



# HOUSE OF LORDS

## Procedure Committee

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3rd Report of Session 2009–10

European Union Committee: Terms of  
Reference, Scrutiny Reserve Resolution and  
Opt-in Resolution  
Questions for Written Answer: time-limit for  
answers

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### *The Procedure Committee*

The Procedure Committee is appointed each session to consider any proposals for alterations in the procedure of the House that may arise from time to time, and whether the standing orders require to be amended.

### *Current Membership*

The members of the Procedure Committee are:

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Lord Bassam of Brighton  
Lord Brabazon of Tara (*Chairman*)  
Baroness D'Souza  
Lord Goldsmith  
Baroness Gould of Potternewton  
Lord Harries of Pentregarth  
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### *General Information*

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### *Contacts for the Procedure Committee*

All correspondence should be addressed to the Clerk to the Procedure Committee, House of Lords, London, SW1A 0PW.

The telephone number for enquiries regarding the Committee's work is 020 7219 8796.

## 3RD REPORT OF SESSION 2009–10 FROM THE PROCEDURE COMMITTEE

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### European Union Committee: Terms of Reference, Scrutiny Reserve Resolution and Opt-in Resolution

1. We have considered a memorandum by the Chairman of the European Union Committee, Lord Roper, proposing new Terms of Reference for the Committee, and a new Scrutiny Reserve Resolution. The amendments are technical in nature, and reflect—
  - amendments to the European Treaties arising as a result of the Lisbon Treaty; or
  - codification of existing practice.
2. Lord Roper has also proposed a new Resolution, to embody undertakings given by Baroness Ashton of Upholland during the passage of the European Union (Amendment) Act 2008, about scrutiny of Justice and Home Affairs “opt-in” decisions.<sup>1</sup>
3. **We recommend the following texts to the House.** Members may find it helpful to refer to our 2nd Report of this session for further explanation both of the substantive changes made by the Lisbon Treaty, and of the way in which the House’s scrutiny of opt-in decisions will work in practice.<sup>2</sup>

#### *Proposed new European Union Committee Terms of Reference*

(1) To consider European Union documents deposited in the House by a Minister, and other matters relating to the European Union.

The expression “European Union document” includes in particular:

- (a) a document submitted by an institution of the European Union to another institution and put by either into the public domain;
- (b) a draft legislative act or a proposal for amendment of such an act; and
- (c) a draft decision relating to the Common Foreign and Security Policy of the European Union under Title V of the Treaty on European Union.

The Committee may waive the requirement to deposit a document, or class of documents, by agreement with the European Scrutiny Committee of the House of Commons.

(2) To assist the House in relation to the procedure for the submission of Reasoned Opinions under Article 5 of the Treaty on European Union and the Protocol on the application of the principles of subsidiarity and proportionality.

(3) To represent the House as appropriate in interparliamentary cooperation within the European Union.

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<sup>1</sup> EU Committee, 2nd Report, 2008-09 (HL Paper 25), *Enhanced scrutiny of EU legislation with a United Kingdom opt-in*.

<sup>2</sup> Procedure Committee, 2nd Report, 2009–10 (HL Paper 51).

*Proposed new Scrutiny Reserve Resolution*

Resolved, That,

(1) Subject to paragraph (5) below, no Minister of the Crown shall give agreement in the Council or the European Council in relation to any document subject to the scrutiny of the European Union Committee in accordance with its terms of reference, while the document remains subject to scrutiny.

(2) A document remains subject to scrutiny if—

(a) the European Union Committee has made a report in relation to the document to the House for debate, but the debate has not yet taken place; or

(b) in any case, the Committee has not indicated that it has completed its scrutiny.

(3) Agreement in relation to a document means agreement whether or not a formal vote is taken, and includes in particular—

(a) agreement to a programme, plan or recommendation for European Union legislation;

(b) political agreement;

(c) agreement to a general approach;

(d) in the case of a proposal on which the Council acts in accordance with the procedure referred to in Article 289(1) of the Treaty on the Functioning of the European Union (the ordinary legislative procedure), agreement to the Council's position at first reading, to its position at second reading, or to a joint text; and

(e) in the case of a proposal on which the Council acts in accordance with Article 289(2) of the Treaty on the Functioning of the European Union (a special legislative procedure), agreement to a Council position.

(4) Where the Council acts by unanimity, abstention shall be treated as giving agreement.

(5) The Minister concerned may give agreement in relation to a document which remains subject to scrutiny—

(a) if he considers that it is confidential, routine or trivial, or is substantially the same as a proposal on which scrutiny has been completed;

(b) if the European Union Committee has indicated that agreement need not be withheld pending completion of scrutiny; or

(c) if the Minister decides that, for special reasons, agreement should be given; but he must explain his reasons—

i. in every such case, to the European Union Committee at the first opportunity after reaching his decision; and

ii. if that Committee has made a report for debate in the House, to the House at the opening of the debate on the report.

*Proposed new Resolution on opt-in scrutiny*

(1) This Resolution applies in relation to notification to the President of the Council of the European Union of the wish of the United Kingdom to take part in the adoption and application of a measure following from a proposal or initiative presented to the Council pursuant to Title V of Part Three of the Treaty on the Functioning of the European Union.

(2) No Minister of the Crown may authorise such notification within 8 weeks after the proposal or initiative has been presented to the Council.

(3) A Minister may however authorise such notification sooner than provided by paragraph (2) if he decides that for special reasons this is essential; but he should explain his reasons—

(a) in every such case, to the European Union Committee at the first opportunity after giving that authorisation; and

(b) in the case of a proposal awaiting debate in the House, to the House at the opening of the debate.

(4) Where the European Union Committee is scrutinising the question of notification independently of the substance of the measure to which it relates, scrutiny of the substance of the measure will continue to be governed by the Resolution of the House of 6 December 1999<sup>1</sup>, as amended.

**Questions for Written Answer: time-limit for answers**

4. We have considered a proposal from the Leader of the House, that the time-limit within which Questions for Written Answer are expected to be answered should be changed from the present “fortnight” (*Companion*, paragraph 5.36) to “10 working days”. **We support this change, and recommend it to the House.**

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<sup>1</sup> This is the date of the existing Scrutiny Reserve Resolution. The date will be adjusted once this Report has been agreed and the proposed Resolutions are tabled.