

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

## DRAFT CIVIL JURISDICTION AND JUDGEMENTS (2005 HAGUE CONVENTION AND 2007 HAGUE CONVENTION) (AMENDMENT) REGULATIONS 2022

*Tuesday 14 December 2021*

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**Saturday 18 December 2021**

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**The Committee consisted of the following Members:**

*Chair:* †PHILIP DAVIES

- |  |  |
|--|--|
| † Cartlidge, James ( <i>Parliamentary Under-Secretary of State for Justice</i> ) | † Mann, Scott ( <i>Lord Commissioner of Her Majesty's Treasury</i> ) |
| † Elmore, Chris ( <i>Ogmore</i> ) (Lab)  | † Marson, Julie ( <i>Hertford and Stortford</i> ) (Con)              |
| † French, Mr Louie ( <i>Old Bexley and Sidcup</i> ) (Con)                        | † Millar, Robin ( <i>Aberconwy</i> ) (Con)                           |
| † Gibson, Peter ( <i>Darlington</i> ) (Con)                                      | † O'Hara, Brendan ( <i>Argyll and Bute</i> ) (SNP)                   |
| Hillier, Dame Meg ( <i>Hackney South and Shoreditch</i> ) (Lab/Co-op)            | Ribeiro-Addy, Bell ( <i>Streatham</i> ) (Lab)                        |
| † Howell, John ( <i>Henley</i> ) (Con)   | † Richardson, Angela ( <i>Guildford</i> ) (Con)                      |
| † Jenrick, Robert ( <i>Newark</i> ) (Con)  | Slaughter, Andy ( <i>Hammersmith</i> ) (Lab)                         |
| † Khan, Afzal ( <i>Manchester, Gorton</i> ) (Lab)                                | Smith, Nick ( <i>Blaenau Gwent</i> ) (Lab)                           |
| † Leadsom, Dame Andrea ( <i>South Northamptonshire</i> ) (Con)                   | Stella Maria Gabriel, Nick Taylor, <i>Committee Clerks</i>           |
|  | † <b>attended the Committee</b>                                      |

## Fourth Delegated Legislation Committee

*Tuesday 14 December 2021*

[PHILIP DAVIES *in the Chair*]

### Draft Civil Jurisdiction and Judgements (2005 Hague Convention and 2007 Hague Convention) (Amendment) Regulations 2022

**The Chair:** Before we begin, may I remind Members that in line with the guidance from the House of Commons Commission they are expected to wear face coverings and to maintain distancing as far as possible? I remind Members that they are asked by the House to have a covid lateral flow test twice a week if coming on to the parliamentary estate, which can be done either at the testing centre in the House or at home. Members should send their speaking notes by email to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk). Similarly, officials in the gallery should communicate electronically with Ministers.

9.25 am

**The Parliamentary Under-Secretary of State for Justice (James Cartlidge):** I beg to move,

That the Committee has considered the draft Civil Jurisdiction and Judgements (2005 Hague Convention and 2007 Hague Convention (Amendment) Regulations 2022.

It is a pleasure to serve under your chairmanship, Mr Davies, I think possibly for the first time from either the Front or Back Benches. It is a particular pleasure to welcome the hon. Member for Manchester, Gorton, who has been promoted from deputy Leader of the House to the venerable position of shadowing the Ministry of Justice. I welcome all my esteemed colleagues, but particularly my hon. Friend the newly elected Member for Old Bexley and Sidcup. I suspect that when he comes, many years from now, to write his esteemed autobiography it may not mention this particular statutory instrument as one of the most glamorous or exciting moments, but it is very typical nevertheless of the sort of rudimentary steps that we take to improve legislation.

The SI is fundamentally technical in nature—in fact it is one of the most technical SIs that I have ever seen, and I hope that it is not controversial. It does not alter the UK's status as party to either the 2005 Hague convention on choice of court agreements or the 2007 Hague convention on the international recovery of child support and other forms of family maintenance.

The instrument brings into domestic legislation the text of the UK's reservations and declarations to those conventions. That is the sole purpose of the SI. The UK has participated in the 2005 and 2007 Hague conventions since 2015 and 2014 respectively. The UK was previously bound by the conventions by virtue of its EU membership; a status which continued to apply throughout the transition period in accordance with the withdrawal agreement. In September 2020 the United Kingdom took the necessary steps to join the two conventions as an independent

party as part of its preparation for leaving the EU. That included depositing the necessary instruments of accession and ratification.

The Private International Law (Implementation of Agreements) Act 2020, from here on referred to as the PIL Act, currently gives force of law to those conventions and ensures that they are read together with any reservations and declarations made at the time of approval. The PIL Act also sets out in new schedules to the Civil Jurisdiction and Judgments Act 1982 the text of the conventions. To ensure the information is complete and readily accessible this instrument will insert the text of the reservations and declarations alongside the convention texts in new schedules to the 1982 Act.

In order to be able to make this instrument the PIL Act requires the Secretary of State to consult such persons as the Secretary of State thinks necessary. To meet that requirement, my Department consulted key stakeholders in England and Wales, Scotland, and Northern Ireland, as well as legal practitioners, academics, and judges who specialise in private international law, and with whom the Ministry of Justice regularly engages. No objections to the instrument were received.

In addition, as the instrument is to apply to all UK legal jurisdictions, the consent of the Scottish Ministers and a Department of the Northern Ireland Executive have been obtained. When re-joining the conventions as an independent party, the declarations and reservations that the UK had been bound by as a member of the European Union were not amended. This SI will not make any changes to those reservations and declarations. Although the existing reservations and declarations have been retained, that does not prevent the UK from changing the declarations to either or both of the conventions in the future or withdrawing the reservations to the 2007 Hague convention.

Overall, and as I have said, the instrument is technical in its nature and will not alter the application of the conventions, nor their respective declarations and reservations. None the less, it is important to have the text of those declarations and reservations readily available in domestic legislation and alongside the text of the conventions for ease of reference for practitioners. I hope that the Committee will join me in supporting the regulations.

9.29 am

**Afzal Khan (Manchester, Gorton) (Lab):** It is a pleasure to serve under your chairmanship, Mr. Davies. I thank the Minister for his opening remarks and for outlining the extent of what is being undertaken.

It is important that we ensure the definitions laid out under the two Hague conventions are transferred to and retained in domestic law not just for the certainty that that provides to the legal profession, but for those involved in active litigation that may be subject to the conventions.

As the Minister outlined, the 2005 Hague convention set out the exclusive choice of court agreements between parties in international commercial transactions. Those are common clauses, particularly in high-value commercial contracts. The 2007 Hague convention provides for rules for the international recovery of child support and spousal maintenance. Both conventions are good, and the Opposition support their continuation in UK domestic law. We support the Minister in laying the SI before Parliament.

9.30 am

**James Cartlidge:** I am very grateful to the hon. Gentleman for his support. He made the important point that the conventions underpin significant commercial relationships. I express the Government's appreciation for the assistance of those stakeholders who engaged with the instrument during consultations and for the

co-operation of our colleagues in the Scottish Government and Northern Ireland Executive. I commend the draft instrument to the Committee.

*Question put and agreed.*

9.31 am

*Committee rose.*

