



The Scottish Parliament  
Pàrlamaid na h-Alba

## Delegated Powers and Law Reform Committee

Neil Gray MSP  
Cabinet Secretary for Wellbeing  
Economy, Fair Work and Energy  
*By email*

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31 May 2023

Dear Cabinet Secretary,

### Electronic Trade Documents Bill

At the meeting of the Delegated Powers and Law Reform Committee on 30 May, the Committee considered the delegated power relevant to Scotland in the above Bill, as referred to in the [Legislative Consent Memorandum](#) (“the LCM”) lodged by the Scottish Government with the Scottish Parliament on 16 May 2023.

To assist the Committee in considering the LCM, it agreed to request further information in relation to clause 5(2)(b) in the Bill.

When regulations made under clause 5(2)(b) contain any provision that is to have effect in relation to Scotland there is, as currently drafted, a requirement for consultation with the Scottish Ministers before the regulations are made.

The UK Government states that the aim of the consultation with Scottish Ministers is to ensure that the legislation remains fully effective in Scotland as it adapts to future changes and that there is a clear mechanism for feeding in updates on Scottish law and practices in the relevant areas.

The Legislative Consent Memorandum notes that the Scottish Government is negotiating with the UK Government for amendment to the Bill to introduce a requirement for the Scottish Ministers’ consent where the power is exercised by UK Ministers within devolved competence, and to confer a concurrent power on the Scottish Ministers within devolved competence.

The Committee therefore agreed to ask:

**(a) whether the power conferred on the Secretary of State by clause 5(2)(b), insofar as within devolved competence, falls within areas formerly within EU competence before the UK fully withdrew from the EU; and**

**(b) if an amendment is agreed to include a consent mechanism, and the process for scrutiny by the Scottish Parliament set out in SI Protocol 2 does not apply as the power does not fall within an area of former EU competence, how the Parliament is to scrutinise the Scottish Ministers' consent to exercise of the power by the Secretary of State.**

I request a response to these questions by **Wednesday, 7 June 2023**, so that this can be reflected in the Committee's final report.

Finally, I am also writing to the UK Government regarding this clause, in relation to what consideration has been given to including (a) a consent requirement, and (b) concurrent powers.

Yours sincerely,

Stuart McMillan MSP

Convener of the Delegated Powers and Law Reform Committee