

**DELEGATED POWERS AND REGULATORY REFORM COMMITTEE
SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT BILL**

Supplementary Memorandum by the Department for Business, Innovation and Skills

Introduction

1. This Supplementary Memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee by the Department for Business, Innovation and Skills.
2. It identifies where Government amendments tabled in the House of Lords on 19 December 2014 amend existing powers to make delegated legislation, although does not cover amendments which give effect to recommendations made by the Committee in their 11th Report of 2014-15, published on 12 December 2014. No new powers are conferred by these amendments.
3. This Supplementary Memorandum should be read in conjunction with the Delegated Powers Memorandum submitted to the Delegated Powers and Regulatory Reform Committee on 20 November 2014 (“the DPM”).

Part 1, Part 8, and Part 5 (Schedule 2): Amendments to powers to impose fines

Clause 3, clause 89 and paragraph 17 of Schedule 2: Amendments to provisions conferring power to impose fines in secondary legislation

4. Three Government amendments tabled concern powers to impose fines in secondary legislation. The relevant powers are those at clause 3(7) (see paragraphs 33 to 35 of the DPM), clause 89 (new section 853J Companies Act 2006, see paragraphs 338 to 347 of the DPM) and paragraph 17 of Schedule 2 (new section 85A Childcare Act 2006, see paragraphs 189 to 193).
5. These powers in the Bill as introduced to the Lords allow the Secretary of State to provide by regulations for criminal offences that are punishable on summary conviction to “a fine”.
6. The amendments tabled provide that until section 85(2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the references in each of the powers to “a fine” are to be read as “a fine not exceeding level 5 on the standard scale”.
7. This transitional provision is necessary to accommodate the position both before and after the changes made by section 85(2) come into force, the date of which is not fixed.

Part 1: Access to Finance: Financial information about businesses

Clause 6(5): Supplementary provision concerning the power to require designated banks to provide information about small and medium sized businesses to Credit Reference Agencies (CRAs), and for CRAs to provide such information to finance provider

Power conferred on: The Treasury

Power exercisable by: Regulations

Parliamentary procedure: Affirmative resolution on first exercise, negative resolution thereafter in Bill as introduced but amendment tabled

8. The final sentence of paragraph 38 of the DPM states that “*Subsection (5) provides a power to require designated [credit reference agencies (“CRAs”)] to provide the information that they receive from designated banks to the Bank of England, subject to provisions about confidentiality of the information*”. The tabled amendment to clause 6(5) will amend the power so that the information that designated CRAs may be required to provide to the Bank of England includes information provided to such credit reference agencies under the regulations by other finance providers as well as by designated banks.
9. Access to this data will support the Bank of England’s assessments of credit conditions, inform monetary and macroprudential policy, and (by allowing the Bank to provide information in restricted circumstances) support the work of the Treasury and the Business Bank by allowing a much deeper understanding of the market for lending to small and medium sized businesses. For the data to be of most use, it is important for it to be gathered from the full range of available sources. The regulations must protect the confidentiality of the information provided.
10. The expansion in the scope of the data that may be required to be provided will relate only to the data source. The data will be of the same type as that already provided for by the power and relate to the same types of businesses, and the same safeguards will apply to it in order to maintain confidentiality. Complying with a requirement to provide this expanded scope of data will not significantly increase the burden on designated credit reference agencies.

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