

PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (RATIFICATION OF CONVENTION) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Bill as brought from the House of Commons on 27 February 2017 (HL Bill 105).

- These Explanatory Notes have been produced by the Public Bill Office on behalf of Baroness Gale in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament as a whole.
- These Explanatory Notes explain what each part of the Bill will mean in practice and provide background information on the development of policy.
- These Explanatory Notes are best read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The Bill is made up of three clauses. It requires the Secretary of State to report on the steps required and progress made to enable the UK to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the “Istanbul Convention”).

Policy background

- 2 The “Istanbul Convention” is a Council of Europe Convention on preventing and combating violence against women and domestic violence. The Convention entered into force on 1 August 2014.
- 3 The full text of the Convention is available online. Article 1 says that its purposes are to:—
 - a. protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;
 - b. contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;
 - c. design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence;
 - d. promote international co-operation with a view to eliminating violence against women and domestic violence;
 - e. provide support and assistance to organisations and law enforcement agencies to effectively co-operate in order to adopt an integrated approach to eliminating violence against women and domestic violence.
- 4 The UK signed the Convention on 8 June 2012 but has not yet ratified it.
- 5 In answer to a parliamentary question on 26 July 2016 the UK Government stated that it remained committed to ratifying the Istanbul Convention. It said that the Coalition Government had signed the Convention to show the strong commitment it placed on tackling violence against women and girls and that the Government remained committed to ratifying it. The Government explained that the UK already complied with the vast majority of the Convention’s articles but further amendments to domestic law, to take extra-territorial jurisdiction over a range of offences (as required by Article 44), were necessary before the Convention could be ratified. The Government said that it was considering the approach to implementing the extra-territorial jurisdiction requirements in England and Wales and would seek to legislate when the approach was agreed and Parliamentary time allowed.
- 6 Article 44 (on Jurisdiction) of the Convention states that:—

1. Parties shall take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:
 - a. in their territory; or
 - b. on board a ship flying their flag; or
 - c. on board an aircraft registered under their laws; or
 - d. by one of their nationals; or
 - e. by a person who has her or his habitual residence in their territory.
2. Parties shall endeavour to take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention where the offence is committed against one of their nationals or a person who has her or his habitual residence in their territory.
3. For the prosecution of the offences established in accordance with Articles 36 [Sexual violence, including rape], 37 [Forced marriage], 38 [Female genital mutilation] and 39 [Forced abortion and forced sterilisation] of this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction is not subordinated to the condition that the acts are criminalised in the territory where they were committed.
4. For the prosecution of the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction as regards points d and e of paragraph 1 is not subordinated to the condition that the prosecution can only be initiated following the reporting by the victim of the offence or the laying of information by the State of the place where the offence was committed.
5. Parties shall take the necessary legislative or other measures to establish jurisdiction over the offences established in accordance with this Convention, in cases where an alleged perpetrator is present on their territory and they do not extradite her or him to another Party, solely on the basis of her or his nationality.
6. When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult each other with a view to determining the most appropriate jurisdiction for prosecution.
7. Without prejudice to the general rules of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its internal law.

Territorial extent and application

- 7 Clause 3 states that the Bill would extend to England and Wales, Scotland and Northern Ireland.
- 8 As the Bill is a Private Members' Bill, the new English votes provisions in the House of Commons Standing Orders do not apply.
- 9 There is a convention that Westminster will not normally legislate with regard to matters that are within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly without the consent of the legislature concerned. The Bill does not contain any provision which gives rise to the need for a legislative consent motion in the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly. If there are amendments relating to such matters that fall within the convention, the consent of these legislatures (as appropriate) will be sought for them.

Commentary on provisions of Bill

Clause 1: The timetable for ratification of the Istanbul Convention

- 10 Clause 1 requires that, as soon as reasonably practicable after the Act comes into force, the Secretary of State should lay a report before each House of Parliament setting out the steps required to be taken, to enable the UK to ratify the Istanbul Convention, and the timescale within which the Government would expect the UK to be able to ratify the Convention.
- 11 The Clause also requires that, when the Government has determined that the UK is compliant with the Convention, it notifies each House of its determination and of the date by which the Secretary of State expects the Convention to be ratified.

Clause 2: Reports on progress

- 12 Clause 2 requires the Government to make an annual report to each House of Parliament. The first report is to be made by 1 November 2017 and in each subsequent year no later than 1 November.
- 13 The reports made before ratification are to set out any alteration in the timescale by which the Government expects the UK to be able to ratify the Convention and, if altered, the reasons for the change. The report will also set out the administrative measures that have been taken by the Government to enable the UK to ratify the Istanbul Convention and the legislative proposals that have been brought forward, including those to the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly, to enable the UK to ratify the Convention. The report will also include the measures to be taken, and legislation required, to enable the UK to ratify the Convention.

Commencement and extent

Clause 3

- 14 Clause 3 covers extent and commencement. The legislation extends to England and Wales, Scotland and Northern Ireland. The Act comes into force two months after it is passed.

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