

DIGITAL ECONOMY BILL: MEMORANDUM ON THE APPLICATION OF STANDING ORDER 830 OF THE STANDING ORDERS OF THE HOUSE IN RESPECT OF THE LORDS AMENDMENTS TO THE BILL

Summary

1. Subject to certain exceptions (as detailed in Annex A to the Explanatory Notes and below), the provisions of the Bill extend and apply to England and Wales, Scotland and Northern Ireland.
2. Taking into account the Lords amendments to the Bill, in the view of the Government of the United Kingdom (“UK”), Lords amendments 65 and 66 concerning water and sewerage data relate exclusively to England and Wales and would be within the legislative competence of the Scottish Parliament and Northern Ireland Assembly.

Lords amendments

3. The following is the Department’s assessment of the Lords amendments to the Bill.
4. None of the amendments to existing clauses or schedules to the Bill alter the territorial application of the clause or schedule in question or the analysis at Annex A to the Explanatory Notes.
5. The following new clauses and new schedule apply to England and Wales only and, in the view of the Government of the UK, would be within the legislative competence of the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales to make corresponding provision and, as such, the clauses and schedule are certifiable under Standing Order 830(2):
 - Lords Amendment 65 (Disclosure of information to water and sewerage undertakers);
 - Lords Amendment 66 (Disclosure of information by water and sewerage undertakers);
 - Lords Amendment 284 (new Schedule: Public Service Delivery: specified persons for the purpose of disclosure of information to water and sewerage undertakers).
6. The following new clauses and new schedules do not relate exclusively to England or to England and Wales and, as such, in the view of the Government of the UK the new clauses and new schedules are not certifiable under Standing Order 830:
 - Lords Amendment 2 (Bill limits for mobile phone contracts);
 - Lords Amendment 36 (No power to give notice under section 23(1) where detrimental to national security etc);
 - Lords Amendment 37 (Guidance to be published by age-verification regulator);

- Lords Amendment 39 (Guidance by Secretary of State to regulator);
- Lords Amendment 40 (Code of practice for social media platform providers on online abuse);
- Lords Amendment 41 (Report on this Part);
- Lords Amendment 46 (Lending of e-books by public libraries);
- Lords Amendment 199 (Information disclosed by the Welsh Revenue Authority);
- Lords Amendment 200 (Information disclosed by Revenue Scotland);
- Lords Amendment 213 (Disclosure of non-identifying information by the Welsh Revenue Authority);
- Lords Amendment 214 (Disclosure of non-identifying information by Revenue Scotland);
- Lords Amendment 215 (Disclosure of employer reference information by HMRC);
- Lords Amendment 237 (BBC Licence Fee Commission);
- Lords Amendment 238 (Duty of the Secretary of State to consult and lay recommendation before Parliament);
- Lords Amendment 239 (Duty of the Secretary of State in determining funding settlement);
- Lords Amendment 240 (Provision of children's programmes);
- Lords Amendment 241 (On-demand programme services: accessibility for people with disabilities);
- Lords Amendment 242 (Public sector broadcasting prominence);
- Lords Amendment 243 (Televising events of national interest: power to amend qualifying conditions);
- Lords Amendment 244 (Strategic priorities and provision of information);
- Lords Amendment 245 (Internet filters);
- Lords Amendment 246 (Duty to provide information about tickets);
- Lords Amendment 247 (Power to create offence of breaching limits on internet and other ticket sales);
- Lords Amendment 248 (Prevention of use of communication devices for drug dealing);
- Lords Amendments 249 to 252 (Regulations about charges payable to the Information Commissioner);
- Lords Amendment 253 to 254 (Guarantee of pensions liabilities under Telecommunications Act 1984);
- Lords Amendment 282 (new Schedule: Public Service Delivery: specified persons for the purpose of section 30);
- Lords Amendment 283 (new Schedule: Public Service Delivery: specified persons for the purpose of section 31 and 32);
- Lords Amendment 285 to 286 (new Schedules: specified persons for the purposes of the debt and fraud provisions).

Minor and consequential effects

None

Subject matter and legislative competence of devolved legislature

7. Lords Amendments 65, 66 and 284 relate to data-sharing with water and sewerage undertakers. Water supply and sewerage services are wholly devolved in respect of Scotland and Northern Ireland. Devolution is more complex for Wales, with governmental responsibility currently based on the “wholly or mainly” test. A water or sewerage company whose area is wholly or mainly in England is the responsibility of the UK Government. A company wholly or mainly in Wales is within the competence of the Welsh Ministers. These amendments apply to England and Wales, and therefore are within the legislative competence of the National Assembly for Wales to the extent that they apply to Wales.

8. Lords Amendment 46 relates to an extension of the Public Lending Right to include remote loans of e-books and e-audio-books by public libraries. The Public Lending Right Act 1979 (“the 1979 Act”) extends to whole of the United Kingdom and the government would like the extension of the Public Lending Right to apply throughout the UK. The subject matter of the 1979 Act is not devolved in respect of Scotland and Wales but is transferred to the Northern Ireland Assembly.

9. Lords Amendments 246 and 247 concern the secondary ticketing market, and provide for amendments to the Consumer Rights Act 2015. The secondary ticketing measures in this Act apply to England and Wales, Scotland and Northern Ireland. The subject matter is not devolved in respect of Scotland and Wales but is transferred to the Northern Ireland Assembly.

10. All other Lords Amendments concern electronic communications, internet regulation, broadcasting, data protection or drugs are relate to reserved/non-devolved matters. These matters are expressly excepted from the legislative competence of the National Assembly for Wales under the Government of Wales Act 2006. They are also reserved matters under the Scotland Act 1998 and the Northern Ireland Act 1998.

Department for Culture, Media and Sport
20 April 2017

Annex: Lords amendments inserting new clauses and new Schedules

Lords amendments	Extends to E & W and applies to England ?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
*2 (Bill limits for mobile phone contracts)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
36 (No power to give notice under section 23(1) where detrimental to national security etc)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
37 (Guidance to be published by age-verification regulator)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
39 (Guidance by Secretary of State to regulator)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
*40 (Code of practice for social media platform providers on online abuse)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
*41 (Report on this Part)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
46 (Lending of e-books by public libraries)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes [NI]
65 (Disclosure of information to water and sewerage undertakers)	Yes	Yes	No	No	Yes	Yes	Yes	Yes [W]
66 (Disclosure of	Yes	Yes	No	No	Yes	Yes	Yes	Yes [W]

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information by water and sewerage undertakers)								
199 (Information disclosed by the Welsh Revenue Authority)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
200 (Information disclosed by Revenue Scotland)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
213 (Disclosure of non-identifying information by the Welsh Revenue Authority)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
214 (Disclosure of non-identifying information by Revenue Scotland)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
215 (Disclosure of employer reference information by HMRC)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
*237 (BBC Licence Fee Commission)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
*238 (Duty of the Secretary of State to consult and lay recommendat	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No

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ion before Parliament)								
*239 (Duty of the Secretary of State in determining funding settlement)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
240 (Provision of children's programmes)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
241 (On-demand programme services: accessibility for people with disabilities)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
*242 (Public sector broadcasting prominence)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
243 (Televising events of national interest: power to amend qualifying conditions)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
244 (Strategic priorities and provision of information)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
245 (Internet filters)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
*246 (Duty to provide information about tickets)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes [NI]

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247 (Power to create offence of breaching limits on internet and other ticket sales)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes [NI]
248 (Prevention of use of communication devices for drug dealing)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
249 to 252 (Regulations about charges payable to the Information Commissioner)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
253 to 254 (Guarantee of pensions liabilities under Telecommunications Act 1984)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
282 (new Schedule: Public Service Delivery: specified persons for the purpose of section 30)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
283 (new Schedule: Public Service Delivery: specified	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No

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persons for the purpose of section 31 and 32)								
284 (new Schedule: Public Service Delivery: specified persons for the purpose of disclosure of information to water and sewerage undertakers)	Yes	Yes	No	No	Yes	Yes	Yes	Yes [W]
285 to 286 (new Schedules: specified persons for the purposes of the debt and fraud provisions)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No