

HOUSE OF LORDS

Select Committee on the Constitution

5th Report of Session 2009–10

Video Recordings Bill

Report

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To examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution.

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Professor Adam Tomkins, Legal Adviser, is a Member of and unpaid Ad Hoc Legal Adviser to Republic.

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Video Recordings Bill

1. The Video Recordings Bill is the first piece of fast-track legislation to have been introduced into Parliament since we published our report, *Fast-track Legislation: Constitutional Implications and Safeguards*.¹
2. The Video Recordings Bill repeals and immediately revives the Video Recordings Act 1984. The Bill makes no substantive amendment to provisions of the 1984 Act. It is necessary to do this in order to make the Act enforceable. Owing to an oversight the Act was not notified to the European Commission, as it should have been, under the Technical Standards Directive. This mistake was discovered in August 2009.
3. **It is a matter of regret that an Act was rendered unenforceable by such an oversight. The Committee urges all Government departments to ensure that no such mistake is repeated.**
4. Under the Technical Standards Directive, three months' notification is required. Notification was made on 10 September 2009. The Bill was introduced in the House of Commons immediately after the notification period expired (on 15 December 2009). The Bill passed all its stages unamended in the House of Commons on 6 January 2010. The Bill was introduced in the House of Lords on 7 January and Lord Davies of Oldham (Government Deputy Chief Whip) made a statement explaining to the House why it was necessary to fast-track the Bill. Its second reading debate in the House of Lords will take place on 18 January, as will its Committee Stage. Remaining stages will take place two days later, enabling Royal Assent on 21 January.
5. In our report on *Fast-track Legislation* we made a number of recommendations as to procedure (see especially paragraphs 184–189 of the report). Central among these was a recommendation that the Government should explain and justify the need for fast-tracking and that both the Bill's Explanatory Notes and an Oral Statement should be employed to this end. We set out a check-list of matters which the Government should address (paragraph 186). As we reported earlier in this Session, in its response to the Committee's report the Government accepted our recommendations.²
6. Our report was debated in the House on 10 November 2009³ and the Leader of the House (Baroness Royall) indicated in that debate the Government's general acceptance of our recommendations.⁴ The Government's position was spelled out in more detail in a Written Statement on 15 December, in which Baroness Royall undertook as follows:

“any future legislation which will be subject to expedited procedures will contain a full explanation in the accompanying Explanatory Notes to the legislation. The explanation will address the questions set out in paragraph 186 of the [Constitution] Committee's report.”⁵

¹ 15th report (2008–09) HL Paper 116.

² For the Government's response, see Constitution Committee, 2nd Report (2009–10) HL Paper 11.

³ HL Deb 10 November 2009 cols 724–750.

⁴ *Ibid.*, col. 748.

⁵ WS 238 15 December 2009.

7. We are pleased to note that the Explanatory Notes for the Video Recordings Bill do indeed address each of the matters included on our check-list, and give a full explanation of and justification for the need to fast-track this Bill.
8. We are likewise pleased to note that the Government Deputy Chief Whip, when introducing the Bill in the House, gave an Oral Statement to the same effect.⁶
9. **The Committee welcomes these practices and regards them as precedents which should apply to any future fast-tracking of legislation.**

⁶ HL Deb 7 January col. 209.