

ELECTRONIC TRADE DOCUMENTS BILL [HL]

EXPLANATORY NOTES ON COMMONS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Commons Amendments to the Electronic Trade Documents Bill [HL] as brought from the House of Commons on 11 July 2023 (HL Bill 158).
- 2 These Notes have been prepared by the Department for Science, Innovation and Technology in order to assist the reader of the Bill and the Commons Amendments, and to help inform debate on the Commons Amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Notes, like the Commons Amendments themselves, refer to HC Bill 280, the Bill as first printed for the Commons.
- 4 These Notes need to be read in conjunction with the Commons Amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the effect of the Commons Amendments.
- 5 Commons Amendments 1 to 6 were tabled in the name of the Minister for Tech and the Digital Economy, Paul Scully MP.

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Commentary on Commons amendments

Commons Amendments to Clause 5: Appropriate Authority and Regulations

Commons Amendment 1

- 6 This amendment removes the reference to the Secretary of State in clause 5(2)(b), which provides a power to exclude a type of document or instrument from the scope of clauses 1 to 4 of the Bill by specifying that document or instrument in regulations. The amendment inserts a new reference to "appropriate authority", a term which is defined by Amendment 4, namely the Secretary of State acting alone or jointly with Scottish Ministers.

Commons Amendment 2

- 7 This amendment provides for the requirement for the Secretary of State to consult the Scottish Ministers before making regulations to further exclude a type of document or instrument from the scope of clauses 1 to 4 of the Bill to not to apply where the regulations are to be made jointly by the Secretary of State and the Scottish Ministers. This avoids a situation where consultation would be required in cases where the Secretary of State was already working with Scottish Ministers.

Commons Amendment 3

- 8 This amendment removes the provision in clause 5 which requires regulations to be made by statutory instrument, which is replaced by provision in the new clause inserted by Amendment 6.

Commons Amendment 4

- 9 This amendment provides for the power to make regulations under clause 5(2)(b), which provides a power to further exclude a type of document or instrument from the scope of clauses 1 to 4 of the Bill, to be exercisable by the Secretary of State, the Secretary of State and the Scottish Ministers acting jointly or (where the regulations only make provision in devolved competence) by the Scottish Ministers acting alone. This provides flexibility for the power to be exercisable in situations where legislative competence is unclear or multifaceted.

Commons Amendment 5

- 10 This amendment removes the provision in clause 5 that requires the approval of each House of Parliament for regulations made under that clause, which is replaced by provision in the new clause inserted by Amendment 6.

Commons Amendment 6

- 11 This new clause requires regulations under clause 5, which provides a power to further exclude a type of document or instrument from the scope of clauses 1 to 4 of the Bill, to be made by statutory instrument, and allows the power to make such regulations to be exercised by a Secretary of State acting alone or acting jointly with Scottish Ministers, to be subject to the affirmative resolution procedure at Westminster and in the Scottish Parliament.

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