House of Commons
House of Lords

Joint Committee on Human Rights

Legislative Scrutiny: Judicial Review and Courts Bill

Tenth Report of Session 2021–22

HC 884
HL 120

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Report, together with formal minutes relating to the report

Ordered by the House of Commons to be printed 1 December 2021

Ordered by the House of Lords to be printed 1 December 2021

HC 884
HL Paper 120
Published on 7 December 2021
by authority of the House of Commons and the House of Lords

Joint Committee on Human Rights

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Summary

Judicial review is the mechanism by which people challenge the decisions and actions of public authorities in the courts. The Government has introduced legislation, the Judicial Review and Courts Bill, which would make some limited changes to judicial review. Article 13 of the European Convention on Human Rights, as incorporated into domestic law by the Human Rights Act 1998, guarantees all individuals whose human rights have been violated the right to an effective remedy. The proposed changes to judicial review directly engage Article 13 as they have the potential to adversely affect people's ability to enforce their rights.

Clause 1 of the Judicial Review and Courts Bill would give the courts the power to make quashing orders with suspended and/or prospective-only effects when they find against a government decision or use of its delegated powers. A quashing order is an order which invalidates a decision which has been made by a public body. Suspending a quashing order would prevent it coming into effect for a period determined by the court, while giving it prospective-only effects would mean that the decision under challenge would only be invalidated from a particular point onwards rather than being considered to have been invalid all along. These new powers would expand the court's remedial discretion and make it less likely that a decision or action will be quashed outright, which would benefit a defendant public authority. However, imposing a presumption that the courts use quashing orders with suspended or prospective-only effects where they would offer 'adequate redress' to a claimant does not guarantee that an individual would receive an effective remedy for a violation of their human rights. We recommend that the Government remove this requirement as it amounts to an unnecessary, albeit low level, intrusion into judicial remedial discretion. We also recommend the legislation should be amended so that courts also have regard to the Convention rights of any person who would be affected by the decision, and the duty to provide an effective remedy for a human rights violation under Article 13, when deciding to make a quashing order with suspended or prospective-only effects.

Clause 2 of the Bill reverses the Supreme Court's decision in R *(Cart)* v Upper Tribunal. This would mean that it would no longer be possible to bring judicial review proceedings regarding Upper Tribunal decisions to refuse permission to appeal, known as '*Cart* judicial reviews,' other than in exceptional cases. The Government has argued that *Cart* judicial reviews have a low success rate and high cost. However, *Cart* judicial reviews predominantly concern immigration and asylum claims. It seems likely that this change would result in a small number of people being wrongly removed from the UK, and their fundamental human rights being at risk. We recommend that the Government considers procedural changes before barring this type of judicial review.

The proposal to reverse *Cart* in Clause 2 is an ouster clause, which seeks to remove an area of decision-making from review by the courts. The Government has suggested that this ouster clause may be replicated in future, affecting other areas of decision-making. Increased use of ouster clauses could undermine judicial review of executive action and deny people a crucial mechanism for enforcing their rights. The Government must exercise great caution in its use of ouster clauses to ensure that accountability is maintained and human rights continue to be enforceable.

Chapter 1: Introduction

The Judicial Review and Courts Bill 2021–22

1. The Government introduced the Judicial Review and Courts Bill to the House of Commons on 21 July 2021.[1] Part 1 of the Bill makes changes to judicial review, with a primary focus on England and Wales but with effects for Northern Ireland and Scotland. Part 2 of the Bill covers a wide range of court and tribunal reforms. This report is concerned with Part 1 of the Bill and is timed to inform the Report stage of the Bill in the House of Commons and proceedings in the House of Lords.

2. Judicial review claims ask the courts to review the lawfulness of a decision, action or failure to act in relation to the exercise of a public function. The High Court of England and Wales and the Court of Session in Scotland have a supervisory jurisdiction over the administrative decisions of ministers of state, local authorities and others exercising public functions. This means that part of their role is to check the lawfulness of administrative decisions—holding public authorities to account. As such, judicial review is a crucial component of the rule of law, which is, in turn, crucial to enforcing rights. As the preamble to the Universal Declaration on Human Rights states, it is "essential, if man is not to be compelled to have recourse, as a last result, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law".[2]

3. Under the Human Rights Act 1998 (the HRA) it is unlawful for a public body to act incompatibly with the rights guaranteed by the European Convention on Human Rights (ECHR), unless required to do so by an Act of Parliament. Judicial Review, in allowing people to legally challenge the decisions and actions of public authorities for compliance with the HRA, makes our human rights enforceable. Any reforms that would affect access to judicial review or the remedies available could have implications for the efficacy of the HRA and for compliance with Article 13 ECHR. Article 13 provides a right to an effective remedy for a breach of Convention rights. It is not a right with which public authorities are expressly obliged to comply under the HRA, because the HRA itself is designed to provide an effective remedy for human rights violations. It is nevertheless binding on the UK as a matter of international law.

Judicial review and claims of judicial activism

4. The Bill comes after much debate as to whether judicial review claims have led judges to overstep their boundaries and interfere in political decision-making. Lord Chancellor and Justice Secretary Dominic Raab has said:

> […] we quite rightly have judicial checks on the executive. But it's got to be done in a constructive and sensible way which allows the government to deliver the projects that it's tasked and mandated by Parliament to do… [ensuring that] taxpayers' money is not being squandered because projects are being harpooned.[3]

1 Judicial Review and Courts Bill, Bill 152 (Session 2021–22)
2 United Nations. Universal Declaration of Human Rights. 1948, preamble
3 The Telegraph, Dominic Raab: I'll overhaul the Human Rights Act to stop Strasbourg dictating to us, 16 October 2021

5. The Attorney General Suella Braverman, has argued that judicial review "has strained the principle of Parliamentary sovereignty and introduced uncertainty into the constitutional balance between Parliament, the Government, and the Courts". She expressed her view that:

> […] it is crucially important that we neither permit, facilitate nor encourage judicial review to be used as a political tool by those who have already lost the arguments.[4]

The Attorney General made specific reference to a number of Supreme Court judgments: the cases of Adams,[5] Miller 1,[6] Miller 2 and Cherry and others,[7] Evans[8] and Privacy International.[9]

Box 1: Case summaries

R v Adams [2020] UKSC 19: In this case from Northern Ireland, the Supreme Court considered the *Carltona* principle (whereby a power to be exercised by a Secretary of State may be exercised on their behalf by an official within their department). The Supreme Court did not accept that the *Carltona* principle always applied unless removed by express statutory language. The Court found that, in the context of a very serious decision whether to deprive someone of their liberty, potentially indefinitely, it was reasonable to assume that Parliament had intended that decision to be taken by the Secretary of State personally, when that is what the legislation clearly provided.

Miller v Secretary of State for Exiting the EU (Miller (No.1)) [2017] UKSC 5: This claim saw the Supreme Court hold that Article 50 of the Treaty on European Union (which begins the process of withdrawal from the EU) could not be invoked by the Government using prerogative powers. Such a major constitutional change required Parliamentary legislation.

Miller v Prime Minister (Miller (No.2)); Cherry and others v Advocate General for Scotland [2019] UKSC 41: This claim concerned the lawfulness of the Prime Minister's advice to the Queen to prorogue Parliament in the prelude to withdrawal from the EU. The Supreme Court held, unanimously, that the matter was justiciable (i.e. something that the Court was entitled to rule upon) and that the advice was unlawful.

R (Evans) v Attorney General [2015] UKSC 21: The Attorney General used a statutory power to issue a certificate overriding an Upper Tribunal decision that communications between the Prince of Wales and government departments should be disclosed. The Supreme Court accepted that the certificate could be judicially reviewed and found it to be unlawful, on the basis that the Attorney General had failed to establish that he had reasonable grounds for considering that disclosure was not due.

Privacy International v Investigatory Powers Tribunal [2019] UKSC 22: The Supreme Court considered a statutory provision purporting to exclude the jurisdiction of the High Court to review the decisions of the Investigatory Powers Tribunal. The Court emphasised that the court's supervisory jurisdiction could only be excluded by clear and explicit words. It held that the statute did not exclude judicial review of errors of law because a decision vitiated by error of law was no decision at all.

4 The Attorney General, the Rt Hon Suella Braverman QC MP, Judicial Review Trends and Forecasts 2021: Accountability and the Constitution, 19 October 2021
5 [2020] UKSC 19
6 [2017] UKSC 5
7 [2019] UKSC 41
8 [2015] UKSC 21
9 [2019] UKSC 22

6. Professor Richard Ekins, head of the Judicial Power Project at Policy Exchange, summed up the position of those that have been critical of the courts in his response to *Privacy International*:

> It is not for courts to decide whether to uphold Parliament's authoritative choice, nor is it for them to design a regime of judicial supervision of other public bodies that flouts such authoritative choices […] No court in this country has authority to choose not to uphold a statutory provision, including a provision ousting the jurisdiction of the courts. The doctrine of parliamentary sovereignty establishes the validity of all Acts of Parliament and disables the courts from invalidating them.[10]

7. Others believe that judges are very careful not to interfere in political decision making. In the course of our inquiry into the Government's Independent Review of the Human Rights Act we heard evidence from witnesses, including two former Presidents of the Supreme Court and a former Attorney General, who considered the balance of power between Parliament and the Courts to be right and suggested that the courts made decisions in controversial or 'political' areas with caution rather than enthusiasm.[11] Their views were consistent with those of Lord Reed, President of the Supreme Court, who in 2020 told the House of Lords Constitution Committee that:

> Judges are very well aware of the risk of challenges being brought in what are political rather than legal grounds. They are repelling them and are careful to avoid straying into what are genuine political matters. When this is a matter that is to be considered it should not start from the premise that judges are eager to pronounce on political issues. The true position is actually quite the opposite.[12]

8. When questioned on whether judicial review on human rights grounds has resulted in the judiciary making political decisions, Professor Alison Young told us:

> Just because you are taking a decision in the law that has political consequences, that does not mean that you are taking a political decision. I would draw your attention to various ways in which the courts try to make sure that they do not take political decisions. Particularly when we look at human rights cases, we see courts applying a test of proportionality to make sure, when we are balancing rights decisions, that the reasons for restricting a right do not outweigh the reasons for protecting that right, so we are balancing protecting the right against restricting it…When they perform these balancing tests, they apply deference—a wonderful legal term—or give weight to the Executive…I do think that the courts are extremely careful to make sure that they do not cross that line.[13]

10 Richard Ekins, Do our Supreme Court Judges have too much power, The Spectator, 15 May 2019

11 Oral evidence before the Joint Committee on Human Rights taken on 27 January 2021, HC (2019-21) 1161, Q6 & Q7 (Dominic Grieve MP and Lord Neuberger), 3 February 2021, Q29 (Baroness Hale)

12 Oral evidence taken before the Constitution Committee on, 4 March 2020, HL (2019–21) Q5

13 Q3 [Professor Alison Young]

The Independent Review of Administrative Law

9. The Government established an Independent Review of Administrative Law in July 2020, chaired by the non-affiliated Peer and former Minister of State for Justice, Lord Faulks QC, to consider options for reform to the process of judicial review.[14] We made a submission to the review, having taken evidence in October 2020 from a panel of witnesses including lawyers, an academic, and a former Supreme Court Judge. Our submission highlighted the importance of judicial review as a mechanism of enforcing rights:

> The importance of judicial review as a means of enforcing rights does not lie only in the landmark judgments on matters of constitutional principle, but in its use as a systematic means of ensuring that administrative decisions, which impact on people's everyday lives, are taken on a lawful basis... As Polly Glynn, Partner at the law firm Deighton Pierce Glynn and founder of the 'PAP Project' told us, judicial review is not about providing compensation after failures have happened, but about getting things right in the first place[15]

10. The Independent Review published its report in March 2021, and recommended:

- *Reversing the Supreme Court's decision in the case of R (Cart) v Upper Tribunal.*[16] This would make Upper Tribunal refusals of permission to appeal a decision made by the First-tier Tribunal no longer subject to judicial review.
- *Introducing suspended quashing orders (SQOs).* This would allow the courts to give public bodies a certain amount of time to correct an unlawful act or omission instead of immediately striking it down.[17]

11. We took evidence from Lord Faulks following the IRAL's report. He told us that the Review had not found the need for more substantive reform:

> Inevitably, cases that go to the Supreme Court, or even the Court of Appeal, will be those where there are more than respectable arguments on both sides. So despite having a number of cases drawn to our attention and examining them closely, we did not think that there was something so badly wrong with judicial review that we should start again. It is a well-established method of testing the legality of actions, and any decision to do something about it radically would, we think, be wrong and potentially contrary to the rule of law.[18]

12. The Government launched a public consultation in response to the report. They agreed with the "recommendations and the reasoning behind them", but put forward additional proposals for public consultation, including "legislating to clarify the effect of ouster clauses," and "legislating to introduce remedies which are of prospective effect only."[19] However, only the latter was included in the Bill.

14 Ministry of Justice, Government launches independent panel to look at judicial review, 31 July 2020
15 Joint Committee on Human Rights, Letter to Lord Faulks QC containing submission to the Independent Review of Administrative Law, 20 October 2020
16 [2011] UKSC 28
17 The Report of the Independent Review of Administrative Law, March 2021, CP 40
18 Q4
19 Ministry of Justice, Judicial Review Reform - The Government Response to the Independent Review of Administrative Law, March 2021

13. The Government has also established the Independent Human Rights Act Review (IHRAR). Although the IRAL and IHRAR Reviews are separate, they are clearly interrelated. As we commented in our Report on the Government's Human Rights Act Review, "judicial review is the key method by which the acts and decisions of public authorities, including government, can be challenged on human rights grounds under the HRA."[20] We await the outcome of IHRAR.

The legislation

14. The Government has stated that the proposed reforms to judicial review contained within the Judicial Review and Courts Bill will ensure that "the Government and public authorities are subject to the law, apply the intent of Parliament, and protect individuals' rights."[21] According to the Explanatory Notes, the Bill will:

- "Give the Courts a new power to suspend the effects of Quashing Orders for a period of time in certain circumstances.
- Give the Courts a new power to provide prospective-only Quashing Orders. A non-exhaustive list of matters to which the Court must have regard when deciding whether to exercise either new power is also set out.
- Create a broad presumption for the Courts to use the new variations of Quashing Orders where it appears to the court that they would, as a matter of substance, offer adequate redress in relation to the relevant defect, unless there is a good reason not to do so.
- Remove *Cart* Judicial Reviews via an ouster clause. This will remove a person's ability to judicially review a decision of the Upper Tribunal to refuse permission to appeal from the First-tier Tribunal."[22]

The proposals for quashing orders will be the focus of Chapter 2. Chapters 3 and 4 will focus on *Cart* and ouster clauses.

20 Joint Committee on Human Rights, Third Report of Session 2021–22), The Government's Independent Human Rights Act Review, HC 89/HL Paper 31, para 183

21 Judicial Review and Courts Bill, Explanatory Notes, para 1

22 Ibid

Chapter 2: Quashing orders

The quashing order

15. The provisions of clause 1 of the Bill on quashing orders extend to England and Wales only. In judicial review proceedings in England and Wales the court has a discretion as to what remedy it grants, if any. A range of remedies are available, including the traditional remedies of prohibiting orders (i.e. orders stating that something must not be done); mandatory orders (i.e. orders requiring something to be done); and quashing orders.[23] A quashing order is an order that nullifies or invalidates decisions of inferior courts, tribunals, public authorities and any other body or person that is susceptible to judicial review. As well as decisions, quashing orders can be granted in respect of statutory instruments, rules, policies, guidance, circulars, advisory reports and recommendations.[24] They are the most common remedy granted in judicial review proceedings.

16. A quashing order ordinarily has immediate effect and renders a decision or measure invalid from the time at which it was made, so also has retrospective effect.[25] The retrospective effect of quashing orders can have wider consequences. For example, quashing a statutory instrument could invalidate all of the actions and decisions taken under the authority of that statutory instrument. This can cause administrative difficulties. One of the factors the courts will take into account when deciding how to exercise their remedial discretion is the impact of a quashing order on certainty and "the needs of good public administration".[26] Thus, they may decline to grant a quashing order where the wider consequences of doing so are problematic, which may frustrate the claimant.

The Bill's proposed changes

17. Clause 1 of the Bill proposes a new section 29A to the Senior Courts Act 1981, which would expand the options available to the courts of England and Wales when exercising their remedial discretion, with the intention of reducing the administrative difficulties caused by quashing orders.[27] It makes statutory provision for quashing orders to have two new effects, which can be used "independently or cumulatively":

- Suspended effect. This would allow the courts to uphold a decision or measure found to be unlawful for a limited period of time, giving public bodies the chance to prepare themselves for the effect of a quashing order,

23 These prerogative orders were previously known, respectively, as writs and then orders of prohibition, mandamus and certiorari, but were formally renamed in 2004 by amendments to the Senior Courts Act 1981 .

24 For ease of reference, the term 'decision or measure' will be used in this Report to cover all the possible subjects of a quashing order

25 The Supreme Court, in Ahmed v HM Treasury (No.2) [2010] UKSC 5, explains that it is not, in fact, the quashing order that has the effect of rendering a provision that is *ultra vires* (i.e. made without lawful authority) invalid, because anything that is found to be *ultra vires* already has no effect in law. The quashing order merely emphasises this fact: "The object of quashing them is to make it quite plain that this is the case."

26 See the dicta of Lord Walker in Bahamas Hotel Maintenance & Allied Workers Union v Bahamas Hotel Catering & Allied Workers Union [2011] UKPC 4 at [40]

27 Judicial Review and Courts Bill, [Bill 152 (Session 2021–22), Part 1. The 1981 Act does not apply to Scotland, and in Scotland the courts do not make orders called 'quashing orders'.

instead of the decision or measure being struck down immediately.[28]

- Prospective-only effect. This would remove or limit the retrospective effect of a quashing order, meaning that anything done before the quashing order was granted (or before another date set out in the order) remains lawful.

18. Subsection 29A(8) sets out the matters to which the courts "must have regard" when deciding whether to suspend a quashing order or give it prospective effect only. These matters include "the interests or expectations of persons who would benefit from the quashing [order]" and of "persons who have relied on the impugned act". They also include "any detriment to good administration that would result from exercising or failing to exercise the power". 29A(8)(f) requires the court to have regard to "any other matter that appears to the court to be relevant."

19. Subsection (9) and (10) of the proposed new section 29A goes further and introduces a requirement that quashing orders with suspended or prospective-only effect are used if they would "as a matter of substance, offer adequate redress in relation to the relevant defect" unless the court sees "good reason not to do so." When considering whether they would offer adequate redress, the courts must take into account, in particular, any action or proposed action by "a person with responsibility in connection with the impugned act". Most obviously, this would include "any action or proposal" designed to mitigate the harm caused by the unlawful decision or measure.

20. The requirement in the new section 29A to make quashing orders with suspended or prospective-only effects, if doing so would offer adequate redress, is limited by the addition of "unless there is good reason not to do so". The Bill does not, however, expressly prohibit the use of suspended or prospective-only quashing orders where their use would *not* offer adequate redress.

Existing powers of courts in devolution context

21. It is notable that the three devolution statutes already provide the courts of England and Wales, Scotland and Northern Ireland with a statutory power to limit or remove the retrospective effect, or suspend the effect, of orders they make on a finding that:

a) an Act of a devolved legislature exceeded the legislature's competences;

b) subordinate legislation made by a devolved authority was not validly made;

c) a devolved authority has otherwise acted beyond its powers.[29]

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28 In Ahmed v HM Treasury (No.2) [2010] UKSC 5 the Supreme Court confirmed that "this court has power to suspend the effect of any order that it makes" but, crucially, held that such a suspension would not affect the position at law. In other words, suspending the order would not change the fact that the court had declared the decision or measure to be unlawful (and to always have been unlawful) in its judgment. The key difference the statute would make, therefore, is providing that the effect of suspending the quashing order is to uphold the impugned act until that suspension has concluded (see proposed s.29A(3)). Tom Hickman QC has noted that this change in the law does not, in fact, reduce the power of the Courts vis a vis Parliament, as the Government appear to have intended, but rather substantially increases it: "This would permit, in effect, a Judge to rule: 'this instrument (or decision) is unlawful – it is outside the powers conferred by Parliament and has no legal basis– but in my discretion I will give it temporary legal effect'." See Quashing Orders and the Judicial Review and Courts Act, UKCLA, 26 July 2021.

29 See: section 102 Scotland Act 1998; section 153 Government of Wales Act 2006; and section 81 Northern Ireland Act 1998

22. These powers are, however, different to that proposed in Clause 1 of the Bill, as they are confined to devolution issues and, significantly, contain no presumption in favour of giving an order either suspended or limited retrospective effect.

Implications for human rights

23. Allowing the courts to suspend the effect of a quashing order, as recommended by the IRAL, could have benefits for defendants and claimants. Suspended quashing orders could provide an effective remedy, but also give the defendant public authority some time to resolve the administrative difficulties likely to arise before the quashing order comes into effect. This could also have the effect of reducing the number of cases in which the quashing order that the claimant desires is not granted because of the immediate administrative difficulties it would create.

24. Judicial review claimants already face significant obstacles when seeking justice, and it is unfair and unreasonable to introduce changes that could further dissuade them from bringing unlawful action by public authorities before the court.[30] The effect of Clause 1 would be that, after having to finance their claim, prove standing, pass the preliminary permission stage, and successfully argue that a public authority has acted unlawfully, claimants could be faced with a presumption that the remedy they receive would be suspended or made prospective-only, and of no benefit to them at all.[31]

25. Suspended quashing orders could leave a claimant and others suffering from the consequences of an unlawful decision or measure for an additional period. More concerningly, the Government acknowledged in their Consultation document that prospective-only remedies in particular "could lead to an immediate unjust outcome for many of those who have already been affected by an improperly made policy."[32] A quashing order with suspended or prospective-only effect could also effectively validate further unlawful action after the order is made. Some of the responses to the Government's consultation expressed concern about this proposal more stridently. For example, human rights charity JUSTICE stated that:

> This will significantly weaken the protection of citizens against abuse of power and result in considerable unjust outcomes for those impacted by unlawful decisions by depriving individuals of access to a remedy.[33]

26. It would be unjust for potentially large numbers of people who have been impacted by an unlawful decision or measure to be denied a remedy simply because of the point at which they were impacted. Those affected before the court's decision are just as entitled to the law's protection as people who may be affected by an unlawful decision or measure in the future. Furthermore, using a quashing order that has prospective effect only risks denying a claimant in human rights claims of the right to an effective remedy, which he or she is guaranteed under Article 13 ECHR. The legal commentator Joshua Rozenberg QC, in his oral evidence to us on the Government's Independent Human Rights Act Review,

30 See the Joint Committee on Human Rights, Tenth Report of Session 2017–19, Enforcing Human Rights, HC 669, HL Paper 171

31 A point made in the Bingham Centre's analysis of the Bill: Bingham Centre for the Rule of Law, Judicial Review and Courts Bill: A Rule of Law Analysis, 26 October 2021, p.13

32 Ministry of Justice, Government launches independent panel to look at judicial review, 31 July 2020

33 JUSTICE, Judicial Review Reform: The Government Response to the Independent Review of Administrative Law Consultation Response, April 2021, para 59

pointed out that that a prospective-only remedy would result in a successful claimant not getting "any benefit from winning the case [except] the warm feeling that they had persuaded the Government to change the law."[34] Some stakeholders have argued that this possibility could make litigants less willing to bring proceedings in the first place, and thus prevent unlawful decisions and measures being challenged and the Government being held to account.[35]

Adequate redress

27. By imposing an obligation on the courts to use quashing orders with suspended or prospective-only effect where they would offer "adequate redress" unless there is a good reason not to, it appears as though the Government are trying to encourage use of these types of quashing orders wherever possible, rather than the courts simply striking down unlawful decisions or measures.

28. While the terms 'adequate redress' and 'effective remedy' have similar meanings, the current drafting of the proposed new section 29A(9) gives rise to the possibility that a court might be satisfied a quashing order with suspended or prospective-only effect provides 'adequate redress' when it does not meet the standard of an effective remedy for a breach of ECHR rights. As Article 13 ECHR (which guarantees the right to an effective remedy) is not listed in the Schedule 1 to the Human Rights Act, the interpretative obligation in s. 3 HRA will not assist in ensuring that 29A(9) is given a reading compatible with the UK's human rights obligations under Article 13 ECHR. Adequate redress could become the threshold test for when the power to suspend quashing orders and/or given them prospective effect is used; it is unlikely that a court will grant a suspended quashing order or one with prospective-only effects if it has concluded such relief is inadequate (although it is not impossible that it could conclude that even in these circumstances, other factors justify the use of a suspended or prospective-only remedy). Given the lack of certainty as to how far Clause 1 would protect people's Article 13 ECHR rights, we believe that the Bill should be amended to require judges to give Convention rights, and Article 13 in particular, due consideration when deciding whether a particular remedy is appropriate.

29. **Remedial flexibility allows the courts to provide an appropriate remedy in each case. Providing the courts with the ability to suspend a quashing order is a reasonable addition to the range of remedies available that, if used appropriately, could reduce administrative difficulties, and even benefit claimants. However, a presumption in favour of quashing orders with suspended or prospective-only effects is unnecessary and undermines the remedial flexibility that the former Lord Chancellor claimed was the ultimate goal of the Bill at the time of its introduction. As the Explanatory Notes on the Bill state: "the diverse circumstances of possible cases make it difficult to assume that any one remedy or combination of remedies would be most appropriate in all circumstances."[36] While generally a judge would remain free to choose whether to make a suspended and/or prospective-only quashing order, the Bill does nevertheless**

34 Q 58, 59 [Joshua Rozenberg QC]

35 See, for example, the Law Society of England and Wales' Parliamentary Briefing on the Judicial Review and Courts Bill: " Even if a prospective-only quashing order is not used in a particular case, its mere availability would serve as a serious disincentive to claimants seeking to bring a judicial review. If a claimant cannot be sure that they will benefit from the judicial review even if it is successful, many will be deterred from pursuing perfectly meritorious claims – with the consequence that more unlawful actions by public bodies will go unchallenged."

36 Judicial Review and Courts Bill, Explanatory Notes, para 21

make them compulsory in certain circumstances. In this way, Clause 1 appears to be an attempt to weight the scales in favour of the defendant public authority over the claimant.

30. **Quashing orders with prospective-only effects pose a more significant risk of denying an effective remedy to claimants and allowing decisions and measures to have legal effect despite being found to be unlawful. Imposing any requirement to use these new remedies, rather than simply allowing the courts to use them where they consider it just, increases the risk that they will be used in a way that denies an effective remedy and undermines the enforcement of human rights.**

31. ***The Government should remove the requirement that judges make quashing orders with suspended or prospective-only effects where they would provide adequate redress and there is not a good reason not to, as this amounts to an unnecessary, albeit low level, intrusion into judicial remedial discretion. Furthermore, the proposed new section 29A(8) should be amended to include in the list of matters to which a judge must have regard when deciding whether to make a suspended or prospective-only quashing order.***

Chapter 3: Reversing *Cart*

Cart judicial reviews

32. Clause 2 of the Bill applies UK wide in respect of matters of reserved law. The Immigration and Asylum chamber of the First Tier Tribunal (FTT) hears appeals against decisions made by the Home Office relating to permission to stay in the UK, deportation from the UK and entry clearance to the UK. This includes appeals against decisions on asylum applications. If an appeal to the FTT is unsuccessful, there is a right of appeal to the Upper Tribunal (UT) "on any point of law arising from a decision made by the First-tier Tribunal other than an excluded decision."[37] An appeal to the UT can, however, only go ahead if permission is granted. The appellant can ask the FTT for permission and, if this is refused, can also ask the UT to grant permission. If the UT refuses permission, there is no further appeal available.

33. In the case of *R (Cart) v Upper Tribunal*[38] and *Eba v Advocate General for Scotland*,[39] the Supreme Court confirmed, however, that the appellant can apply to the High Court in England and Wales and the Court of Session in Scotland for a judicial review of an UT refusal to grant permission to appeal, but only if the threshold criteria used for 'second tier' appeals are applied. This means that a judicial review application will only be given permission to go ahead if there are reasonable prospects of establishing that the UT was wrong in law, and if it would also raise some important point or principle or practice, or if there is also some other compelling reason for the relevant court to hear the judicial review.

34. In the *Cart* judgement, Baroness Hale emphasised the risk of legal errors not being picked up in a 'closed' tribunal system:

> But that risk is much higher in the specialist tribunal jurisdictions, however expert and high-powered they may be. As a superior court of record, the Upper Tribunal is empowered to set precedent, often in a highly technical and fast-moving area of law. The judge in the First-tier Tribunal will follow the precedent set by the Upper Tribunal and refuse permission to appeal because he is confident that the Upper Tribunal will do so too. The Upper Tribunal will refuse permission to appeal because it considers the precedent to be correct... There is therefore a real risk of the Upper Tribunal becoming in reality the final arbiter of the law, which is not what Parliament has provided. Serious questions of law might never be "channelled into the legal system" (as Sedley LJ put it [2011] QB 120, 169, para 30) because there would be no independent means of spotting them.[40]

Discontinuing *Cart* judicial reviews

35. Clause 2 of the Bill would insert a new section 11A into the Tribunals, Courts and Enforcement Act 2007 to reverse the Supreme Court's decision in *R (Cart) v Upper*

37 Tribunals, Courts and Enforcement Act 2007, s.11(1). Sub-section 11(5) provides a lengthy definition of an "excluded decision", which includes a power for the Lord Chancellor to add further excluded decisions by order.

38 [2011] UKSC 28

39 [2011] UKSC 29

40 [2011] UKSC 28

Tribunal. This would make decisions of the Upper Tribunal on applications for permission to appeal "final, and not liable to be questioned or set aside in any other court", except in very limited cases.[41] For the avoidance of doubt, the proposal specifies that this exclusion includes applications for judicial review.[42] This includes the jurisdiction of the Court of Session and High Court of Northern Ireland over decisions of the UT on leave to appeal where the underlying matter is reserved. Clause 2 is an ouster clause, in that it seeks to deny the courts' supervisory jurisdiction over the exercise of public power. We give further consideration to the possible wider use of ouster clauses in Chapter 4 below.

36. Under the new s.11A(5) the exclusion of judicial review would not have effect if the provision giving the FTT jurisdiction to make the first-instance decision could have been made by an Act of the Scottish Parliament, or an Act of the Northern Ireland Assembly passed without the consent of the Secretary of State. There is a live issue as to whether the UK Government should have sought a Legislative Consent Motion from the Scottish Parliament in respect of Clause 2 of the Bill.[43]

37. Clause 2 would provide for applications for judicial review to still be available only where the decision to refuse permission to appeal gives rise to a question whether:

> a) the UT has or had a valid application before it [for permission to appeal],
>
> b) the UT is or was properly constituted for the purpose of dealing with the application, or
>
> c) the UT is acting or has acted—
>
> i) in bad faith, or
>
> ii) in fundamental breach of the principles of natural justice.[44]

38. Clause 2 follows a recommendation in the IRAL Report that applications for judicial review of the UT's refusal of permission to appeal (known as 'Cart judicial reviews') should be discontinued. The IRAL was concerned with the time and resource put into

41 Paragraph (2) of the proposed new s.11A.

42 Paragraph (3)(b) of the proposed new s.11A

43 We note that the Law Society of Scotland have questioned the Government's conclusion that the Legislative Consent Convention (that the UK parliament "will not normally legislate with regard to devolved matters without the consent" of the devolved legislatures) does not apply to the abolition of *Cart*/*Eba* judicial reviews. The Scottish Parliament does not have the power to modify the law relating to reserved matters (Sch 4, para 2(1) of the Scotland Act 1998), but that provision only applies to the rules of judicial review (part of Scots private law under s.126(4)) insofar as the rule in question is "special to a reserved matter" (Sch 4, para 2(3)). The Supreme Court has held that a general rule which applies to both reserved and devolved matters is not "special to a reserved matter" (*Martin v Most* [2010] UKSC 10). The rule established in *Cart*/*Eba* that unappealable decisions of the Upper Tribunal may be subject to judicial review is not a rule which is special to reserved matters because it currently applies to devolved and reserved tribunals alike. It thus appears that it would be within the competence of the Scottish Parliament to modify that general rule for both reserved and devolved matters.

Clause 2 of the Bill, effectively reversing the *Cart*/*Eba* judgment, would therefore not modify a rule of Scots law which is 'special to a reserved matter'. Instead, it would create such a rule, because it would introduce a difference in the amenability of reserved and devolved tribunals to judicial review in Scotland. In the view of the Law Society of Scotland, this engages both limbs of the Legislative Consent Convention: 1) it relates to a matter which is currently within the competence of the Scottish Parliament; and 2) it has the effect of narrowing the future competence of the Scottish Parliament by creating a rule special to a reserved matter which the Parliament will not in future be able to modify. See the Law Society of Scotland, Second Reading Briefing on the Judicial Review and Courts Bill, August 2021, pp8–9.

44 Paragraph (4) of the proposed new s.11A

these judicial review claims relative to the likelihood of them actually picking up on errors in the FTT or UT. IRAL's statistics, which suggested a success rate of significantly less than 1%, were however demonstrably flawed.[45] The Government has produced its own statistics which state that of the 1,249 Cart judicial review applications in 2018–2019, some 92 (7.4%) were successful insofar as they resulted in remittal to the UT. Of those remitted appeals, 85 were decided by the UT and, of those, 42 were ultimately successful. This results in an overall success figure of 3.4% which can be compared with a generally accepted figure of between 33 and 50% success (including settlement) in other judicial reviews.[46] There is no evidence that there is the same problem in Scotland. On the contrary, there is a good example of a recent successful *Cart/Eba* judicial review: *CM (Petitioner)* 2021 CSIH 15, in which the FTT, UT, and the Lord Ordinary misunderstood the petitioner›s evidence and the Inner House intervened to reduce the UT›s decision refusing permission to appeal.[47]

Implications for human rights

39. The vast majority of Cart JRs relate to immigration and asylum claims.[48] In such cases, fundamental human rights such as the right to life (Article 2 ECHR) and the right not to be tortured (Article 3 ECHR) are frequently at stake.[49] If the tribunal makes an error it can result in a claimant being returned to face persecution, serious human rights abuses or even death in their country of origin. Removing the right to judicially review refusals of permission to appeal in all but the most exceptional circumstances will result in a, statistically small, number of these cases being wrongly decided, and those individuals facing a real risk of serious human rights abuses.

40. Procedural changes might be able to reduce the number of unjustified judicial review applications being made without precluding Cart judicial reviews altogether. For example, the Administrative Law Bar Association (ALBA) proposed the following administrative changes in their response to the Government's consultation on reform of judicial review:

- Increasing the time period available in which to lodge the Cart JR application, to give applicants and their legal representatives more opportunity to consider the merits of a JR before issuing proceedings. It is currently "no later than 16 days" after the date on which the UT's refusal was *sent* to the appellant, which can rush applicants and legal representatives into making unjustified and poorly prepared applications.

- Further or alternatively, changing the point at which the time limit begins to when the refusal is *received* by the applicant rather than when it is sent. This would prevent problems in delivery reducing the time available to the appellant and his/her legal team and hampering their ability to assess the viability of a JR

45 Joe Tomlinson and Allison Pickup, Putting the Cart before the horse? The Confused Empirical Basis for Reform of Cart Judicial Reviews, U.K. Constitutional Law Blog, March 2021

46 We note that other stakeholders and academics have conducted their own statistical analyses and suggested success rates in *Cart* JRs of up to 7.6% (Micolaj Barczentewicz, 'Should Cart Judicial Reviews be Abolished? Empirically Based Response', UKCLA, 5 May 2021)

47 Law Society of Scotland, Second Reading Briefing on the Judicial Review and Courts Bill, August 2021

48 According to the Government's Civil justice statistics quarterly, October to December 2020 (Civil Justice and Judicial Review data file): 5,870 judicial review applications since 2012 are labelled "*Cart* – immigration" while just 423 judicial review applications are labelled "*Cart* – other".

49 Article 13 ECHR also guarantees persons with a viable Article 2 or 3 claim an effective possibility of challenging an expulsion decision by having a sufficiently thorough examination of his or her complaints carried out by an independent and impartial domestic forum (see for example, *Moustahi v France* (Application No. 9347/14).

and to prepare the application properly.[50]

41. **Judicial supervision of the Upper Tribunal protects against legal error. While only a small proportion of Cart judicial review applications are successful, those applications may prevent individuals being wrongly removed from the UK to face the most heinous human rights violations.** ***The Government should introduce procedural reforms, such as changes to the time-limits for bringing Cart judicial review, and assess their impact, before pursuing the 'nuclear option' of ousting judicial review from Cart cases. Furthermore, every effort must be made to ensure that the initial decision-makers and the FTT make the best possible decisions when cases are before them, thereby limiting the need for asylum seekers to rely upon a third opportunity to have their application for permission to appeal considered.***

50 Government Consultation on The Independent Review of Administrative Law; Response on behalf of the Constitutional and Administrative Law Bar Association (ALBA), 20 April 2021, paras 34–37. In para 37, ALBA contrast this time limit with the 14 days from *receipt* given to the Upper Tribunal or Interested Party (usually the relevant Government department) for the far less complex task of indicating whether or not they consider a substantive hearing should be held.

Chapter 4: Ouster clauses

42. An ouster clause is a clause in legislation which seeks to deny, or 'oust', the courts' supervisory jurisdiction over the exercise of public power. This means that the subject matter of the ouster clause cannot be challenged in the courts. Given the constitutional importance of the court's supervisory jurisdiction, the courts will assume that Parliament does not intend to exclude all judicial review unless the statutory language introducing an ouster clause is absolutely clear. Viscount Simmonds elucidated this principle in *Pyx Granite*, where he said:

> It is a principle not by any means to be whittled down that the subject's recourse to Her Majesty's courts for the determination of his rights is not to be excluded except by clear words.[51]

43. The proposal to reverse *Cart* in Clause 2 is an ouster clause, drafted in clear terms, although one that has a limited focus and is not absolute. The use of ouster clauses, whatever the case may be for administrative efficiency, raises significant concerns as it directly prevents people being able to vindicate their rights before the courts. The IRAL cautioned against their use and argued "that there should be highly cogent reasons for taking such an exceptional course."[52]

44. The end of the Government's press release for the Bill states that "it is expected that the legal text that removes the *Cart* judgment will serve as a framework that can be replicated in other legislation."[53] The former Lord Chancellor, Robert Buckland, has been reported as saying that he is interested not only in ouster clauses in the context of *Cart*, but also "what it may point the way to": "this is a template or prototype […] each time this is considered it will be very carefully calibrated based upon a specific context."[54]

45. The Government states that ouster clauses are "a reassertion of parliamentary sovereignty, acting as a tool for Parliament to determine areas which are better for political rather than legal accountability," rather than an attempt to avoid scrutiny of government action.[55]

46. However, any attempt to limit the jurisdiction of the courts to review the lawfulness of executive action has significant implications for the rule of law and for Parliament's own powers. This is because the courts' constitutional role is to enforce the law as set out by Parliament. As Lord Justice Laws put it in his judgment when the case of *Cart* was heard by the Court of Appeal:

> […] the need for such an authoritative judicial source cannot be dispensed with by Parliament. This is not a denial of legislative sovereignty, but an affirmation of it […] The requirement of an authoritative judicial source for the interpretation of law means that Parliament's statutes are always effective […][56]

51 Pyx Granite Co. Ltd v Ministry of Housing and Local Government [1960] AC 260, para 286
52 The Independent Review of Administrative Law (2021) para 2.89
53 Ministry of Justice, New Bill hands additional tools to judges, 21 July 2021
54 Monidipa Fouzder, New focus: Judicial Review and Courts Bill - bigger reforms on the horizon?, The Law Society Gazette, 26 July 2021
55 Ministry of Justice, Judicial Review Reform - consultation, CP 408, March 2021, para 86
56 [2011] QB 120, para 38

47. Our submission to the IRAL panel expressed concern about the use of ouster clauses, arguing that they:

> […] risk creating a category of laws which the Government could breach without consequence. It would reduce a crucial check on executive action and undermine the principle that the law applies equally to the Government as it does to everyone else.[57]

48. **We are concerned by the Government's indication that the ouster clause designed to reverse Cart will be replicated in other legislation. The extensive use of ouster clauses will diminish the ability of judicial review to challenge executive action and expose unlawfulness. This has the potential to undermine the rule of law, which is essential for the protection and enforcement of human rights.**

57 Joint Committee on Human Rights, Letter to Lord Faulks QC containing submission to the Independent Review of Administrative Law, 20 October 2020

Annex: Amendments

Amendment 1

Clause 1, page 2, leave out lines 24 to 32

Explanation: This would remove the requirement that judges must make a quashing order if it would offer adequate redress to a claimant or unless they see good reason not to do so.

Amendment 2

Clause 1, page 2, leave out line 23 and insert—

> "(f) the Convention rights of any person who would be affected by the decision to exercise or fail to exercise the power;
>
> (g) the right to an effective remedy for a violation of a Convention right under Article 13 of the European Convention on Human Rights; and
>
> (h) any other matter that appears to the court to be relevant."

Explanation: This would ensure that the courts would take in to account the ECHR rights of those affected, including the right to an effective remedy, before exercising the new power to suspend a quashing order or give it prospective-only effects.

Amendment 3

Page 3, line 14, leave out clause 2

Explanation: This would prevent the discontinuance of '*Cart* judicial reviews.'

Conclusions and recommendations

Quashing orders

1. Remedial flexibility allows the courts to provide an appropriate remedy in each case. Providing the courts with the ability to suspend a quashing order is a reasonable addition to the range of remedies available that, if used appropriately, could reduce administrative difficulties, and even benefit claimants. However, a presumption in favour of quashing orders with suspended or prospective-only effects is unnecessary and undermines the remedial flexibility that the former Lord Chancellor claimed was the ultimate goal of the Bill at the time of its introduction. As the Explanatory Notes on the Bill state: "the diverse circumstances of possible cases make it difficult to assume that any one remedy or combination of remedies would be most appropriate in all circumstances." While generally a judge would remain free to choose whether to make a suspended and/or prospective-only quashing order, the Bill does nevertheless make them compulsory in certain circumstances. In this way, Clause 1 appears to be an attempt to weight the scales in favour of the defendant public authority over the claimant. (Paragraph 29)

2. Quashing orders with prospective-only effects pose a more significant risk of denying an effective remedy to claimants and allowing decisions and measures to have legal effect despite being found to be unlawful. Imposing any requirement to use these new remedies, rather than simply allowing the courts to use them where they consider it just, increases the risk that they will be used in a way that denies an effective remedy and undermines the enforcement of human rights. (Paragraph 30)

3. *The Government should remove the requirement that judges make quashing orders with suspended or prospective-only effects where they would provide adequate redress and there is not a good reason not to, as this amounts to an unnecessary, albeit low level, intrusion into judicial remedial discretion. Furthermore, the proposed new section 29A(8) should be amended to include in the list of matters to which a judge must have regard when deciding whether to make a suspended or prospective-only quashing order.* (Paragraph 31)

Reversing Cart

4. Judicial supervision of the Upper Tribunal protects against legal error. While only a small proportion of Cart judicial review applications are successful, those applications may prevent individuals being wrongly removed from the UK to face the most heinous human rights violations. *The Government should introduce procedural reforms, such as changes to the time-limits for bringing Cart judicial review, and assess their impact, before pursuing the 'nuclear option' of ousting judicial review from Cart cases. Furthermore, every effort must be made to ensure that the initial decision-makers and the FTT make the best possible decisions when cases are before them, thereby limiting the need for asylum seekers to rely upon a third opportunity to have their application for permission to appeal considered.* (Paragraph 41)

Ouster clauses

5. We are concerned by the Government's indication that the ouster clause designed to reverse Cart will be replicated in other legislation. The extensive use of ouster clauses will diminish the ability of judicial review to challenge executive action and expose unlawfulness. This has the potential to undermine the rule of law, which is essential for the protection and enforcement of human rights. (Paragraph 48)

Declarations of interest

Lord Brabazon of Tara

- No relevant interests to declare

Lord Dubs

- No relevant interests to declare

Lord Henley

- No relevant interests to declare

Baroness Ludford

- No relevant interests to declare

Baroness Massey of Darwen

- No relevant interests to declare

Lord Singh of Wimbledon

- No relevant interests to declare

Formal minutes

Wednesday 1 December 2021

Hybrid Meeting

Members present:

Harriet Harman MP (in the Chair)

Lord Brabazon of Tara

Joanna Cherry MP

Lord Dubs

Florence Eshalomi MP

Lord Henley

Baroness Ludford

Angela Richardson MP

Dean Russell MP

David Simmonds MP

Lord Singh of Wimbledon

Draft Report, Legislative Scrutiny: Judicial Review and Courts Bill, proposed by the Chair, brought up and read.

Ordered, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 48 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Tenth Report of the Committee to both Houses.

Ordered, That the Chair make the Report to the House of Commons and that the Report be made to the House of Lords.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till 8 December at 2.40pm.

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2021–22

Number	Title	Reference
1st	Children of mothers in prison and the right to family life: The Police, Crime, Sentencing and Courts Bill	HC 90 HL 5
2nd	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 3 (Public Order)	HC 331 HL 23
3rd	The Government's Independent Review of the Human Rights Act	HC 89 HL 31
4th	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill (Part 4): The criminalisation of unauthorised encampments	HC 478 HL 37
5th	Legislative Scrutiny: Elections Bill	HC 233 HL 58
6th	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill (Parts 7 and 8): Sentencing and Remand of Children and Young People	HC 451 HL 73
7th	Legislative Scrutiny: Nationality and Borders Bill (Part 1) – Nationality	HC 764 HL 90
8th	Proposal for a draft Bereavement Benefits (Remedial) Order 2021: discrimination against cohabiting partners	HC 594 HL 91
9th	Legislative Scrutiny: National and Borders Bill (Part 3) – Immigration offences and enforcement	HC 885 HL 112
1st Special Report	The Government response to covid-19: fixed penalty notices: Government Response to the Committee's Fourteenth Report of Session 2019–21	HC 545
2nd Special Report	Care homes: Visiting restrictions during the covid-19 pandemic: Government Response to the Committee's Fifteenth Report of Session 2019–21	HC 553
3rd Special Report	Children of mothers in prison and the right to family life: The Police, Crime, Sentencing and Courts Bill: Government Response to the Committee's First Report	HC 585
4th Special Report	The Government response to covid-19: freedom of assembly and the right to protest: Government Response to the Committee's Thirteenth Report of Session 2019–21	HC 586
5th Special Report	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 3 (Public Order): Government Response to the Committee's Second Report	HC 724
6th Special Report	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 4 (Unauthorised Encampments): Government Response to the Committee's Fourth Report	HC 765

Number	Title	Reference
7th Special Report	Legislative Scrutiny: Elections Bill: Government Response to the Committee's Fifth Report	HC 911

Session 2019–21

Number	Title	Reference
1st	Draft Jobseekers (Back to Work Schemes) Act 2013 (Remedial) Order 2019: Second Report	HC 146 HL 37
2nd	Draft Human Rights Act 1998 (Remedial) Order: Judicial Immunity: Second Report	HC 148 HL 41
3rd	Human Rights and the Government's Response to Covid-19: Digital Contact Tracing	HC 343 HL 59
4th	Draft Fatal Accidents Act 1976 (Remedial) Order 2020: Second Report	HC 256 HL 62
5th	Human Rights and the Government's response to COVID-19: the detention of young people who are autistic and/or have learning disabilities	HC 395 (CP 309) HL 72
6th	Human Rights and the Government's response to COVID-19: children whose mothers are in prison	HC 518 HL 90
7th	The Government's response to COVID-19: human rights implications	HC 265 (CP 335) HL 125
8th	Legislative Scrutiny: The United Kingdom Internal Market Bill	HC 901 HL 154
9th	Legislative Scrutiny: Overseas Operations (Service Personnel and Veterans) Bill	HC 665 (HC 1120) HL 155
10th	Legislative Scrutiny: Covert Human Intelligence Sources (Criminal Conduct) Bill	HC 847 (HC 1127) HL 164
11th	Black people, racism and human rights	HC 559 (HC 1210) HL 165
12th	Appointment of the Chair of the Equality and Human Rights Commission	HC 1022 HL 180
13th	The Government response to covid-19: freedom of assembly and the right to protest	HC 1328 HL 252
14th	The Government response to covid-19: fixed penalty notices	HC 1364 HL 272
15th	Care homes: Visiting restrictions during the covid-19 pandemic	HC 1375 HL 278
1st Special Report	The Right to Privacy (Article 8) and the Digital Revolution: Government Response to the Committee's Third Report of Session 2019	HC 313

Number	Title	Reference
2nd Special Report	Legislative Scrutiny: Covert Human Intelligence Sources (Criminal Conduct) Bill: Government Response to the Committee's Tenth Report of Session 2019–21	HC 1127
3rd Special Report	Legislative Scrutiny: Overseas Operations (Service Personnel and Veterans) Bill: Government Response to the Committee's Ninth Report of Session 2019–21	HC 1120
4th Special Report	Black people, racism and human rights: Government Response to the Committee's Eleventh Report of Session 2019–21	HC 1210
5th Special Report	Democracy, freedom of expression and freedom of association: Threats to MPs: Government Response to the Committee's Third Report of Session 2019	HC 1317
6th Special Report	Legislative Scrutiny: Police, Crime, Sentencing and Courts Bill, Part 4 (Unauthorised Encampments): Government Response to the Committee's Fourth Report	HC 765
7th Special Report	Legislative Scrutiny: Elections Bill: Government Response to the Committee's Fifth Report	HC 911