

Mr Walford

Copy to Mr Jamieson
 Mr Ewing
 Mr Rogers
 Mr Beaton, SCA
 Mr Mullin, Sols
 Mr I Campbell
 Ms Kearns
 Mr Clarke
 Mrs Wilson

WESTMINSTER LEGISLATION ON DEVOLVED MATTERS: LIMITED LIABILITY PARTNERSHIPS BILL ETC

1. Following our discussion on Friday, I have redrafted the submission circulated by Mr Parr on 8 June and have now also included a draft statement for the First Minister. These drafts are attached.

2. Mr Jamieson suggested in his minute of 10 June that we should seek the earlier introduction of the UK Bills, or postponement of their second reading, or removal of the devolved provisions from the Bills, rather than sacrifice from the outset the convention that Scottish Parliament consent is obtained after introduction but before second reading. I have some doubts as to how much attention we would get from Whitehall colleagues in arguing for any of these courses in relation to the 3 Bills currently being considered. If we ask for devolved provisions to be removed we run the risk that they might not be so easily reinstated once the Bills are undergoing their various stages. It is my policy interest to ensure that these Bills do apply to Scotland.

3. The convention which safeguards the rights of the Scottish Parliament to approve Westminster legislation on devolved matters is more for the Executive Secretariat than for me. It is unfortunate the first time the convention is put to the test is in relation to Bills that are candidates for the new carry over procedures. Normally Bills are introduced earlier in the Parliamentary session so as to ensure a reasonable chance of Royal Assent before the next Queen's Speech. However these Bills are to be carried forward. The result is that they are all likely to be introduced very shortly before the Scottish Parliament recess and may well get their second readings in July. Therefore unless there is a window of opportunity to debate them between their publication and adjournment of the Scottish Parliament, they could well get their second reading before the Scottish Parliament can consent. The window of opportunity is very short, perhaps only the last week or few days of June. The only way round this would be to proceed on the basis of a memorandum, as proposed by Mr Parr, which states the contents of the unpublished Bill or Bills. The problem with that is whether the Scottish Ministers can publish a document describing a Bill which UK Ministers have not yet published. That seems to me to be questionable. The draft PS minute reflects my latest information on timings of publication.

4. Because of these difficulties, I have suggested that we treat these Bills as special and not setting a precedent for the general operation of the convention. If any of the Bills is introduced in sufficient time for the Scottish Parliament to approve it before it gets its second reading good and well. The First Minister will table a motion recommending approval of that

Bill or those Bills. The Financial Services and Markets Bill is the most likely to reach the starting blocks in time but the Electronic Commerce Bill also has a chance. The most doubtful one is now the Limited Liability Partnerships Bill which has not yet been agreed by the Opposition as a carry forward Bill and which is now unlikely to be introduced until towards the end of June. I suggest that the First Minister's motion could relate to one, two, or all three of the Bills and we do not need to decide until the timing of publication is clearer. On this I would be grateful for advice from Mr Campbell who will know the deadline by which the exact wording of the motion has to be agreed and the possible timing of the business.

5. I also suggest that the First Minister should be given a statement to make in moving the motion. This would make clear that the motion only covers Bills already introduced at Westminster and that there could be other Bills, which because of the accident of timing, may have had their second reading before the Scottish Parliament can consider a similar motion in respect of them. The First Minister should make it clear that such circumstances are a feature of the particular timing and that the convention will generally be to seek approval between publication and substantive consideration by Westminster. This is the thinking behind the recommendations of the PS minute and the new draft statement at Annex B.

6. The flaw in all this is that the motion and statement will be very coy about Bills which we can name and know are in the pipeline. Indeed they could even be introduced at Westminster after the motion is taken but before the Scottish Parliament adjourns. If this is thought to be unacceptably disingenuous then I would be in favour of reverting to Mr Parr's suggestion of describing the unpublished Bills in a memorandum, but we will need to ensure that Whitehall colleagues are content.

7. You asked to see a redraft of the submission before it goes forward. However I understand that Mr Campbell is concerned it should be put forward as soon as possible. I would therefore be grateful for comments by noon on Monday 14 June.

M H Brannan

MRS M H BRANNAN

11 June 1999

HD-CLLAD

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Amice S (Stephanie)

From: Rogers DA (David)
Sent: 14 June 1999 10:14
To: Amice S (Stephanie)
Subject: FW: Legislation at Westminster about Devolved Matters: Limited Liability Partnerships Bill, Financial Services & Markets Bill, Electronic Communications Bill

Follow Up Flag: Follow up
Flag Status: Flagged

From: Walford IN (Ian)
Sent: Monday, June 14, 1999 10:14:07 AM
To: Rogers DA (David)
Cc: Kelly OD (Owen)
Subject: FW: Legislation at Westminster about Devolved Matters: Limited Liability Partnerships Bill, Financial Services & Markets Bill, Electronic Communications Bill

Auto forwarded by a Rule

David (copy to Owen)

Micheline's minute follows discussion with myself and Ian C on Friday.

-----Original Message-----

16 pages from Micheline Brannan - Urgent

First Minister - top copy.

Margaret Barrington
X 42844



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From: Mrs M H Brannan
HD Civil Law & Legal Aid Division
14 June 1999

First Minister

Copy to: Deputy First Minister
Scottish Ministers
PS/Perm Sec
PS/Departments
Director, SCA
Solicitor
Mr Gordon, OSSS
Mr Jamieson, Sols
Mr Walford, ES
Mr Ewing, ES
Director, InD
Mr Rogers, ES
Mr Campbell, ES
Mr Beaton, SCA
Parliamentary Clerk (Scottish Parliament)
Mr Rafferty
Mr Whitton
Mr Fitzpatrick

**LEGISLATION AT WESTMINSTER ABOUT DEVOLVED MATTERS:
LIMITED LIABILITY PARTNERSHIPS BILL
FINANCIAL SERVICES & MARKETS BILL
ELECTRONIC COMMUNICATIONS BILL**

Purpose

1. To recommend that:-

1.1 You should table a motion (as at Annex A) that the Scottish Parliament notes with approval the proposal that Westminster should enact one or more of the following Bills:

- 1.1.1 the Limited Liability Partnerships Bill,
- 1.1.2 the Financial Services and Markets Bill, and
- 1.1.3 the Electronic Communications Bill,

after these Bills have been introduced but if possible before they receive second reading.

1.2 You should make a statement (as at Annex B) to introduce the motion.

1.3 A memorandum (as at Annex C) should be put to the Parliamentary Bureau explaining the content of the Bills and suggesting that it is not necessary to timetable debates.

1.4 You should write to Scottish party leaders (as at Annex D) explaining the content of the Bills and suggesting that it is not necessary to timetable debates.

Timing

2. **Urgent.** Should you not wish to follow the procedures suggested in this minute it may be necessary to ask Whitehall to change the timetable or content of the Bills. The Secretary of State would need to be involved during the transitional period. A response by **16 June** is therefore requested.

Background

3. Following Mr Walford's minute of 3 June you made a statement to the Scottish Parliament on 9 June explaining the convention which is expected to be established that Westminster will not normally legislate about devolved matters without the consent of the Scottish Parliament. You made clear that the Scottish Parliament will have an opportunity to debate the Food Standards Bill (although it will have second reading before this is possible). You also said that there will be several other Bills introduced this session which, though essentially about reserved matters, will include provision about devolved matters.

4. The statement also notified the Scottish Parliament of those Westminster Bills expected to be enacted this session which were introduced before the establishment of the Scottish Parliament and which may still be before Parliament on D-day.

5. The UK Government intends to introduce Bills at Westminster later this month on electronic commerce and on the regulation of financial services and markets. The UK Government is now also planning to introduce a Bill to create a new form of business association (Limited Liability Partnerships). These Bills, while primarily concerned with reserved matters, would contain provisions on devolved matters and in the case of financial services and markets would marginally affect the legislative competence of the Scottish Parliament in the field of Scots private law.

6. The draft memorandum at Annex C summarises each of the 3 Bills, outlines the purpose of the Bills and highlights the provisions on which the Scottish Parliament's consent is required.

The desired convention

7. Mr Walford's minute of 3 June proposed that a Westminster Bill relating to devolved matters in Scotland would normally be promoted by the UK Government only when UK and Scottish Ministers agree that a policy should be given effect by a UK or GB-wide Act. Scottish Ministers would inform the Scottish Parliament of that decision. The announcement could take the form of an answer to an SPQ or a statement introducing a debatable motion. The best timing for such an announcement would be following introduction at Westminster but before second reading (a window of normally not less than 2 weeks). This would mean that the Scottish Parliament had the opportunity to consent to the Bill before it received approval in principle from the House of Commons or Lords.

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9.6.16
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Timing problem

8. There are difficulties, however, about the timing of the 3 Bills mentioned above, because the Scottish Parliament will be going into recess on 2 July leaving very little time (if any) after the planned introduction of these Bills for a debate before their second reading.

9. There is no definite date for the introduction of the Limited Liability Partnerships Bill but it is very unlikely to be before the last week of June. The Electronic Communications Bill cannot be introduced before 23 June. The Financial Services and Markets Bill is the most advanced and could be introduced on 17 June. There is a good possibility of putting down a motion for the Scottish Parliament to approve the Financial Services and Markets Bill after it is published and before the Parliament goes into recess, but time is very short for doing so for either of the other 2 Bills.

The options

10. There are a number of options. You could

10.1 **Put down a single motion as soon as the Financial Services and Markets Bill is introduced, and provide a memorandum describing the proposed contents of that Bill and the proposals in the other 2 Bills even although they have not been published.** We do not think this would be desirable. The Scottish Parliament should not be asked to approve the contents of legislation which it has not had the chance to see as the eventual contents might differ from those described in any memorandum.

10.2 **Put down a motion relating only to the Bill or Bills which have been introduced by, say, 23 June.** This could be timetabled to be taken on 24 June. This would allow the Scottish Parliament to see the legislation in draft although it would not have time to consider it in any detail. In speaking to the motion, you could make it clear that any further Bills containing devolved provisions which are introduced and have their Westminster second reading before the Westminster recess will be regarded as an exception to the normal procedure, caused by the timing of the 2 recesses. You could undertake that the Scottish Parliament will have the opportunity to debate and formally approve these Bills after it returns. This seems to us to be a possible way forward.

10.3 **Ask the Secretary of State to intervene with Whitehall colleagues seeking that they either bring introduction of Bills forward, or delay second reading until after the Scottish Parliament has passed the necessary motion approving the Bill.** We do not recommend this because we do not think it is feasible to bring forward introduction of Bills which may not yet have been approved by the relevant UK Cabinet Sub-Committee (LEG), as none of the 3 have been. Nor do we think it is practicable to ask Whitehall to delay second reading of any of the Bills which could receive this at Westminster in July. This would seem an excessive request that might prompt Whitehall colleagues to remove the devolved provisions, rather than hold up progress.

10.4 **Ask the Secretary of State to intervene with Whitehall colleagues seeking that they remove the devolved provisions from any Bills not yet approved by the Scottish Parliament by its recess, if they are to have second reading in July.** This would remove the risk of undermining the convention which we are seeking to

establish that Scottish Parliament approval is given after introduction but before any of the substantive stages. This would be a purist approach. However Whitehall colleagues might take it amiss that we were seeking at a late stage to remove provisions dealing with devolved matters that have already been drafted. They might not be enthusiastic about the Scots seeking to reinstate these provisions by way of Government amendment during the passage of the Bill. This would have to be done through the intervention of the Secretary of State and would be cumbersome.

Consideration

11. As indicated, we think that the option in paragraph 10.2 is the best available. This would mean obtaining Scottish Parliament approval only to those Bills which have been introduced in sufficient time to put down a motion before the Scottish Parliament recess. Other Bills would have to be left until the Scottish Parliament resumes, albeit that they may have had second reading at Westminster. This can be presented in your statement to the Scottish Parliament as an exception to the normal convention, which is only being made because of the nearness to the recess. It would in the past have been exceptional also for Bills at Westminster to be introduced so near to the summer. Before the new carry forward arrangements were introduced, Bills had to be introduced much earlier in the session to have a chance of obtaining Royal Assent. However it is likely to become more common in future years for Bills to be introduced to be carried forward. The point may as well be made now that Scottish Parliament approval may have to be held over in such circumstances, but that this is exceptional because of timing considerations. For the majority of the year when there are no timing problems, the convention that approval is obtained before second reading should be sustained. If this is made clear to Whitehall, they are less likely to regard a concession in the case of any of these Bills as undermining the general convention.

Conclusion

12. I therefore seek your approval to

12.1 the draft motion attached at Annex A,

12.2 the draft statement at Annex B,

12.3 the draft memorandum attached at Annex C, and

12.4 the draft letter at Annex D.

13. I also recommend that

13.1 the motion should be tabled for consideration on [] June;

13.2 the motion and statement should be the subject of a news release;

13.3 the Secretary of State should be informed of these proposals;

14. If you are content to proceed on this basis, I will provide final versions of the letter at Annex D as soon as the timing of introduction of the Bills is known.

MRS M H BRANNAN

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14 June 1999

DRAFT MOTION TO BE TABLED FOR CONSIDERATION IN THE SCOTTISH PARLIAMENT ON [] JUNE 1999

[S1M -##] First Minister: That the Parliament notes with approval the proposal that the Westminster Parliament should enact [the Limited Liability Partnerships Bill], [the Electronic Communications Bill] [and the Financial Services and Markets Bill].

DRAFT STATEMENT TO BE MADE IN INTRODUCING MOTION

As I indicated on 9 June, it is possible that Bills may introduced in the Westminster Parliament which are principally concerned with reserved matters, but which contain a small number of provisions with a bearing on devolved matters necessary for the consistency and coherence of the UK Government's policy.

It has been agreed as part of the Devolution settlement that the UK Parliament will not legislate on devolved areas unless the approval of the Scottish Parliament has been given. This is an important principle.

For this reason, the First Minister will normally present a motion to the Parliament recommending that the Parliament notes with approval the proposal that the Westminster Parliament should legislate on the subject matter in question. This will normally be done as soon as draft legislation is available but before either House of the UK Parliament has considered the principle of the legislation.

In a minority of cases, however, the timing will not permit this sequence of events. For example should the UK Government publish a Bill touching on devolved matters very close to our recess, it is possible that the accident of timing will not allow this Parliament to approve the legislation before it has had its second reading at Westminster. In such circumstances, I give an assurance that this Parliament will normally have the opportunity to approve the Bill at the earliest opportunity during its passage through Westminster.

The motion I have tabled relates to [one/two/three] Bills which have been introduced. These are [list relevant Bills]

A memorandum has been place in the Library which describes the provisions of these Bills and indicates their impact on devolved matters. [Briefly, the main purpose of the Bills relates to reserved matters: the creation of new business associations, the regulation of financial services and the facilitation of electronic commerce. The regimes created by the Bills would extend throughout the UK. It is therefore appropriate that the legislation should apply throughout the UK. However, in order to apply in Scotland, it is necessary for the Bills to contain legislative provisions that would be within the competence of this Parliament after 1 July.

Two of the Bills (Limited Liability Partnerships Bill and Electronic Commerce Bill) would create the new regime by providing regulation-making powers that in Scotland would be exercised by Scottish Ministers. It would also be for Scottish Ministers to make the commencement order for the devolved provisions.

The third Bill (Financial Services & Markets Bill) relates to reserved matters. It would however apply the new regulatory regime for financial services to sole traders engaged in providing financial services. This would create new special rules of Scots private law in relation to personal bankruptcy (which is devolved) that would become part of the law on reserved matters. The new rules would be outwith the legislative competence of the Scottish Parliament.] **modify these paragraphs when exact Bills known.**

[There may be other Bills introduced shortly at Westminster which similarly provide for reserved matters with consequential provisions on devolved matters. Any such Bills will be brought to this Parliament for approval at the earliest opportunity on our return after the recess.]

*DRAFT PAPER TO BE MADE AVAILABLE IN THE SCOTTISH PARLIAMENT
DOCUMENT SUPPLY CENTRE*

**LEGISLATION AT WESTMINSTER ABOUT MATTERS WITHIN THE
LEGISLATIVE COMPETENCE OF THE SCOTTISH PARLIAMENT:
LIMITED LIABILITY PARTNERSHIPS BILL
FINANCIAL SERVICES & MARKETS BILL
ELECTRONIC COMMUNICATIONS BILL**

This memorandum follows on from the statement to be made by the First Minister on 9 June 1999 about legislation of the United Kingdom Parliament which makes provision about matters which from 1 July 1999 will be within the legislative competence of the Scottish Parliament. The appendices to this memorandum describe Bills recently introduced at Westminster which make such provision. [Copies of the Bills are available in the Scottish Parliament Library? Perry Clarke to liaise with Ian Stage about getting copies of the Bills for the Scottish Parliament Library]

The UK Government has introduced these Bills because the main purposes of the Bills relate to reserved matters: the creation of new business associations, the regulation of financial services and the facilitation of electronic commerce. The regimes created by the Bills would extend throughout the UK. It is therefore appropriate that the legislation should apply throughout the UK. However, in order to apply in Scotland, it is necessary for the Bills to contain legislative provisions that would be within the competence of the Scottish Parliament after 1 July. Two of the Bills (Electronic Communications and Financial Services and Markets Bills) were specifically mentioned in the Queen's speech on 24 November 1998 for the Westminster Parliament's 1998/99 session. The third was included under the general provision in the speech: "Other measures will be laid before you".

Two of the Bills (Limited Liability Partnerships Bill and Electronic Commerce Bill) would create the new regime by providing regulation-making powers that in Scotland would be exercised by Scottish Ministers. It would also be for Scottish Ministers to make the commencement order for the devolved provisions. In addition, the Scottish Parliament would be able to amend or repeal the devolved provisions. As such, if it so wished, the Scottish Parliament could enact Scottish legislation to achieve the same effect as that provided in the two Bills. The approach of a Westminster Bill is being taken as an administrative convenience and also to emphasise that the regimes that would follow would apply throughout the UK.

The third Bill (Financial Services & Markets Bill) relates to reserved matters, but - since it would apply the new regulatory regime for financial services to sole traders engaged in providing financial services - would create new special rules of Scots private law in relation to personal bankruptcy (which is devolved) that would become part of the law on reserved matters. The new rules would be outwith the legislative competence of the Scottish Parliament. It would be beyond the legislative competence of the Scottish Parliament to create a regime to regulate the financial services sector, or even to create the new special rules of Scottish private law. Consequently, the only possible way of providing a common UK wide regulatory regime would be for the Westminster Parliament to legislate in the way proposed.

The effect of the three Bills would be to establish a better environment for business across the United Kingdom through electronic commerce, a new flexible form of partnership and a streamlined and effective form of regulation for the financial services. If the provisions were not to be enacted in the Westminster Bills, the effect would be to deny business in Scotland the opportunity of electronic commerce and limited liability partnerships until such time as the Scottish Parliament could legislate. As noted already, the Scottish Parliament would not have legislative competence to establish rules on financial service regulation, so this would be lost to Scotland.

The Scottish Parliament's approval is sought for all three Bills, in line with the convention referred to by the First Minister on 9 June.

LIMITED LIABILITY PARTNERSHIPS BILL

Description of Bill

The DTI proposes to create a new form of corporate business association to be known as a "limited liability partnership" (LLP). The Bill to give effect to this will apply to Great Britain. An Order will apply corresponding provisions to Northern Ireland.

The main purpose of the Bill is the creation of a new form of business association. That would be a reserved matter under the terms of Head C, Section C1 of schedule 5 to the Scotland Act 1998. However, Section C2 (Insolvency) provides an exception from the reservation in relation to the process of winding up business associations.

The proposals would limit the members' exposure to the extent of their stake in the business. Members would remain personally liable for their own acts. So, an LLP would be a legal entity distinct from its members with the capacity of a legal person including the capacity to enter into contracts etc. Business would normally be transacted with the firm as principal, not the members.

As well as providing for the formation of LLPs, the Bill sets out:-

- registration requirements
- the relationship between partners;
- winding up and insolvency
- taxation provisions ; and
- application of company law

Devolved provisions

There are only minimal provisions required specifically for Scotland. These:-

- allow for registration of LLPs with the registrar of companies in Scotland;
- provide for a regulation making function in relation to the winding up of LLPs.

The Bill contains provisions in relation to devolved law with regard to the process of the winding up of a Scottish LLP. As noted in the opening section of this memorandum, the regulation making powers would be carried out by Scottish Ministers in relation to the winding up of LLPs in Scotland. It would also be for Scottish Ministers to make the order to commence the devolved provisions in the Bill. This is given effect by a clause deeming the Bill for the purposes of the Scotland Act 1998 to be a pre-commencement enactment within the meaning of that Act.

The Scottish Parliament could amend or repeal the devolved provisions.

ELECTRONIC COMMUNICATIONS BILL

Description of Bill

Electronic commerce refers to a new way of marketing goods and services, using electronic means. This involves buying and selling goods and services, money transfers, and advertising, and also includes transactions with Government. The Electronic Communications Bill would include powers to create a statutory voluntary approvals regime for bodies offering electronic signature and confidentiality services. These services enable people to check who has signed an electronic message, that it has not been tampered with, and that it has been kept confidential. However, the statutory scheme will only be brought into force if industry fail to deliver a suitable self-regulatory scheme.

The Bill would also ensure, as far as possible, that the law is technology neutral in its application. It will clarify the position regarding legal recognition of electronic signatures and begin the process of updating the statute book so that electronic means can be used as well as the traditional pen and paper.

Provision for which Scottish Parliament consent is required

The Bill is largely concerned with reserved matters, but includes devolved provisions in relation to the Scots law of contract and evidence [and concerning jurisdiction and tribunals]. [DN: SCA to note. The Bill is still being drafted but the current draft has provisions relating to jurisdiction and tribunals.] The provisions would allow electronic documents to be as validly formed as their paper counterparts and would allow for the recognition in Scots law of electronic signatures. This would be done by giving Ministers powers (by statutory instrument) to modify existing legislation for the purpose of authorising, facilitating or encouraging the use of electronic communications or electronic storage.

As noted in the opening section of this memorandum, Scottish Ministers would carry out the regulation making powers. It would also be for Scottish Ministers to make the order to commence the devolved provisions in the Bill. This is given effect by a clause deeming the Bill for the purposes of the Scotland Act 1998 to be a pre-commencement enactment within the meaning of that Act.

The Scottish Parliament could amend or repeal the devolved provisions.

FINANCIAL SERVICES & MARKETS BILL

Description of Bill

This Bill would replace the existing regulatory arrangements contained in the Financial Services Act 1986, the Banking Act 1987, the Insurance Companies Act 1982, the Building Societies Act 1986 and the Friendly Societies Act 1992 with a single regulatory framework for the UK financial services industry and a single statutory regulator, the Financial Services Authority (FSA). The Bill was the subject of consultation in July 1998 and a progress report was published in March 1999 by HM Treasury. The proposals were generally well received.

Provision for which Scottish Parliament consent is required

Only one part of the Bill has direct Scottish implications. This sets out the role of the FSA in insolvency proceedings. The majority of the proposals are related to giving the FSA powers in relation to the winding up of financial institutions and insurance companies. As such, they are related entirely to reserved law. However, there is one issue in relation to Scotland - bankruptcy of sole traders - that relates to devolved law.

At present the FSA is able to petition for the winding up of companies (including partnerships) which are authorised to carry out financial services business. However, it does not have an equivalent power to petition for the bankruptcy of a sole trader carrying out a financial services business. In such cases it is difficult or impossible to distinguish between an individual's personal and business affairs. Consequently, it is proposed that the FSA should be given a power to petition for bankruptcy of an individual.

This area of law is contained in the Bankruptcy (Scotland) Act 1985 (the 1985 Act). The proposals would introduce new grounds for petitioning for the sequestration of a person's estate, which would be available to the FSA - who would not normally be a creditor of that estate. Under the 1985 Act, only the debtor (either with the consent of creditors, or following demands for payment by creditors), a trustee under a trust deed (under exceptional circumstances), or a "qualified creditor or qualified creditors" to whom at least £1500 is owed (individually or collectively) may petition for the sequestration of the debtor's estate. The major ground for petitioning is that the petitioner can show that the debtor is unwilling or unable to pay an established debt. Bankruptcy law in Scotland is essentially a creditor-driven process.

Therefore, the Bill would create new special rules of Scots private law in relation to personal bankruptcy that would become part of the law on reserved matters. As such, the new rules would be outwith the legislative competence of the Scottish Parliament. So, the Scottish Parliament could neither amend nor repeal the provisions. However, it should be noted that, while bankruptcy law would be within the legislative competence of the Scottish Parliament, the purpose of the Bill relates to the supervision and regulation of financial services, which is a reserved matter.

DRAFT LETTER FOR THE FIRST MINISTER TO SEND TO SCOTTISH PARTY LEADERS

You will recall that on 9 June I made a statement to the Scottish Parliament about future legislation by the Westminster Parliament on matters that are within the legislative competence of the Scottish Parliament. I referred to the convention that the Westminster Parliament would not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament.

In my statement I mentioned that several other Bills may be introduced at Westminster this session which make provision essentially about reserved matters but which will have impact upon devolved areas. Consequently, I plan to seek the Scottish Parliament's consent to [one/two/three] Bills that the UK Government has introduced and that contain provisions that relate to devolved matters. I should first stress that the purpose of the Bill[s] is related to reserved matters and that the provisions on devolved law are required simply to ensure a level playing field of regulation across the United Kingdom.

The attached memorandum describes each of the Bills, including the provisions that relate to devolved matters. It is my intention to place the memorandum in the Scottish Parliament Library. It is also my intention to table a motion that the Scottish Parliament notes with approval the proposal that Westminster should enact [the Bill[s] referred to]. The motion will be taken [] June.

The convention that we are seeking to establish is that UK Bills which pertain essentially to reserved matters but which have a consequential impact on devolved matters will be referred to the Parliament for approval after their publication but before either House of Parliament gives them substantive consideration. The extension of [these Bills] to Scotland is uncontroversial. I would hope that you would support the motion and agree that it would be unnecessary to devote debating time.

There may be other UK Bills which make consequential provision for devolved matters and which are introduced after we have adjourned for our recess. In such cases it may not be practicable to bring them to our Parliament before they have received any substantive consideration because of the timing. However you have my assurance that any such Bills will be brought before our Parliament at the earliest opportunity on our reconvening after the recess.

DONALD DEWAR