

HOUSE OF LORDS

Delegated Powers and Regulatory Reform
Committee

30th Report of Session 2022–23

**Co-operatives, Mutuels and Friendly
Societies Bill**

**Offenders (Day of Release from Detention)
Bill**

**Child Support Collection (Domestic Abuse)
Bill**

Equipment Theft (Prevention) Bill

**Electricity Transmission (Compensation)
Bill**

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The Delegated Powers and Regulatory Reform Committee

The Committee is appointed by the House of Lords each session and has the following terms of reference:

- (i) To report whether the provisions of any bill inappropriately delegate legislative power, or whether they subject the exercise of legislative power to an inappropriate degree of parliamentary scrutiny;
- (ii) To report on documents and draft orders laid before Parliament under or by virtue of:
 - (a) sections 14 and 18 of the Legislative and Regulatory Reform Act 2006,
 - (b) section 7(2) or section 19 of the Localism Act 2011, or
 - (c) section 5E(2) of the Fire and Rescue Services Act 2004;

and to perform, in respect of such draft orders, and in respect of subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001, the functions performed in respect of other instruments and draft instruments by the Joint Committee on Statutory Instruments; and

- (iii) To report on documents and draft orders laid before Parliament under or by virtue of:
 - (a) section 85 of the Northern Ireland Act 1998,
 - (b) section 17 of the Local Government Act 1999,
 - (c) section 9 of the Local Government Act 2000,
 - (d) section 98 of the Local Government Act 2003, or
 - (e) section 102 of the Local Transport Act 2008.

Membership

[Baroness Bakewell of Hardington](#)

[Lord Carlile of Berriew](#)

[Lord Cunningham of Felling](#)

[Lord Goodlad](#)

[Lord Hendy](#)

[Baroness Humphreys](#)

[Lord Janvrin](#)

[The Earl of Lindsay](#)

[Lord McLoughlin](#) (Chair)

[Lord Rooker](#)

Registered Interests

Committee Members' registered interests may be examined in the online Register of Lords' Interests at <https://www.parliament.uk/hlregister>. The Register may also be inspected in the Parliamentary Archives.

Publications

The Committee's reports are published by Order of the House in hard copy and on the internet at www.parliament.uk/hldprrcpublications.

General Information

General information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is on the internet at <http://www.parliament.uk/business/lords/>.

Contacts for the Delegated Powers and Regulatory Reform Committee

Any query about the Committee or its work should be directed to the Clerk of Delegated Legislation, Legislation Office, House of Lords, London, SW1A 0PW. The telephone number is 020 7219 3103. The Committee's email address is hldelgatedpowers@parliament.uk.

Historical Note

In February 1992, the Select Committee on the Committee work of the House, under the chairmanship of Earl Jellicoe, noted that "in recent years there has been considerable disquiet over the problem of wide and sometimes ill-defined order-making powers which give Ministers unlimited discretion" (Session 1991–92, HL Paper 35-I, paragraph 133). The Committee recommended the establishment of a delegated powers scrutiny committee which would, it suggested, "be well suited to the revising function of the House". As a result, the Select Committee on the Scrutiny of Delegated Powers was appointed experimentally in the following session. It was established as a sessional committee from the beginning of Session 1994–95. The Committee also has responsibility for scrutinising legislative reform orders under the Legislative and Regulatory Reform Act 2006 and certain instruments made under other Acts specified in the Committee's terms of reference.

Thirtieth Report

CO-OPERATIVES, MUTUALS, AND FRIENDLY SOCIETIES BILL

1. This private member's Bill came from the House of Commons on 27 February 2023. It is sponsored by Lord Kennedy of Southwark. Paragraph 1 of the Explanatory Notes states that the Bill provides the Treasury with the power to make regulations allowing co-operatives, corporate mutual insurers, and friendly societies to opt to restrict the use or dealing of their assets.
2. The Bill is short (two clauses) and is a skeleton Bill, leaving the Treasury to make regulations on how the proposed asset-lock will work, including its content, applicability, procedure, and enforcement. Clause 1(5) spells out in detail the sorts of provision that can be made in regulations.
3. The Bill is permissive, not mandatory. It allows the Treasury to make regulations which, in turn, will allow various mutuals (if they so wish) to opt into a restriction on the use of their assets. Those which do not elect to opt in are free to carry on as now.
4. **We draw to the attention of the House the power in clause 1(6).**
5. Under clause 1(6) the Treasury may by regulations:
 - Create criminal offences with imprisonment for up to seven years (clause 1(6)(a) and clause 1(7)).
 - Confer functions (currently unspecified) on such persons as may be prescribed (clause 1(6)(b)).
 - Modify or exclude any Act of Parliament or any rule of law (clause 1(6)(g)).
6. For the Treasury to create criminal offences that could lead to someone being sentenced to seven years' imprisonment requires justification. A justification is also required as to why Treasury regulations should be able to modify or exclude any rule of law or any Act of Parliament.
7. Without a delegated powers memorandum and without any explanation in the Bill's accompanying documentation, **the House may wish to press the sponsor of the Bill for an explanation as to why such wide-ranging powers are needed in a technical Bill relating to mutual societies. In the absence of a satisfactory explanation, the powers in clause 1(6) (a),¹ (b) and (g) are inappropriate.**

1 As read with clause 1(7).

OFFENDERS (DAY OF RELEASE FROM DETENTION) BILL

8. This private member's Bill was passed by the House of Commons on 3 March 2023 and was introduced in the House of Lords on 6 March. It allows the date on which an offender is released from detention to be brought forward by up to two "eligible working days"² where that release date falls on a Friday or the day preceding a bank/public holiday. The Ministry of Justice has provided a Delegated Powers Memorandum ("the Memorandum").³
9. **We draw to the attention of the House the power in clause 3(3) that allows the Secretary of State to bring the Bill into force by regulations.**
10. Clause 3(3) provides for the Bill to come into force "on such day as the Secretary of State may by regulations appoint". This is fairly common practice but, highly unusually, the Bill does not require such regulations to be made by statutory instrument. This is such a departure from standard practice that we strongly suspect that it is by accident not design. No mention of it is made in the Memorandum.
11. Statutory instruments are the principal form in which delegated legislation is made. They are governed by the Statutory Instruments Act 1946, which imposes requirements as to their numbering, printing, and publication, and they are subject to scrutiny by Parliamentary Committees. Regulations under clause 3(3) as currently drafted would be subject to no such requirements or scrutiny.
12. **We recommend that the Bill should be amended so that, in accordance with standard practice, regulations under clause 3(3) that appoint the day on which the Bill is to come into force must be made by statutory instrument.**

2 "Eligible working day" means a working day that is not immediately followed by a non-working day (see clause 1(3)).

3 Memorandum by the Ministry of Justice, dated 2 December 2022.

CHILD SUPPORT COLLECTION (DOMESTIC ABUSE) BILL

13. There is nothing in this Bill that the Committee wishes to draw to the attention of the House.

EQUIPMENT THEFT (PREVENTION) BILL

14. There is nothing in this Bill that the Committee wishes to draw to the attention of the House.

ELECTRICITY TRANSMISSION (COMPENSATION) BILL

15. This Bill does not contain any delegated powers.

APPENDIX 1: MEMBERS' INTERESTS

Members' interests

Committee Members registered interests may be examined in the online Register of Lords' Interests at <https://www.parliament.uk/hlregister>. The Register may also be inspected in the Parliamentary Archives.

For the business taken at the meeting on 22 March 2023, Members declared the following interests:

Electricity Transmission (Compensation) Bill

Lord McLoughlin
Sponsor of the Bill

Attendance

The meeting was attended by Baroness Bakewell of Hardington Mandeville, Lord Carlile of Berriew, Lord Goodlad, Lord Hendy, Lord Janvrin, The Earl of Lindsay, Lord McLoughlin and Lord Rooker.