

DATA PROTECTION BILL: MEMORANDUM ON THE APPLICATION OF STANDING ORDER 83L OF THE STANDING ORDERS OF THE HOUSE IN RESPECT OF THE GOVERNMENT AMENDMENTS TABLED FOR COMMONS COMMITTEE STAGE

Summary

1. Subject to certain exceptions (as detailed in Annex E to the Explanatory Notes), the provisions of the Bill extend and apply to England and Wales, Scotland and Northern Ireland.
2. Taking into account the Government amendments tabled for Commons Committee stage, in the view of the Government of the United Kingdom (“UK”), clause 192 relates to England and Wales only, and would be within the legislative competence of the Scottish Parliament and the Northern Ireland Assembly.

Commons Committee stage amendments

3. The following is the Department’s assessment of the amendments to the Bill tabled by the government for consideration at Commons Committee stage.
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 E to the Explanatory Notes.
5. The following new clauses 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 are not certifiable under Standing Order 83L:
 - New Clause 1: (Representation of data subjects with their authority: collective proceedings)
 - New Clause 2: (Duty to review provision for representation of data subjects)

Minor and consequential effects

None

Subject matter and legislative competence of devolved legislature

6. New Clause 1 confers powers on the Secretary of State to make regulations enabling representative bodies (as defined in clause 183) to bring collective proceedings in England and Wales or Northern Ireland combining two or more claims in respect of data subjects rights. The provision does not extend to Scotland because in the UK Government’s view the Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill which is currently at stage

two before the Scottish Parliament, will render the need for these regulations otiose in respect of Scotland.

7. New Clause 2 imposes a duty on the Secretary of State to review the operation of provisions enabling a representative body to exercise data subjects' rights with their authority in England and Wales and Northern Ireland and to consider exercising powers under the GDPR to enable a representative body to exercise such rights there without being authorised to do so by the data subjects. As above, this does not extend to Scotland because of the operation of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Bill.

Department for Digital, Culture, Media and Sport
7 March 2018

Government new clauses tabled for Commons Committee

Provision	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?
New Clause 1: Representation of data subjects with their authority: collective proceedings	Yes	Yes	No	Yes	N/A	N/A	N/A	No
New Clause 2: Duty to review provision for representation of data subjects	Yes	Yes	No	Yes	N/A	N/A	N/A	No