

# **DIGITAL ECONOMY 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 REPORT STAGE**

## **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 Government amendments tabled for Commons Report stage, in the view of the Government of the United Kingdom (“UK”), clause 85 relates exclusively to England and would be within the legislative competence of the National Assembly for Wales, the Scottish Parliament or Northern Ireland Assembly.

## **Commons Report stage amendments**

3. The following is the Department’s assessment of the amendments to the Bill tabled by the government for consideration at Commons Report 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 A 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 28: (Age-verification regulator’s power to direct internet service providers to block access to material)
- New Clause 29: (On-demand programme services: specially restricted material)

## **Minor and consequential effects**

None

## **Subject matter and legislative competence of devolved legislature**

6. New Clause 28 relates to the enforcement of the age verification requirement for online pornography created by Part 3 of the Bill. The purpose of Part 3, and this new clause, is internet regulation which is a reserved/non-devolved matter. The issues the Bill seeks to address arise due to the operation of internet services and the solution is to be found by regulating internet services. Internet services is a matter expressly excepted from the legislative competence of the National Assembly for Wales under the

Government of Wales Act 2006. Internet services is also a reserved matter under the Scotland Act 1998 and the Northern Ireland Act 1998.

7. New clause 29 relates to the regulation of "video-on-demand" ("VOD") services under UK jurisdiction (also referred to as "on-demand programme services"). VOD services are providing TV-like content i.e. "programmes the form and content of which are comparable to the form and content of programmes normally included in television programme services" (section 368A Communications Act 2003). The regulation of VOD services is a reserved/non-devolved broadcasting matter. Ofcom is the regulatory authority for the whole of the UK in relation to the regulation of VOD services under Part 4A of the Communications Act 2003. Broadcasting is a matter expressly excepted from the legislative competence of the National Assembly for Wales under the Government of Wales Act 2006. Broadcasting is also a reserved matter under the Scotland Act 1998 and it is a reserved matter under the Northern Ireland Act 1998.

**Department for Culture, Media and Sport**  
**24 November 2016**

## Provisions in the Bill taking into account Government amendments tabled for Commons Report

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?
<b>Part 1: Access to Digital Services</b>								
Clauses 1 to 3	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
<b>Part 2: Digital Infrastructure</b>								
Clause 4 to 6	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Schedule 1	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
Schedule 2	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Schedule 3	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clauses 7 to 14	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
<b>Part 3: Online Pornography</b>								
Clauses 15 to 25	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
<b>Part 4: Intellectual Property</b>								
Clauses 26 to 28	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
<b>Part 5: Digital Government</b>								
Chapter 1: Public Service Delivery								
Clause 29	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
Clauses 30 to 31	Yes	Yes	Yes	No	N/A	N/A	Yes	Yes
Clauses 32 to 33	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
Clause 34 (HMRC)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clauses 35 to 37	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
Chapter 2: Civil Registration								
Clause 38	Yes	Yes	Yes	Yes	N/A	Yes	Yes	No
Clause 39	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Chapter 3: Debt owed to the public sector								
Clauses 40 to 42	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
Clause 43 (HMRC)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clauses 44 to 47	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
Chapter 4: Fraud against the public sector								

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?
Clauses 48 to 50	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
Clauses 51 (HMRC)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clauses 52 to 55	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
<b>Chapter 5: Sharing for research purposes</b>								
Clauses 56 to 58	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
Clause 59 (HMRC)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clauses 60 to 63	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
<b>Chapter 6: Her Majesty's Revenue and Customs</b>								
Clause 64	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
<b>Chapter 7: Statistics</b>								
Clause 65 (HMRC)	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clause 66 to 68	Yes	Yes	Yes	Yes	N/A	N/A	N/A	Yes
<b>Part 6: Miscellaneous</b>								
Clauses 69 to 84	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clause 85	Yes	No	No	No	Yes	Yes	Yes	No

## Government new clauses tabled for Commons Report

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?
NC28: Age-verification regulator's power to direct internet service providers to block access to material	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
NC29: On-demand programme services: specially restricted material	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No