Submission from Dickson Minto WS

1. What are the advantages and disadvantages of the approach taken in the Bill? Are there any provisions not included in the Bill which you considered should be?

- We strongly agree with and support the Bill. This is a much needed change to the law in Scotland.
- There are no disadvantages to the approach taken in the Bill.
- The Bill is comprehensive and we do not believe that there are any missing provisions.
- If the Bill becomes law the main advantage will be that the governing law of legal documents will no longer need to be changed from Scots law to English law where clients and counterparties are unable to attend face-to-face completion meetings. Frequently, clients or counterparties in commercial transactions are unable to attend completion meetings and wish instead to be able to sign counterpart documents. The only options available in these situations are either to change the law governing the contractual arrangements between the parties to English law, where for many years execution of documents in counterpart has been common and well accepted practice, or to use powers of attorney which can cause delay and other practical issues. Note that in relation to Scottish property transactions changing the choice of law is not an option so completion is often delayed. If the Bill becomes law this problem will be eradicated. It is unfortunate that Scots law currently makes otherwise perfectly legitimate business dealings more difficult than necessary.
- The advantages of the Bill are best illustrated by way of practical examples. In this regard, please see Part A of the Appendix to the SLC’s evidence to the DPLR Committee in which Scottish law firms, including ours, provided various examples demonstrating how the law currently works and how the Bill would dramatically improve the position.

2. How will the Bill improve the process of the execution of legal documents in Scotland?

These days business transactions are usually completed remotely yet there is no mechanism under Scots law that allows us to do that. The Bill becoming law would represent an immeasurable improvement to the process of the execution of documents in Scotland. The Bill will provide greater flexibility to businesses and improve the speed at which transactions are completed.
3. *Do you consider that the Bill will precipitate an increase in the use of Scots Law to govern transactions?*

Yes.

4. *What are the financial implications of the Bill?*

The financial impact is difficult to quantify but we could possibly envisage cost savings to businesses as a result of the practical flexibility that the Bill would introduce (as detailed above). If the Bill becomes law it will also mean that more contracts are governed by Scots law. This will be helpful to the Scottish legal profession by virtue of the increase in litigation going through the Scottish courts.

5. *Are there any equality issues arising from the Bill?*

No.

6. *What is your view of the potential environmental impact of the Bill?*

The environmental impact would be minimal. However, fewer documents will need to be posted or couriered etc., which would possibly have a positive environmental impact.