



Debt relief & 'vulture funds': the Debt Relief (Developing Countries) Act 2010

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Author: Ian Townsend

Section Economic Policy & Statistics section

This note provides an update to the [second reading](#) and [committee stage](#) research papers on the *Debt Relief (Developing Countries) Bill*, or the 'vulture funds Bill'.

The Bill sought to limit the activities of so-called 'vulture funds', which buy developing countries' sovereign debt at discounted prices, then seek to recover its value in full through the courts. The Bill would limit the amount of sovereign debt of certain highly indebted developing countries that can be recovered by commercial creditors. Successful claims would be limited to an internationally agreed level, and apply equally to all commercial creditors. Debts incurred after the Bill's entry into force would be excluded.

The Bill received Royal Assent after the 2009-10 Parliamentary session 'wash-up' in on 8 April 2010, coming into force two months later. The Act has a 'sunset clause' requiring the Government to assess the effect of the legislation on debt markets, then before 8 June 2011 (one year after entering into force), the Act must be renewed by order either for a further year or permanently. If it not renewed, the legislation includes a clause to the effect that it was effectively never in force, and any judgements made on its basis would no longer apply.

The Coalition Government has committed to "review what action can be taken against 'vulture funds'" before the expiration of the 'sunset clause' in June 2011.

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1 Passage of the Bill

The Debt Relief (Developing Countries) Bill was a Private Members' Bill introduced by Andrew Gwynne MP and supported by the previous Government.

The Bill sought to limit the amount that can be recovered by any commercial creditor of a set of countries designated as having unsustainable external debts. It would apply only to those countries eligible for the IMF/World Bank-managed [Highly Indebted Poor Countries \(HIPC\) initiative](#).

The legislation would restrict the activities of so-called 'vulture funds', which buy developing countries' sovereign debt at discounted prices, then seek to recover its value in full through the courts. Successful claims would be limited to an internationally agreed (through the HIPC process) level, and apply equally to all commercial creditors. Debts incurred after the Bill's entry into force would be explicitly exempt from these provisions.

The Library research paper produced for the Bill's [second reading](#) and [committee stage](#) provide details on the legislation and summarises views on its aims.

1.1 Second reading, committee & report stages

Originally introduced by Andrew Gwynne, but subsequently steered through by Sally Keeble (in the absence of Mr Gwynne due to illness), the Bill was read a second time on 26 February.

Amid a general cross-party consensus on the Bill's aims, in Public Bill Committee a compromise 'sunset clause' was added to the Bill. This provides that the legislation expires a year after commencement, although it also allows for the Treasury to renew it by order, for a further year or permanently. Another proposed amendment, requiring the Treasury to report back on the Bill's effects and functioning, was not adopted.

At report stage on 12 March, the Bill was objected to after the debate on the *Local Authorities (Overview and Scrutiny) Bill* continued past the moment of interruption. After this point, no opposed business can proceed, and any objections bring proceedings to a halt.

There was widespread disappointment among the NGO community that the legislation appeared to have fallen. However, Sally Keeble ensured it was remained on the remaining orders as the final session of the last Parliament drew to a close "just to keep it visible."¹

1.2 'Wash-up' & Royal Assent

Following the announcement of the dissolution of Parliament ahead of the general election, the Business Statement on 6 April included the Bill in the 'wash up'.²

This was a "surprise resurrection" according to one commentator, who also noted: "It is rare for a private member's bill – legislation introduced by a backbench MP rather than a minister – to get through in the wash-up".³ Nick Dearden, Director of Jubilee Debt Campaign UK added:⁴

¹ ["Parliament's last virtuous act: to stop vulture funds picking off the poor"](#), guardian.co.uk, 11 April 2010

² [HC Deb 6 Apr 2010 c826](#)

³ ["Parliament's last virtuous act: to stop vulture funds picking off the poor"](#), guardian.co.uk, 11 April 2010

⁴ ["Landmark law passed to tackle vulture funds"](#), Eurodad (European debt & development network) blog entry, 8 April 2010

This is extremely unusual – Private Members' Bills almost never get selected in this way, and proves the strength of feeling that had built up in the country at large, and amongst British Parliamentarians on this issue.

Debate was scheduled in Government time the following day, 7 April. There was a short debate on the 'sunset clause' added in Public Bill Committee, which would allow for the effects of the legislation be examined before making it permanent, with suggestions that the International Development Committee might investigate in the new Parliament.⁵

The Bill then successfully passed its Commons third reading, including the new sunset clause, and received its first reading in the Lords without debate on the evening of 7 April.

During the Lords [second reading debate](#), the then Shadow Minister in the Lords for the Treasury, Baroness Noakes, supported the Bill's aims, but outlined concerns that the legislation had been "been rushed through, in particular without having proper scrutiny in your Lordships' House", and the lack of exploration afforded by a Lords committee stage. Baroness Noakes also highlighted the risk private sector involvement in HIPC countries could be reduced and human rights concerns, which has also been raised during Commons stage debates on the Bill.⁶

However, the Bill successfully received its second and third readings and passed, receiving Royal Assent on the last day of the session, 8 April.⁷

The Bill entered into force on 8 June 2010, two calendar months after Royal Assent.⁸

On gaining Royal Assent for his bill, Andrew Gwynne said:⁹

I am absolutely thrilled that my bill has been passed into law. It was completely unacceptable that a small number of companies were ever allowed in the UK courts to profiteer off the third world debt market. These "vulture funds" were completely unjust and it is to the credit of this parliament, and the efforts of the Jubilee Debt Campaign that we have finally managed to pass this law. I said I would put a stop to these vulture funds, and I did.

Sally Keeble, piloting the legislation through the Commons on Mr Gwynne's behalf, said:¹⁰

These vulture funds are international predators. Their victims are the poorest people in the world. It is excellent that at this stage it has been possible to get this piece of legislation on to the statute books to outlaw the activities of these vulture funds. This was a victory for a broad based campaign led by jubilee debt and other NGOs which brought this issue to public attention.

CAFOD's head of policy, Joanne Green, noted that:¹¹

New legislation that will prevent vulture funds picking over their payment of debts of poor countries was a welcome win from this week's pre-election wash-up [...] With the economic crisis potentially increasing the financial burden of poor nations, passage of the bill is a palpable victory. This law will prevent vulture funds exploiting the worst-off

⁵ See [Committee Stage Report research paper](#) on the Bill, p14 and [PBC Deb 9 March 2010](#), c27

⁶ HL Deb 8 Apr 2010 c1699 ([full debate from cc1695-1703](#))

⁷ [HL Deb 8 Apr 2010 c1738](#)

⁸ See "[Bill to stop vulture funds using UK courts gets royal assent](#)", The Guardian, 8 April 2010

⁹ Jubilee Debt Campaign, "[Vultures Law Passed](#)" (un-dated)

¹⁰ *ibid.*

¹¹ Letter from Joanne Green, "[Gains and losses from the wash-up](#)", The Guardian, 12 April 2010

nations by buying up their debt on the cheap to make a quick buck. It will specifically make it illegal for heavily indebted poor countries to be taken to court in the UK to extract payments above what has already been agreed. Ultimately this means the poorest countries can use debt relief to help improve the lives of their citizens instead of being under threat of losing it to the circling vulture funds.

Nick Dearden, Director of Jubilee Debt Campaign UK, also noted:¹²

What doesn't the bill do? It doesn't tackle vulture activity more widely. Argentina, Ecuador and Peru – all targets of vultures – get nothing from the Act. It doesn't have any transparency provision – so we still can't find out information about who these shady characters are. And it only applies to historical debt – not future borrowing. Also, in order to get the Bill through, the compromise that was made was a sunset clause – giving the Government the power to review (and get rid of) the bill in 12 months time.

So it's a small step – but an important one. The UK and US were the two most popular jurisdictions for vultures. We hope this move puts pressure on the US Administration to pass legislation. The Bill is also important because, as was raised in Parliamentary debate, the law applies certain aspects of 'insolvency procedure' to countries for the first time, accepting countries cannot be held to ransom by a handful of greedy creditors.

Of course, this is where we need to head next – to an international system that allows countries more widely to assert the rights of their own citizens against international creditors.

The UN's foreign debt and human rights expert, Cephias Lumina,¹³ welcomed the new law as “the first occasion on which a country has banned profiteering by ‘vulture funds’”, adding:¹⁴

Awards to vulture funds diminish the impact of debt relief for these countries and undermine the core objectives of internationally-agreed debt relief measures.”

“From a human rights perspective, the settlement of excessive vulture fund claims by poor countries with unsustainable debt levels has a direct negative effect on the capacity of governments of these countries to fulfill their human rights obligations, especially economic, social and cultural rights, such as the rights to health, water and sanitation, food, housing and education [...]

I call upon the international community and, in particular, the countries, which are preferred jurisdictions for many 'vulture funds,' to follow the example of the UK and enact legislation to prevent 'vulture fund' activity within their jurisdiction as a clear indication of their commitment to find a durable solution to the debt problem

He added that the law could be applied to the 26 November 2009 High Court award of \$20 million from Liberia to two vulture funds, to “make the verdict unenforceable in full.”

¹² “[Landmark law passed to tackle vulture funds](#)”, Eurodad (European debt & development network) blog entry, 8 April 2010

¹³

¹⁴ “[‘Vulture funds’ – UN expert on foreign debt welcomes landmark law to address profiteering](#)”, UN Office of the High Commissioner for Human Rights, 20 April 2010. Cephias Lumina's full title is: “Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights

2 Election statements

The [Conservative party's 2010 election manifesto](#) did not refer to vulture funds, nor to debt relief in general.

The [Labour party manifesto](#) said:¹⁵

Our leadership on debt cancellation has freed 28 countries from the shackles of debt. We will continue to drive this agenda, building on legislation to clampdown on vulture funds.

The [Liberal Democrat manifesto](#) included a commitment to “take measures against ‘vulture funds’ and lobby for similar action at international level”.¹⁶

3 Coalition Government statements

The Coalition Government's *Programme for Government* includes the following commitment:¹⁷

We will review what action can be taken against ‘vulture funds’.

In response to a written Parliamentary Question, Treasury Minister Mr Hoban said in June:¹⁸

The Debt Relief (Developing Countries) Act 2010 passed through Parliament in April and will mean that UK courts of law will no longer be used to pursue excessive claims against some of the poorest countries on their historic debts, ensuring that resources are available to tackle poverty. The sunset clause attached to this legislation requires that the Government review within a year whether or not to extend the Act. The Government are committed to ensuring that countries receive the full benefit of debt relief from all their creditors—bilateral and commercial. We support the World Bank's debt reduction facility that enables countries to buy back their commercial debt at a deep discount with donor support. We are also supporting the recently founded African legal support facility that provides legal advice to countries facing litigation.

International Development Minister Alan Duncan said (emphasis added):¹⁹

I acknowledge the success of the hon. Member in initiating this important Act, which is a key part of action against so-called vulture funds. It means that UK courts of law can no longer be used to pursue excessive claims against some of the poorest countries on their historic debts, ensuring that resources are available to tackle poverty. **We will review the effectiveness of this new Act before the sunset clause expires next June.**

In response to a July 2010 request about representations received on the Act's implementation and the sunset clause, Treasury Minister Mr Hoban replied:²⁰

The Debt Relief (Developing Countries) Act 2010 passed through Parliament in April and will mean that UK Courts of Law will no longer be used to pursue excessive claims against some of the poorest countries on their historic debts, ensuring that resources are available to tackle poverty. The sunset clause attached to this legislation requires

¹⁵ <http://www2.labour.org.uk/uploads/TheLabourPartyManifesto-2010.pdf>, p10:6

¹⁶ http://network.libdems.org.uk/manifesto2010/libdem_manifesto_2010.pdf, p63

¹⁷ <http://programmeforgovernment.hmg.gov.uk/international-development/>

¹⁸ HC Deb 22 June 2010 c127W (see also HC Deb 14 June 2010 c274W)

¹⁹ HC Deb 7 July 2010 c359

²⁰ HC Deb 8 July 2010 cc409-410W

that the Government review within a year whether or not to extend the Act. The Chancellor of the Exchequer has not to date received any representations from representatives of the financial services sector on the implementation of the Act or its sunset clause provisions.

As at 27 July 2010, there were no references to vulture funds or the Act on the Treasury or DFID websites (other than in archived material from the previous Government and a DFID item on the [work of the African Development Bank](#)).

4 Further resources

Bill information page: services.parliament.uk/bills/2009-10/debtreliefdevelopingcountries.html

Act text: www.opsi.gov.uk/acts/acts2010/ukpga_20100022_en_1

Library research papers on Bill:

Second reading: <http://www.parliament.uk/commons/lib/research/rp2010/rp10-026.pdf>

Committee stage: <http://www.parliament.uk/commons/lib/research/rp2010/rp10-017.pdf>

Jubilee Debt Campaign, *End the Vulture Culture* campaign;
<http://www.jubileedebtcampaign.org.uk/?lid=2893>

Jubilee Debt Campaign, *Vulture Funds Timeline*;
<http://www.jubileedebtcampaign.org.uk/Vulture%20funds%20%20how%20it%20happened+6176.twl>

World Bank [Highly Indebted Poor Countries \(HIPC\) initiative](#) page and [HIPC presentation](#)