

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

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN VIRTUAL COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 2

LORD FALCONER OF THOROTON

- 1★ Page 2, line 27, leave out subsection (1) and insert –
“() The appropriate national authority may make regulations for the purpose of, or in connection with, implementing the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters signed at Lugano on 30th October 2007 (the “2007 Lugano Convention”), in the event that the United Kingdom becomes a party to the Convention in its own right.”
- 2★ Page 2, line 29, leave out “relating to” and insert “that agreement exclusively relates to”
- Member’s explanatory statement*
This amendment ensures that Clause 2 shall apply only to those international agreements that exclusively relate to private international law.
- 3★ Page 2, line 31, leave out subsections (2) and (3)
- 4★ Page 2, line 32, leave out “a relevant international agreement” and insert “the 2007 Lugano Convention”
- 5★ Page 2, line 39, leave out “a relevant international agreement” and insert “the 2007 Lugano Convention”
- 6★ Page 3, line 8, leave out paragraph (c)
- LORD FOULKES OF CUMNOCK
- 7 Page 3, line 14, leave out sub-paragraph (i)

Member's explanatory statement

This amendment and the next in the name of Lord Foulkes are to explore whether conflict might arise as to whether it is the responsibility of Scottish Ministers or of the Secretary of State in consultation with Scottish Ministers.

8 Page 3, line 15, leave out sub-paragraph (ii)

LORD FALCONER OF THOROTON

9★ Page 3, line 22, leave out “, or is expected to become,”

10★ Page 3, line 23, leave out “includes” and insert “means”

Member's explanatory statement

This amendment refines the definition of “private international law”.

11★ Page 3, line 27, leave out “, order or arbitral award” and insert “or order”

Member's explanatory statement

This amendment refines the definition of “private international law”.

12★ Page 3, line 33, leave out “and other procedures”

Member's explanatory statement

This amendment refines the definition of “private international law”.

13★ Page 3, line 35, after “anything” insert “exclusively”

Member's explanatory statement

This amendment refines the definition of “private international law”.

LORD FOULKES OF CUMNOCK

14 Page 3, line 39, leave out paragraphs (a) and (b)

Member's explanatory statement

This amendment and the next in the name of Lord Foulkes are to explore any issues regarding how this Bill might impact on the constitutional position of the Crown Dependencies and Overseas Territories in relation to the United Kingdom.

15 Page 3, line 41, leave out paragraph (c)

LORD FALCONER OF THOROTON

16★ Page 3, line 42, leave out subsection (8)

Member's explanatory statement

This amendment ensures that model laws adopted by international organisations may not be implemented into domestic law by the delegated powers under Clause 2.

LORD FALCONER OF THOROTON
LORD PANNICK
LORD MARKS OF HENLEY-ON-THAMES
BARONESS TAYLOR OF BOLTON

The above-named Lords give notice of their intention to oppose the Question that Clause 2 stand part of the Bill.

Clause 4

LORD KEEN OF ELIE

17 Page 4, line 17, at end insert –

“() Her Majesty may by Order in Council provide for section 2 (including Schedule 6) and section 3(2) and (3) to extend, with or without modifications, to the Isle of Man.”

Member’s explanatory statement

This amendment inserts a new subsection into Clause 4. This allows Her Majesty by Order in Council to extend Clause 2 (including Schedule 6) and subsections (2) and (3) of Clause 3 to the Isle of Man.

Schedule 6

LORD FALCONER OF THOROTON

18★ Page 68, line 7, at end insert –

“(aa) provision for the purpose of, or in connection with, applying a relevant international agreement, with or without modifications, as between different jurisdictions within the United Kingdom;
(ab) provision for the purpose of, or in connection with, giving effect to any arrangements made between –
(i) Her Majesty’s Government, and
(ii) the government of a relevant territory,
for applying a relevant international agreement, with or without modifications, as between the United Kingdom, or a jurisdiction within the United Kingdom, and that territory;
(ac) provision applying any decision whether to amend, extend, adapt or revoke any declaration in relation to the application of any international agreement in the United Kingdom or in or between any part or parts thereof;”

19★ Page 68, line 8, leave out paragraph (b) and insert –

“() provision that creates, amends or extends a criminal offence, or increases the penalty for a criminal offence”

20★ Page 68, line 27, leave out sub-paragraphs (1) and (2) and insert –

“(1) A statutory instrument containing regulations under section 2 may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament, in accordance with the super-affirmative procedure as set out in sub-paragraphs (2) to (2K).

Schedule 6 - continued

- (2) Before an instrument under sub-paragraph (1) is laid before each House of Parliament, the Secretary of State must undertake a consultation with—
- (a) such relevant persons as the Secretary of State deems appropriate;
 - (b) any persons or bodies recommended to the Secretary of State by the Lord Chancellor's Advisory Committee on Private International Law and the European Union Select Committee of the House of Lords; and
 - (c) such persons or organisations as appear to the Secretary of State to be representative of interests substantially affected by the proposals.
- (2A) If, after the consultation, the Secretary of State considers it appropriate to proceed with the making of the regulations, the Secretary of State must lay before each House of Parliament—
- (a) a draft of the instrument, and
 - (b) a document which explains the instrument.
- (2B) The Secretary of State may not lay an instrument under sub-paragraph (2A) before the end of the period of 12 weeks beginning with the day on which the consultation began.
- (2C) The Secretary of State may make a statutory instrument in the terms of the draft instrument laid under sub-paragraph (2A) if, after the expiry of the 40-day period, the draft is approved by a resolution of each House of Parliament.
- (2D) The procedure in sub-paragraphs (2E) to (2I) is to apply to the draft instrument laid under sub-paragraph (2A) instead of the procedure in sub-paragraph (2C) if—
- (a) either House of Parliament so resolves within the 30-day period, or
 - (b) a committee of either House charged with reporting on the draft instrument so recommends within the 30-day period and the House to which the recommendation is made does not by resolution reject the recommendation within that period.
- (2E) The Secretary of State must have regard to—
- (a) any representations,
 - (b) any resolution of either House of Parliament,
 - (c) the recommendations of the Lord Chancellor's Advisory Committee on Private International Law,
 - (d) the recommendations of the European Union Select Committee of the House of Lords, and
 - (e) any other recommendations of a committee of either House of Parliament charged with reporting on the draft instrument,
- made within the 60-day period.
- (2F) If, after the expiry of the 60-day period, the draft is approved by a resolution of each House of Parliament, the Secretary of State may make an instrument in the terms of the draft instrument.

Schedule 6 - continued

- (2G) If, after the expiry of the 60-day period, the Secretary of State wishes to proceed with the draft instrument but with material changes made to it, the Secretary of State must lay before Parliament –
- (a) a revised draft instrument,
 - (b) a statement giving a summary of the changes proposed and any representations made to the Secretary of State under sub-paragraph (2E).
- (2H) If the revised draft instrument laid under sub-paragraph (2G) is approved by a resolution of each House of Parliament, the Secretary of State may make an instrument in the terms of the revised draft instrument.
- (2I) However, a committee of either House of Parliament charged with reporting on the revised draft instrument may, at any time after the revised draft is laid under sub-paragraph (2G) and before it is approved by resolution by that House, recommend that no further proceedings be taken in relation to the revised draft instrument.
- (2J) For the purposes of this section, an instrument is made in the terms of a draft instrument or revised draft instrument if it contains no material changes to its provisions.
- (2K) In this Schedule, references to the “30-day”, “40-day” and “60-day” periods in relation to any draft instrument are to the periods of 30, 40 and 60 days beginning with the day on which the draft was laid before Parliament, not including any day on which either House does not sit.”

Member’s explanatory statement

This amendment ensures that all regulations made under Clause 2 shall be subject to a super-affirmative resolution procedure in the UK Parliament.

21★ Page 69, line 3, leave out sub-paragraph (4)

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7 May 2020
