HOUSE OF LORDS

Delegated Powers and Regulatory Reform Committee

11th Report of Session 2019–21

Non-Domestic Rating (Lists) Bill [HL]

Windrush Compensation Scheme (Expenditure) Bill [HL]

Coronavirus Bill: Government Response

Private International Law (Implementation of Agreements) Bill [HL]: Government Response

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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

The members of the Delegated Powers and Regulatory Reform Committee who agreed this report are:

Baroness Andrews
Lord Blencathra (Chair)
Baroness Browning
Lord Goddard of Stockport
Lord Haselhurst
Lord Haskel
Baroness Meacher
Lord Rowlands
Lord Thurlow
Lord Tope

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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 hldelegatedpowers@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.

Eleventh Report

NON-DOMESTIC RATING (LISTS) BILL [HL]

1. This Bill contains no delegated powers.

WINDRUSH COMPENSATION SCHEME (EXPENDITURE) BILL [HL]

2. This money Bill contains no delegated powers.

CORONAVIRUS BILL: GOVERNMENT RESPONSE

3. We considered this Bill in our 9th Report of this Session.[1] The Government have now responded by way of a letter from Lord Bethell, Parliamentary Under Secretary of State for Innovation (Lords) at the Department of Health and Social Care. The response is printed at Appendix 1.

PRIVATE INTERNATIONAL LAW (IMPLEMENTATION OF AGREEMENTS) BILL [HL]: GOVERNMENT RESPONSE

4. We considered this Bill in our 8th Report of this Session.[2] The Committee has received response from the Rt Hon. Lord Keen of Elie QC, Ministry of Justice spokesperson for the Lords. The response is printed at Appendix 2.

1 9th Report, Session 2019–21 (HL Paper 42).
2 8th Report, Session 2019–21 (HL Paper 40).

APPENDIX 1: CORONAVIRUS BILL: GOVERNMENT RESPONSE

Letter from Lord Bethell, Parliamentary Under Secretary of State for Innovation (Lords) at the Department of Health and Social Care, to the Rt Hon. Lord Blencathra, Chair of the Delegated Powers and Regulatory Reform Committee

I am writing in response to the Committee's Ninth Report on the Coronavirus Bill. I am grateful for the Committee's work in relation to the Bill, particularly within the expedited timeframes of the Bill's passage through Parliament. In the exceptional circumstances, the Bill received Royal Assent on 25th March 2020.

The Government recognises the importance of thorough and appropriate parliamentary procedure. However, flexibility is required in specific circumstances to enable the Government to respond in a timely manner to the issues faced during the coronavirus pandemic. The Government has sought to provide as much scrutiny as practicable and has, as far as possible, drawn limits to the scope and time period for which these powers are required.

I acknowledge that the Committee's overriding concern was in relation to the sunsetting provision in clauses 75 and 76 (now sections 89 and 90). The Government subsequently introduced a new clause to the Bill (section 98) that will enable the House of Commons to take a view every six months on whether much of the substance of the Act identified as temporary provisions need to be renewed. This will be done within seven days of each six-month period if Parliament is sitting. If the House declines to renew these temporary provisions, the Government will ensure that they expire.

A two-year overall life span for this legislation is considered appropriate to ensure that its powers remain available for a reasonable length of time, with the option for the provisions in the Act being extended. We cannot predict the course of this outbreak, nor what resource and capacity will be available one-year in. But we have created the facility for early sunset and for certain measures to be suspended and revived if the science tells us that this is possible. We have also built in opportunities for Parliament to hold the Government to account for its use of the powers in the Act.

The need to have effective tools and powers in place to deal with a disease outbreak of uncertain and as yet unpredictable extent, course and duration requires that this legislation should, if circumstance dictate, be extended, with the explicit approval of Parliament, or, if this is the right course of action to take, be terminated early. We believe that there are safeguards built into the legislation, and the opportunities for Parliament to scrutinise the Government's actions are ample.

I thank the Committee for drawing a number of areas to the attention of the House, and I wish to outline our response to each of these concerns.

The Committee noted that clause 21 (now section 22), relating to the appointment of temporary Judicial Commissioners, contains significant Henry VIII powers that are only subject to the negative procedure. As discussed in the Delegated Powers Memorandum, the negative procedure was considered appropriate here because it was envisaged that regulations may have been required urgently in the interests of protecting national security and preventing serious crime, and the Government considered that it was both appropriate and proportionate to use the negative procedure given the strong safeguards included in the Bill before any regulations

could be made. These were that the Secretary of State may only exercise the power upon the request of the independent Investigatory Powers Commissioner in order to deal with a shortage of Judicial Commissioners, and that the regulations themselves can only have effect for 12 months. Regulations were in fact made on 26th March after Parliament had risen and can be prayed against.

The Committee drew attention to clause 31 (now section 33), as by allowing Welsh Ministers to disapply certain statutory provisions relating to who is a fit and proper person to work in regulated health and social care services it removes certain protections. I would like to expand further on why this is a necessary and proportionate step to take. Typically, it takes 3 to 4 weeks between applying and receiving an enhanced check from the Disclosure and Barring Service. It is possible that during a period of emergency this period will lengthen. In England vetting requirements for similar settings allow workers to begin work before an enhanced disclosure is received but the legislation for Wales does not allow this. Where the receipt of an enhanced certificate is a precondition to the commencement of employment, it will act to obstruct providers from responding in an agile way to rapid fluctuations in demand for and their ability to supply services.

Thus, this provision, which would enable Welsh Ministers if they consider it safe and appropriate to use such powers during the period of emergency, is considered necessary and suitable in providing equivalent powers for Wales as already exist in the rest of the UK.

The Committee specifically commented that it considered clause 32 (now section 34), in relation to the temporary disapplication of disclosure offences in Scotland, was drawn too widely. I would like to confirm that this is an emergency power sought only in an emergency situation. The power is needed to allow retired and recently resigned healthcare workers and doctors to re-enter the workforce. The provisions categorically do not allow people who are already barred to re-join the regulated workforces, nor do they prevent an organisation from following their usual recruitment practice. For those organisations that use the Protecting Vulnerable Groups (PVG) scheme as part of their recruitment, the provisions do allow organisations and personnel suppliers who may in the past have hesitated about recruiting a person ahead of a PVG disclosure record being issued, to do so without worrying about committing an offence. Organisations are acutely aware of the need to ensure that staff returning to regulated work or joining these workforces for the first time are not asked to carry out tasks unsupervised until such time as a PVG disclosure is provided. Scottish Ministers do not intend to use this power outside the current emergency.

The Committee likewise noted that there are a number of clauses that are not drafted to have an explicit link to Coronavirus. I would like to reassure the Committee that the purpose of this entire Act is to make provision in connection with coronavirus response; and for connected purposes. There is therefore no need for each clause to have been specifically linked to coronavirus. Provisions are in place to ensure that, in the fight against coronavirus, provisions can be turned on and off only when they are needed. To provide accountability, the Government will be required to report every two months on the use of powers under the Act and there is also the opportunity for the House of Commons to cause certain temporary provisions in the Act to expire following the six-monthly debates.

Clause 60 (now section 62) relating to the postponement of elections allows regulations to make consequential, supplementary etc. provisions in connection with Clauses 57 to 59 (now sections 59 - 61). The Committee noted that regulations

of this kind would normally be made under the affirmative procedure. As discussed in the Delegated Powers Memorandum, the Government is concerned to ensure that provision to postpone polls and to deal with ancillary matters can be made swiftly, including if Parliament is not sitting. The negative procedure has been applied herein order to enable elections to be postponed in cases where either Parliament is not sitting or is not available, due to the coronavirus outbreak. This is important for certainty and to remove administrative burdens from local authorities and returning officers, who would otherwise be required to take steps to comply with their statutory obligations. I would also like to reassure the committee that this power is also time-limited with a backstop; it will not be possible to postpone elections beyond 6 May 2021.

Clause 74 (now section 88) allows a relevant national authority to suspend and revive the operation of any provision of the Act by regulations, other than the ones listed in subsection (6). The Committee noted that these could be potentially contentious, and therefore would expect these powers to be subject to parliamentary procedure. The alternative to the suspend/revive facility is for all the provisions to come into force at the outset and be left permanently switched on. To ensure these powers are used only when needed to, this power has been taken so that the provisions can be suspended and revived as the course of the pandemic dictates. This is a power that enables a return to the status quo as soon as possible and for as long as possible between the peaks of this pandemic. The aim of this is to reduce the burden on the citizen whilst at the same time having powers readily available to public agencies to help them tackle this outbreak. The regular reports to and debates in Parliament provide ample transparency, oversight and potential for challenge to the use of these powers.

For this suspend/revive mechanism to be feasible, a simple and swift procedure is needed for turning powers on and off. The procedure chosen for this power is the same as that normally followed in commencement powers to which these powers are analogous. In the unusual context of this Act a provision may (in effect) have to be commenced more than once. While such regulations do not require a parliamentary procedure, their use will not be without scrutiny. Section 97 provides a requirement whereby the Government will report to Parliament every two months on how the non-devolved powers have been used. Section 99 guarantees a debate on the one-year status report on the use of these powers.

Schedule 17 to the Act includes wide-ranging regulation-making powers for the purpose of protecting public health in Northern Ireland, and for providing a public health response, in relation to coronavirus. The Committee recommended that the negative procedure is inadequate for the kinds of powers conferred by that Schedule. The powers for Northern Ireland in Schedule 17 are based on all of the existing regulation making powers available under the Public Health (Control of Disease) Act 1984 that apply in England and Wales. The aim is to provide for the consistency of the powers available across the UK to support the response to the outbreak.

The Committee noted that health protection regulations in Scotland made under Schedule 18 (now Schedule 19) are subject to an affirmative procedure in all cases, with the made affirmative procedure applying for cases of urgency. This is correct; however, it should be noted that the Schedule only seeks to replicate the regulation making powers in section 45C of the 1984 Act. Regulations to which the equivalent section 25C apply in Northern Ireland will also be subject to an affirmative procedure, unless the regulations contain a declaration that they

do not include any provision which would have a significant effect on a person's rights. In that case, the regulations would be subject to negative resolution.

Given the current risk of a serious and imminent threat to public health, it is considered that the negative resolution procedure before the Northern Ireland Assembly is appropriate in the instances where this would apply. The option of negative resolution balances the need for parliamentary scrutiny with the potential need to respond urgently to the serious and immediate public health threat posed by the spread of coronavirus disease.

Again, I would like to thank the Committee for its work in considering the Bill and I hope this information proves helpful.

7 April 2020

APPENDIX 2: PRIVATE INTERNATIONAL LAW (IMPLEMENTATION OF AGREEMENTS) BILL [HL]: GOVERNMENT RESPONSE

Letter from the Rt Hon. Lord Keen of Elie QC, Ministry of Justice spokesperson for the Lords, to the Rt Hon. Lord Blencathra, Chair of the Delegated Powers and Regulatory Reform Committee

I am writing in response to the Delegated Powers and Regulatory Reform Committee's Report on the Private International Law (Implementation of Agreements) Bill, published on 18th March. Firstly, I am very grateful to the Committee for the time spent considering this important Bill.

I have carefully considered the recommendation made by the Committee that clause 2 should be removed from the Bill. However, I should be clear at the outset that the Government does not agree. It is the Government's intention to build on the UK's leadership role in private international law (PIL) in the years to come, and to continue to enter into agreements on PIL with our international partners. This Bill, and in particular the clause 2 power, is therefore crucial as it will allow us to implement these agreements in UK domestic law in a timely manner, and so make use of the benefits the agreements can bring to businesses, individuals and families. This power is, in our view, both reasonable and proportionate to achieve our overall policy objective on matters pertaining to private international law.

The rationale for the power

To begin with I think it is important to reiterate why this power is needed and why it is needed now. The clause 2 power in the Bill will ensure that new and existing agreements on PIL which the UK decides to join in the future can be implemented in a timely manner. One particularly pertinent example is our ambition to seek to accede to the 2007 Lugano Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and to implement it in domestic law before the end of the Transition Period.

We may not know the outcome of the UK's application to accede to this important convention for some months. We also cannot implement this convention in domestic law until the terms of our accession are agreed with the existing contracting parties, including the EU. Therefore, there is unlikely to be sufficient Parliamentary time for bespoke primary legislation to be drafted and taken through Parliament between the outcome of the application being clear and the end of the Transition Period. Not having the power under clause 2 of the Bill and instead relying on bespoke primary legislation would lead to a 'gap' in application of the 2007 Lugano Convention to the UK and in cooperation with our EU, Norwegian, Icelandic and Swiss partners. This inability to implement the 2007 Lugano Convention in domestic law in a timely manner would have a serious adverse effect on individuals, families and UK businesses engaged in cross-border disputes after the end of the Transition Period.

However, it is not only the immediate need to implement the 2007 Lugano Convention that makes the clause 2 power essential to the Government's private international law strategy. We have also been transparent with Parliament about the existence of other international treaties in this area that have recently been agreed and to which the UK is currently considering applying, specifically the Singapore Mediation Convention and the 2019 Hague Convention on recognition and enforcement of foreign judgments in civil or commercial matters. In addition, there will continue to be developments in the area of private international law

in the future. For example, the UK is already engaged in discussions at the Hague Conference on Private International Law (a leading global forum for these matters) on the potential for a new international convention on jurisdiction in civil and commercial matters, and it is important that, should those discussions prove fruitful, the UK Government is able to join and implement any convention that may arise in a timely manner, should it consider it appropriate to do so.

In addition, although there is not yet a specific agreement being negotiated on family law in this area, we have heard from many Peers of the need for further cooperation in family law with our international partners. Such agreements seek to resolve distressing family related cross border cases and it would be a shame if the UK was held up from joining and operating these types of agreements in future because of lack of Parliamentary slots for a Bill to implement them.

The scope of the power

Turning now to the detail of the Report, it is the Government's view that the Committee has misinterpreted the breadth of the power, and the types of international agreements it can cover. For example, paragraph 5 of the Report states that "traditionally the implementation of private international law agreements entered into by the UK has been done through Acts of Parliament." Examples of this are given in the report, which refers to the "Carriage by Air Act 1961 (the Warsaw Convention), the Carriage of Goods by Road Act 1965 (the Geneva Convention), the Carriage of Goods by Sea Act 1971 (the Hague-Visby Rules) and the Contracts (Applicable Law) Act 1990 (giving the force of law to the Rome Convention on the law applicable to contractual obligations)" as examples of Private International Law agreements which would usually be implemented via primary legislation.

Whilst it is true that all the international agreements referred to here have been implemented in domestic law via primary legislation, it is not the case that they are all agreements on private international law as defined in this Bill.

The Warsaw Convention,[3] and the 1965 Geneva Convention[4] each contain an individual provision which relates to private international law. But, importantly, only those individual provisions could have been implemented under the clause 2 power in the Bill. All other provisions of these agreements would still have required bespoke primary legislation to be implemented in domestic law. The Hague-Visby Rules,[5] do not contain any provisions on private international law.

Only the 1980 Rome Convention on the law applicable to contractual obligations, as originally implemented by the Contracts (Applicable Law) Act 1990, would fall

3 As originally implemented in domestic law under the Carriage by Air Act 1961.
4 As originally implemented in domestic law under the Carriage of Goods by Road Act 1965.
5 As originally implemented in domestic law under the Carriage of Goods by Sea Act 1971.

fully within scope of the clause 2 power in the Bill[6], being an agreement about applicable law rules i.e. how to determine which country's law should apply to a contract in a situation which raises cross border issues. That Convention was a multilateral Convention adopted outside the framework of the (then) EEC and was not therefore implemented via the provisions and implementing powers in European Communities Act 1972.

The Committee's Report implies that the power in clause 2 of the Bill would allow the Government to implement agreements on any aspect of private law with a foreign element, rather than merely agreements on the much narrower subject area of *private international law*, as defined by clause 2(7) of the Bill. I am happy to make clear that this is not the case. Private international law rules deal primarily with the areas of jurisdiction to hear disputes which raise cross-border issues, which country's law should apply to such cases, recognition and enforcement of foreign judgments and cooperation between judicial or other authorities in different countries on these matters. It will not be possible for matters outside of the areas indicated by the definition of "private international law" in clause 2(7) to be implemented using the power.

The intent of the clause 2 power is to ensure the UK can meets its obligations relating to any international agreements on private international law which the Government has decided to join. I suggest that the power in the Bill is both narrower, and more proportionate, than the Committee have suggested in their Report.

Precedents for the power

I will also address the point raised in paragraph 7 of the Report, which refers to the absence of delegated powers to implement agreements on PIL previously. The Report states:

> "For the first time there will exist a general power to implement international agreements on private international law by statutory instrument, thereby obviating the need for an Act of Parliament".

There are, in fact, examples of delegated powers to implement international agreements on private international law via Orders in Council within the Administration of Justice Act 1920, the Foreign Judgments (Reciprocal Enforcement) Act 1933, the Maintenance Orders (Facilities for Enforcement) Act

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6 The other conventions and international agreements that the Report refers to includes:

- **The 1929 Warsaw Convention** contains rules for carriage of persons, luggage or goods by aircraft. Although it does contain rules on jurisdiction and applicable law rules for resolving private disputes (Article 28), the convention is far broader. For instance, it establishes rules for ticketing and or travel documents, requirements to check luggage and maximum liabilities if goods are damaged. None of these elements fall within the scope of Private International Law, and so implementation of this agreement in full would not be possible under the power.

- **The 1956 Geneva Convention** on carriage of goods by road is an international agreement which relates to various legal issues concerning transport of cargo by road across borders. For instance, it standardises what information should be present on customs documents and establishes rules for the transport of hazardous substances. Although there are provisions in Article 31 on jurisdiction and recognition and enforcement of judgments, the vast majority of provisions in the agreement do not relate to private international law and could not be implemented under the power.

- **The 1968 Hague-Visby Rules** concern the transport of goods by sea. The rules establish what is the responsibility of the shipper of the goods and what is the responsibility of the carrier of the goods and set out various possible sea accidents under which the carrier of the good is not liable for damaged goods. It does not contain

1920, and the Maintenance Orders (Reciprocal Enforcement) Act 1972. Reflective of the time they were enacted, these powers only cover bilateral agreements on recognition and enforcement of judgments; they are nonetheless examples of delegated powers in this field. Indeed, the Order in Council process that these powers offer provides no parliamentary scrutiny at all, in contrast to the Private International Law Bill which provides that the affirmative procedure will be used for all new agreements. It is notable, therefore, that this power is not novel and in fact offers significantly more scrutiny than previous alternatives.

Paragraph 7 of the report also casts doubt over the need for Private International Law Agreements to be implemented without primary legislation, and points out that there have been no examples given of when primary legislation proved too untimely over the last 100 years.

It is worth noting that in practice, most recent agreements in this subject area have fallen within EU competence. These include the 2007 Lugano Convention, which I have mentioned above, to which the UK is seeking to accede from the end of the Transition Period, as well as the 1996, 2005 and 2007 Hague Conventions implemented by clause 1 of the Bill. These Conventions, together with the framework of internal EU instruments on private international law, were all originally implemented under section 2 of the European Communities Act 1972, through the doctrine of direct effect coupled with secondary legislation, so there has not been the same level of need for primary legislation in this area for some time, nor has there been any problem around timing for this reason. Now, however, the UK has left the EU, and the Government has regained full competence to enter into agreements on private international law and this requires us to consider our current and future legislative requirements in this area. As the UK develops its wider trading policy with the EU and rest of the world, agreements on private international law will be key to supporting cross-border commerce by providing businesses, investors and consumers with greater confidence that disputes across borders can be resolved in a clear and efficient way.

Consistency of approach with other areas of Government policy

Next, I will respond to the Committee's assertion that domestic matters such as taxation, health, business, enterprise and the criminal law are equally as "vibrant and active" as Private International Law, but do not warrant implementation via secondary legislation.

It is my view that the power under clause 2 of the Bill is different from providing a discretionary delegated power to implement the sorts of domestic matters described here. That is because the detailed contents of the agreements on private international law to which the clause 2 power will apply have already been determined at the international level and are by their very nature clear and precise. These particular international agreements generally contain detailed rules on how, for example, the courts in different contracting states should determine whether they have jurisdiction for a cross-border case, or on what basis a foreign judgment should or should not be recognised or enforced. These are not matters that are being left to the Minister's discretion. As we explain in paragraphs 36-37 of our Memorandum to the Committee, once it has been decided that the UK should become a party to an agreement on private international law, its implementation generally does not give rise to significant matters of policy that are left to a Minister's discretion in the implementing legislation. The Contracts (Applicable Law) Act 1990, implementing the 1980 Rome Convention on the law applicable to contractual obligations, which the Committee refers to in paragraph

7 of the Report, is a good example. All that was needed was for that Act to give the force of law to the rules set out in the 1980 Rome Convention, provide for interpretation of the Convention by reference to decisions of the European Court and relevant explanatory Reports, and provide a power to implement any revisions to the Convention by Order in Council.

We consider a similar approach will be followed under the clause 2 power in the Bill whereby the main terms of the international agreements on private international law will generally be sufficiently clear to be able to have direct effect in domestic law, and we will likely only need to make additional provision in the implementing regulations (in addition to providing for the rules in the agreement to have the force of law) for technical and procedural matters as we did when giving further effect to private international law agreements under the European Communities Act 1972.

The Committee notes that a general power to make domestic law on taxation or business or health or criminal law would comprise a significant power for Ministers to exercise their discretion, and suggest that would require primary legislation. The implementation of a set of private international law rules, already agreed at the international law level, does not involve any significant exercise of discretion by Ministers, and is hardly a good comparison. In my view there is a clear case for the implementation of private international law agreements to be achieved through secondary legislation.

Public interest in the Private International Law and appropriate parliamentary scrutiny

I acknowledge the point made by paragraph 10 of the Report that there is a public interest in the subject matter covered by international agreements on private international law. However, the time for relevant stakeholders to engage with the contents of these agreements is at the stage that they are being negotiated and / or when the decisions on policy are being made which relate to ratification. For example, new agreements on private international law which the Government is considering joining will continue to be scrutinised by Parliament under the Constitutional Reform and Governance Act 2010 ("CRAG Act") provisions. This includes consideration of whether the UK should become bound by a particular agreement including the terms of any reservations and declarations the Government intends to make. During this stage, it is also common practice for the UK to engage sector stakeholders and experts to ensure an agreement is fit for purpose and we intend to continue doing this going forwards.

I note, however, that the Report also highlights the concern that Parliamentary scrutiny of treaties under the CRaG Act's provisions, together with any potential use of the draft affirmative procedure under the clause 2 power, is not sufficient. While I recognise that the Constitution Committee recently published a Report on CRaG in April 2019, the Government made clear (in its response published on 8 July 2019) its commitment to the principle of parliamentary scrutiny and our belief that the CRaG framework is appropriate in that it provides sufficient flexibility for Parliament to undertake scrutiny of the treaty text in the manner of its choosing prior to ratification. Equally, it is worth noting that Parliament has decided to strengthen its procedures around CRaG by agreeing to create a new Sub-Committee of the European Union Committee to focus on treaties laid under CRaG, which should provide additional opportunities for scrutiny in this area[7]. This was agreed on 28 January.

7 Procedure Committee, *First Report* (1st Report, Session 2019-21, HL Paper 29).

Finally, I would like to highlight the genuine benefits which can be achieved by joining and implementing these international agreements on private international law. Without them, UK businesses, individuals and families engaged in cross border disputes will struggle to resolve them. There may be parallel court cases in different countries which reach conflicting decisions, and the decisions made by UK courts may not be recognised and enforced abroad. For these reasons, as well as the ones set out above, I consider this power under clause 2 in the Bill to be both essential and proportionate. I look forward to discussing it further with my noble Lords as we reach the next stages of debate on this Bill.

17 April 2020

APPENDIX 3: 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.