

Written evidence submitted by the Department for Business, Innovation and Skills (ENT 72)

Memorandum for Public Bill Committee on the application of Standing Order No. 83L of the Standing Orders of the House of Commons relating to Public Business to the Enterprise Bill [as tabled]

Commons Stage Committee

The following is the Department's assessment of the Bill and Government amendments to the Bill tabled for consideration in Public Bill Committee.

Territorial application¹

1. The [amendments](#) tabled at Committee Stage apply as follows:
 - Amendments 1-9 affect clause 19 and apply to Wales only
 - Amendments 10-18 affect clause 26 and apply to England and Wales only
 - Amendment 30 affects clause 32 and applies to the whole of the UK
 - Amendments 31-32 and new clauses 5 & 6 replace clauses 33 & 34 and apply to England and Wales only
 - Amendments 19-29 & 76 affect clauses 38, 39 & 40 and apply to the whole of the UK
 - New Clauses 1 & 2 apply to Wales only
 - New Clause 3 applies to the whole of the UK
 - New Clause 4 applies to England only
 - New Clause 21 applies to England, Wales and Scotland
 - New Clauses 22 & 23 apply to England only
 - New Schedule 1 applies to England, Wales and Scotland
 - New Schedule 2 applies to England only
2. Changes to territorial application as a result of amendments are as follows:
 - As a result of amendments 10-18 tabled at Committee Stage, clause 26 will apply to England and Wales, instead of England only.

Minor or consequential effects²

3. The above amendments and new clauses that are stated to apply to England or England and Wales only contain no references to, or possible minor and consequential effects on, territories other than England or England and Wales.

Subject matter and legislative competence of devolved legislatures

4. The amendments that apply to England or England and Wales only deal, in general terms, with business rates, pubs and apprenticeships.

Business Rates

5. As noted in paragraphs 13 and 14 of Annex A to the Explanatory Notes, Business Rates policy is devolved to Wales (see para 12 of Part 1 of Schedule 7 to the Government of Wales Act 2006), Northern Ireland and Scotland. By clause 26 existing provision in section 55 to the Local Government Finance Act 1988 will be amended, originally only in respect of England, to include new enabling powers allowing the Secretary of State for Communities and Local Government to make regulations in respect of the new business rates appeals system. The amendments tabled would mean that the expanded powers would also be available to Welsh Ministers to exercise in respect of the Welsh valuation list. The exercise of the powers by Welsh Ministers is independent from that of the Secretary of State; provision made under the powers may be different in Wales to that made in relation to England. Clause 26 does not extend or apply in relation to Scotland and Northern Ireland as the Valuation Office Agency does not perform local taxation valuations for them.

Pubs

6. As noted in paragraphs 15 to 17 of Annex A to the Explanatory Notes, Clauses 33 and 34 make provision in relation to Part 4 of the Small Business, Enterprise and Employment Act 2015 (“the SBEE Act”), which is about the Pubs Code and Adjudicator. Like Part 4 of the SBEE Act, those Clauses apply to England and Wales only. New Clause 5 and New Clause 6 replace Clauses 33 and 34 and similarly apply to England and Wales only. It would be within the legislative competence of the Scottish Parliament and the Northern Ireland Assembly to make provision corresponding to New Clauses 5 and 6.

Apprenticeships

7. New clause 4 makes provision relating to the Secretary of State’s powers to fund approved English apprenticeships. It does not make provisions for funding apprenticeships in Wales, Scotland or Northern Ireland.
8. In Wales, apprenticeships are a devolved matter (see paragraph 5 of Part 1 of Schedule 7 to the Government of Wales Act 2006). Accordingly, were any similar provision sought for Welsh apprenticeships it would be within the devolved legislative competence of the National Assembly for Wales. That is true also for Scotland and the Scottish Parliament (by virtue of vocational or other training not being a reserved matter under Schedule 5) and Northern Ireland and the Northern Ireland Assembly (by virtue of the same not being listed as an excepted or reserved matter under the Northern Ireland Act 1998).
9. The analysis set out in respect of New Clause 4 applies equally in respect of New Clauses 22 and 23 and New Schedule 2. Each of these deals with different aspects of establishing the new Institute for Apprenticeships which is given functions only in relation to approved

English apprenticeships. Were similar provision sought in Wales, Scotland or Northern Ireland it would be within each of the respective devolved legislative competences.

The above assessment is presented in tabular form below.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Would corresponding provision be within the competence of the National Assembly for Wales?	Extends and applies to Scotland?	Would corresponding provision be within the competence of the Scottish Parliament?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clauses 1-19 (as amended by amendment 1-9)	Yes	Yes	N/A	Yes	N/A	Yes	N/A	N/A
Clauses 20-21	Yes	No	Yes	No	Yes	No	Yes	No
Clauses 22-23	Yes	Yes	N/A	Yes	N/A	Yes	N/A	N/A
Clause 24	Yes	Yes	No	No	No	No	Yes	No
Clause 25	Yes	Yes	Yes	No	Yes	No	Yes	No
Clause 26 (as amended by amendment 10-18)	Yes	Yes	No	No	Yes	No	Yes	No
Clauses 27-32 (as amended by amendment 30)	Yes	Yes	N/A	Yes	N/A	Yes	N/A	N/A
Clause 33-34 (as replaced by amendment 31-32 and new clauses 5-6)	Yes	Yes	No	No	Yes	No	Yes	No
Clause 35-40	Yes	Yes	N/A	Yes	N/A	Yes	N/A	N/A
Schedule 1	Yes	Yes	N/A	In part	N/A	Yes	N/A	N/A
Schedules 2-4	Yes	Yes	N/A	Yes	N/A	Yes	N/A	N/A
New Clauses 1-2	No	Yes	N/A	No	N/A	No	N/A	N/A
New Clause 3	Yes	Yes	N/A	Yes	N/A	Yes	N/A	N/A
New Clause 4	Yes	No	Yes	No	Yes	No	Yes	No
New Clauses 5-6	Yes	Yes	No	No	Yes	No	Yes	No
New Clause 21	Yes	Yes	No	In part	N/A	No	N/A	N/A
New Clauses 22-23	Yes	No	Yes	No	Yes	No	Yes	No
New Schedule 1	Yes	Yes	N/A	Yes	N/A	No	N/A	N/A
New Schedule 2	Yes	No	Yes	No	Yes	No	Yes	No

¹ References in this statement to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

² References in this statement to an effect of a provision being minor or consequential are to its being minor or consequential for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.