

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MOTOR VEHICLES (COMPULSORY INSURANCE) BILL

Wednesday 5 January 2022

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CLAUSES 1 AND 2 agreed to.
Bill to be reported, without amendment.

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Sunday 9 January 2022

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The Committee consisted of the following Members:*Chair:* RUSHANARA ALI

Betts, Mr Clive (<i>Sheffield South East</i>) (Lab)	† Richards, Nicola (<i>West Bromwich East</i>) (Con)
† Bone, Mr Peter (<i>Wellingborough</i>) (Con)	Shannon, Jim (<i>Strangford</i>) (DUP)
Davies, Philip (<i>Shipley</i>) (Con)	† Smith, Greg (<i>Buckingham</i>) (Con)
† Davies-Jones, Alex (<i>Pontypridd</i>) (Lab)	† Spellar, John (<i>Warley</i>) (Lab)
Duddridge, James (<i>Rochford and Southend East</i>) (Con)	Stringer, Graham (<i>Blackley and Broughton</i>) (Lab)
† Knight, Sir Greg (<i>East Yorkshire</i>) (Con)	† Timms, Stephen (<i>East Ham</i>) (Lab)
† Mills, Nigel (<i>Amber Valley</i>) (Con)	† Villiers, Theresa (<i>Chipping Barnet</i>) (Con)
† Morton, Wendy (<i>Parliamentary Under-Secretary of State for Transport</i>)	† Wragg, Mr William (<i>Hazel Grove</i>) (Con)
Paisley, Ian (<i>North Antrim</i>) (DUP)	Adam Mellows-Facer, <i>Committee Clerk</i>
	† attended the Committee

Public Bill Committee

Wednesday 5 January 2022

[RUSHANARA ALI *in the Chair*]

Motor Vehicles (Compulsory Insurance) Bill

3.30 pm

The Chair: Happy new year to you all. I have a few quick preliminary announcements. Members are expected to wear face coverings when they are not speaking and to maintain social distancing as far as possible. I remind everybody to take lateral flow tests on every day that they come to the estate, either before or on arrival. Please switch electronic devices to silent. *Hansard* colleagues would be very grateful if Members emailed their speaking notes to hansardnotes@parliament.uk.

My selection and grouping for today's meeting is available online and in the room. No amendments were tabled. We will have a single debate covering both clauses.

Clause 1

RETAINED EU LAW RELATING TO COMPULSORY INSURANCE FOR MOTOR VEHICLES

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss clause 2 stand part.

Mr Peter Bone (Wellingborough) (Con): It is a pleasure to serve under your chairmanship, Ms Ali, for the first time, I think. The Minister is here at such short notice, and I am grateful to her and to the Government for that. I am also grateful to the Opposition Members present, because without Opposition support, the Bill could not have moved forward.

The Motor Vehicles (Compulsory Insurance) Bill is a small but important piece of legislation. It had its First Reading on 21 June 2021. Second Reading was moved on 22 October, but unfortunately it was objected to on that date. It was moved again on 29 October, when it was agreed without objection. Although there was no debate on Second Reading in the House of Commons Chamber, the issue was fully considered in Westminster Hall on 22 September in a debate entitled, "Motor Insurance: Court Judgments". That debate was expertly led by my right hon. Friend the Member for Chipping Barnet.

Theresa Villiers: That is very kind.

Mr Bone: That debate may be found in *Hansard* at column 172WH. I had intended to attend and speak in that debate, but unfortunately I was unable to do so because I had covid.

The purpose of the Bill is to remove the requirement for compulsory motor insurance for vehicles used exclusively on private land and for a wide range of vehicles that are not constructed for road use. As the Committee is no doubt aware, the law of the land is that motor vehicles must be insured for use on roads and other public land. That common-sense interpretation has been in place for a long time, and certainly since the Road Traffic Act 1988 established it in law.

On 4 September 2014, in its ruling on the case of *Vnuk*, the Court of Justice of the European Union extended a requirement for compulsory third-party motor insurance beyond the requirements of the law of Great Britain per the 1988 Act. That interpretation was never intended by Parliament, but if the status quo continues, the *Vnuk* interpretation of the European directive will be in force in our country. The Committee may ask why that is. When we left the European Union, all European directives became what is known as "retained law". The *Vnuk* interpretation will put ordinary people in breach of the law for not having motor insurance for vehicles used exclusively on private land. It would also extend to the ridiculous situation of compulsory insurance for ride-on lawnmowers.

Sir Greg Knight (East Yorkshire) (Con): Is it not the case that without the Bill, everyone will end up paying higher insurance premiums, which is not something that we want to see? It could also put the future of motor sport at risk.

Mr Bone: My right hon. Friend is absolutely right about increased costs, and I will deal with that point later in my remarks. He is also correct about the threat to motor sports.

The Bill would end the *Vnuk* decision's application in retained EU law and related retained case law. I believe that I am correct in saying that, if passed, the Bill will be the first Act of Parliament to remove EU retained law; it will be a landmark first step in taking back control of our own laws. It is just one of the clear advantages of leaving European Union that we may now alter our laws to ensure that they are interpreted in the way that this sovereign Parliament intends.

Stephen Timms (East Ham) (Lab): As I understand it, the EU has now changed its law. Because we are outside the EU, could we not stick with the retained law? I just want to make that point, because I do not agree with the hon. Gentleman about the damage of being in the EU.

Mr Bone: I was going to deal with that, but I will answer the specifics. The right hon. Gentleman is quite right that the EU is changing the directive so that it applies differently in the EU, but it is not changing it in the same way as we propose to do. I will deal with the issue later.

The Bill does not seek to invent new policy, nor would it limit the Government or Parliament in changing insurance regulations for motor vehicles in future. The Bill would simply restore the interpretation of the law that was intended by Parliament and was believed to be correct by the Government, lawyers, the motor insurance industry and motorists prior to the *Vnuk* judgment.

It should be noted that the Vnuk judgment has led the European Union to seek to revise the European directive, although it is unlikely to do so in the same way as we propose in the Bill. I argue that, instead of waiting for the European Union bureaucracy to change its ruling, we can do so now, here, in this Parliament. The Bill is therefore an important step in realising the benefits of our decision to leave the European Union.

The Bill would end any associated liability for insurance claims against the Motor Insurers' Bureau for the cost of accidents on private land where motor insurance is not held. As things stand, the cost of such claims would have to be accounted for within the Motor Insurers' Bureau charging levy, thus passing on the cost to the motor insurers, who in turn would pass it on to the consumers through insurance premiums—the very point made by my right hon. Friend the Member for East Yorkshire.

Theresa Villiers: I note that, under clause 2, the Bill does not apply in Northern Ireland. Will consumers—drivers—in Northern Ireland therefore face that hike in insurance bills that we are trying to prevent in England, Scotland and Wales?

Mr Bone: My right hon. Friend draws attention to something that I will refer to later in my speech. When she hears what I have to say, she will see why in the end that will not be the case.

The significance of this measure is seen in the Government Actuary's estimate that the increase in premiums to extend coverage following the Vnuk judgment would be about £50 for the average motor car policyholder. The Bill will therefore save the average policyholder unnecessarily increased insurance premiums in already difficult economic times. The cost of living is rising and the Bill is an opportunity to keep pounds in people's pockets.

You have kindly agreed that clauses 1 and 2 may be debated together, Ms Ali. Clause 1 would insert into the Road Traffic Act 1988 new section 156A, "Retained EU law relating to compulsory insurance". Subsection (1) limits the insurance obligation under article 3 of the 2009 motor insurance directive to vehicles used on roads and other public places, and to a motor vehicle defined as a mechanically propelled vehicle intended, or adapted, for use on the roads. In effect, it removes the Vnuk interpretation as it applies to the use of vehicles in Great Britain.

Subsection (2) clarifies that the Bill does not affect the provisions requiring insurance policies to include the cover required by the law applicable in the territory where the vehicle is used, or the law applicable where it is normally based when that cover is higher. That means that the liability imposed by the Vnuk interpretation will remain in place for insurance policies covering vehicles in use in EU member states and Northern Ireland.

Subsection (3) concerns the removal of section 4 rights created in the 2008 *Lewis v. Tindale* case, which found that the interpretation of the 2009 directive in the Vnuk judgment could be enforced directly against the Motor Insurers' Bureau. The *Lewis* decision means that the Motor Insurers' Bureau's liability for an insurance claim extends beyond the scope of the obligations of the Road Traffic Act and applies to accidents on private

land and to vehicles not constructed for road use. Subsection (3) brings an end to the relevant section 4 right to compensation from the Motor Insurers' Bureau except in the case of motor vehicles on roads or other public places, as defined by the Road Traffic Act.

John Spellar (Warley) (Lab): What the hon. Gentleman is describing is interesting. Given, presumably, the obligation arises from an accident and therefore an injury, who becomes responsible for the injury?

Mr Bone: I thank the right hon. Gentleman for a really important question. It is one of the issues discussed when drawing up the Bill. In many cases, such as a public event on private land, there would be insurance cover. It is not currently the case that if someone illegally rides a vehicle on private land, has an accident and causes damage, there is a requirement to be insured for that. The landowner would be liable for the damage, but they do not have to be insured for it. Extending insurance to ride-on lawnmowers or other machines on private land has also been caught by Vnuk.

John Spellar: I accept that there is a fundamental problem with how liability insurance works: rather than dealing with often catastrophic injuries through the health service or national insurance, they are dealt with on an insurance basis. Local councils are impacted by that and it stops a lot of activities, because insurance companies prevent them. I accept there is a deeper underlying problem, but ultimately, if there has been an injury and there is some degree of fault, who is liable for the compensation? Is it the landowner? Is it the driver of the vehicle? How can that be resolved?

Mr Bone: This is a really important argument. There is a liability, and in each event that will depend on who causes the injury or damage. That person will be liable for the damages. The Bill deals with a slightly different situation where we are not extending compulsory insurance to cover those events. If we did, it would increase premiums by £50 per motorist. I stressed earlier that there is nothing to stop Parliament bringing in compulsory insurance on that basis, but it would have to be done through an Act of this sovereign Parliament that wanted to make that change. The Bill brings things back to where we thought we were, but it does not stop that debate and people can still make that argument. However, it is not really relevant to the Bill, because Parliament never thought that the Road Traffic Act and compulsory third-party insurance applied in the circumstances just described.

Proposed new section 156A(4) similarly provides for the removal of all further case law retained under the European Union (Withdrawal) Act 2018 that could undermine the positions set out in subsections (1) and (3). Any other EU law that we do not know about would not apply if the Bill is passed. Subsection (5) defines the terms used in clause 1, including the 2009 motor insurance directive, relevant section 4 rights, retained case law, and section 4 rights.

3.45 pm

Clause 2 is relatively straightforward, but important. Subsection (1) provides for the Act to come into force two months after Royal Assent. Subsection (2) sets out the jurisdiction of the Act and that the provisions will

apply to England, Wales and Scotland only. This is consistent with the convention that Westminster will normally not legislate for matters within the legislative competency of the devolved Administrations. For a reason that is not entirely clear to me, the Bill does not legislate for Northern Ireland as this matter was always reserved to the Northern Ireland Assembly. From what I understand, the Assembly is watching the progress of this Bill carefully and if it becomes law the Assembly will look to produce something similar. That is of significant importance, as when I first looked at this clause I was concerned that Northern Ireland was not included because of the EU withdrawal agreement or the Northern Ireland protocol. That is not the case.

Clause 2(3) confirms that the measure may be cited as the Motor Vehicles (Compulsory Insurance) Act 2021.

Theresa Villiers: It is a pleasure to serve under your chairmanship, Ms Ali. I support this Bill and I congratulate my hon. Friend the Member for Wellingborough on getting it this far. The prospects for a presentation Bill making progress are normally minimal, so it has taken real determination on his part to get it this far. I very much hope we will see it on the statute book before too long.

As we have heard, it is clear that the Vnuk judgment in the ECJ has led to a big extension in the type of claim that can be made against the Motor Insurers' Bureau fund for uninsured road traffic accidents. That extension is manifestly different from the scope and purpose of the scheme in operation under the Road Traffic Act 1988, which focuses on vehicles that are permitted to be used on roads.

In my view, the UK scheme for compensation in relation to collisions caused by uninsured drivers has worked well for decades. I understand that it has been there in one form or another since the 1930s, the earliest point of the extension of private ownership of the car. The combined effect of Vnuk and the later case of *Lewis v. Tindle*, which concluded that Vnuk had direct effect, and the European Union (Withdrawal) Act 2018, means that potentially significant costs are being loaded on to the UK scheme—costs for a scheme that was never designed for them and to which this Parliament did not consent. As we have heard, motorists will be asked to fund this via their insurance premiums unless this Bill reaches the statute book.

I agree with previous comments that we can have a legitimate debate about the potential extension of compulsory insurance and compensation schemes to new scenarios, but I feel quite strongly that we cannot justify leaving drivers to shoulder the whole cost of this potentially big bill by artificially forcing these new liabilities into our long-standing motor insurance scheme. That is a separate decision that should be taken separately by this Parliament.

As we all know, we face significant pressure on the cost of living at the moment, largely as a result of the global increase in gas prices. In Parliament, we should all strive to do what we can to relieve pressure on household bills, which is another reason to back the clauses in this Bill.

I note the analysis of the costs, which was produced by the Government Actuary's Department. It is always hard to quantify these things, although the £50 claim is certainly credible. It is particularly worrying that this

new liability for the MIB fund is potentially open to significant amounts of fraud. Therefore, the actual impact of Vnuk, if left on the statute book, could be very great. It is hard to quantify in advance. Another reason for my support for the Bill is the potential abuse of the fund we could see if the Bill does not get on to the statute book. In a column in *The Telegraph* in 2017, the Prime Minister described Vnuk as a

“pointless and expensive burden on millions of people.”

The Bill provides us with an important opportunity to remove that burden and prevent this addition to household bills.

John Spellar: Was that article in *The Telegraph* before or after the one in which the Prime Minister said that Brexit would enable us to do away with VAT on fuel bills?

Theresa Villiers: I am not going to comment on the question of VAT on fuel bills, since that is not the subject of today's debate. I believe the debates on VAT on fuel bills date back some years, probably before that article.

It is disappointing that the Bill does not cover Northern Ireland, but I hope that it would adopt similar legislation, as my hon. Friend the Member for Wellingborough has suggested that it might. It is good to hear that there is nothing in the protocol that prevents it from doing so. It seems clear that this is not a single market-type rule, which would be covered by the protocol. There should be no constitutional or legal barrier to the Assembly passing a similar piece of legislation, and I certainly hope that it will choose to do so.

The Bill is the first piece of primary legislation to repeal retained EU law. I am certainly not aware of any other piece of primary legislation that does that. There are aspects of EU rules and programmes that have already been dismantled. Most notably, many of the fundamentals of the common agricultural policy have already gone, thankfully. However, it may well be the case that that was achieved without primary legislation. It is very clear that this will be the first time we have used primary legislation to disapply a judgment in the European Court of Justice. It could undoubtedly be described as a historic moment. The controversy around Vnuk shows that we need a faster way to remove or update EU laws that no longer work for us, most of which arrived on the statute book via secondary legislation in the first place. To have to deal with all of those modernisations, updates and amendments via primary legislation is a significant flaw in the European Union (Withdrawal) Act 2018 that needs to be looked at again.

I very much support the Bill. I hope it is the first of a long series of repeals and reforms that will take place as we use our Brexit freedoms to create better regulation that is more targeted to our domestic circumstances and that enables us to compete in the big high-tech growth sectors of the future. Only when we have done that and seized the opportunity provided by Brexit will we truly be able to say that we have got Brexit done.

The Parliamentary Under-Secretary of State for Transport (Wendy Morton): It is a pleasure to serve on this Committee and under your chairmanship, Ms Ali. I congratulate my hon. Friend the Member for Wellingborough on his success in promoting this private Member's Bill. I echo

the comments of my right hon. Friend the Member for Chipping Barnet. She rightly recognises the determination needed to progress a private Member's Bill. I know my right hon. Friend fully understands this, having in the past attempted to get various private Member's Bills through this place—as I have myself. I really do congratulate my hon. Friend the Member for Wellingborough.

This is an important issue. The Government have been clear since the 2014 European Court of Justice's ruling in the Vnuk case that we do not agree with it. The decision created the unnecessary extension of motor insurance to private land and a greater range of vehicles. This is why we announced that we will remove the effects of Vnuk from GB law in February this year. Delivering on that includes removing the associated financial liability imposed on the Motor Insurers' Bureau via the England and Wales Court of Appeal's decision in Lewis.

The proposed legislation in this presentation Bill represents the best possible opportunity to address the issue at the earliest possible opportunity. Clause 1 rightly makes provision to clarify how the compulsory insurance obligation operates in GB and makes it clear that there is no obligation to extend insurance to private land and vehicles not constructed for road use. It removes any retained EU law rights to compensation from the MIB created by the Lewis case. The clause also provides that retained EU case law that is inconsistent with the position set out in this will cease to have effect. That, in effect, removes the Vnuk decision from GB law. The Bill does not have retrospective effect and will come into force two months after Royal Assent.

Sir Greg Knight: Will the Minister share her thoughts on where this leaves electric scooters, which are being trialled in some areas? If they are authorised for road use, will they then be deemed to be a motor vehicle and need compulsory insurance?

Wendy Morton: My right hon. Friend raises a very interesting question. My understanding of this Bill is that it is very much focused on the issue around private land, but if there is anything that I need to follow up on, perhaps on the specifics of scooters, I will.

Sir Greg Knight: If my hon. Friend could write to me with her thoughts on that before Third Reading, I would be quite happy.

Wendy Morton: I undertake to write to my right hon. Friend with the clarity that I think he is looking for.

To conclude, the provisions will comprehensively remove the effect of Vnuk and Lewis from GB law. For those reasons, the Government support the Bill.

Mr Bone: I thank the Minister for her support and the work that the Government have done on this. I also thank the Opposition for supporting the Bill, because without their support we could not have made progress. This is a sensible measure that Parliament should support, and it is good when the Opposition and Government can work together.

I have a few thanks. I thank everyone who turned up today; I really appreciate that, given the important statement in the Chamber. I think I dealt with all the issues, except for the interesting one about electronic scooters that my right hon. Friend the Member for East Yorkshire raised at the end. I think it depends on whether they come within the definition of motor vehicles—I know we did not do so badly in the Ashes today, but that was certainly a bouncer to give the Minister, who has stepped in today.

The other issue that came up, which I have not dealt with, was the important point that the right hon. Member for Warley raised about VAT on energy. I entirely agree that it should be scrapped, but of course that has nothing whatsoever to do with this Bill.

I would like to thank a number of other people. I will start with my right hon. Friend the Member for Chipping Barnet, because she not only had the Westminster Hall debate—that is important, because if a presentation Bill is to get through without objection, that issue must be debated, so I am grateful to her for that—but spent time talking to a number of the stakeholders.

I also thank Izzy Jackson, my senior parliamentary assistant, who kindly put together my speech today, for all the work she has done in the office. I will also mention Paul Ryman-Tubb of Weightmans, who spent time helping me with this. I thank all those at the Motor Insurer's Bureau who worked with me, particularly Nick Robbins, whose help has been invaluable. I would also acknowledge the hard work of everyone at the Department for Transport who has worked on this Bill, particularly James Langston. I again thank the Minister for stepping in at short notice; I hope that our colleague gets over covid quickly.

Finally, I support and thank everyone in the Public Bill Office. I am pleased to say that I did not have to sleep overnight at the base of Big Ben this year because of covid, but we still made progress. I thank in particular Adam Mellows-Facer; I am, as always, grateful for his hard work and professionalism. Thank you, Chair.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Bill to be reported, without amendment.

4.1 pm

Committee rose.

