Trade Documents Bill**

2. This Bill was introduced in the House of Lords on 12 October 2022.

3. An LCM was lodged by Neil Gray MSP, Cabinet Secretary for Wellbeing Economy, Fair Work and Energy on 16 May 2023. A supplementary LCM was subsequently lodged by Mr Gray on 13 June 2023.

4. The Bill is designed to modernise trade processes by allowing certain trade documents in electronic form to be recognised in law so that they can have the same legal status as paper versions of the same document. This gives businesses the choice whether to use electronic or paper documents.

5. The original LCM indicated that the Scottish Government did not intend to lodge a motion seeking the Scottish Parliament's consent to the relevant provision in this Bill due to concerns that the delegated powers in the Bill can be exercised without the consent of the Scottish Ministers, and without those powers being conferred concurrently on the Scottish Ministers.

6. The supplementary LCM covers amendments relating to delegated powers which would give Scottish Ministers powers in devolved areas and would introduce an option for a joint instrument procedure where Scottish Ministers and the Secretary of State could act jointly in making regulations.

7. Although the Bill would still contain powers for UK Ministers to act in devolved areas through regulations, and there is no requirement for consent from Scottish Ministers on the face of the Bill, the LCM indicates that, on balance, the support for the policy objectives, lack of opportunity to make equivalent provision through the Scottish Parliament, the limited nature of the powers, and the desire for a consistent approach, has led the Scottish Government to reconsider its position on consent.

8. The supplementary LCM indicates that the Scottish Government intends to lodge a motion seeking the Scottish Parliament's consent to the UK Parliament legislating on all of the devolved matters in this Bill.

#### **Designation of lead committee**

9. The relevant provision in the Bill appears to fall within the remit of the Economy and Fair Work Committee. The committee's remit includes to consider and report on matters falling within the responsibility of the Cabinet Secretary for Wellbeing

Economy, Fair Work and Energy with the exception of matters relating to energy. The Cabinet Secretary is responsible (amongst other things) for support for business, industry and manufacturing, to which this LCM relates. The Economy and Fair Work Committee were referred and will consider and report on the original LCM.

10. The LCM will also be considered by the Delegated Powers and Law Reform Committee in relation to any provisions in the Bill conferring powers on the Scottish Ministers to make subordinate legislation.

### **Recommendation**

11. The Bureau is invited to refer, under Rule 9B.3.5, the LCM to the Economy and Fair Work Committee as lead committee.

**Parliamentary Business Team  
June 2023**