

Overseas Operations (Service Personnel and Veterans) Bill

RUNNING LIST OF ALL AMENDMENTS ON REPORT

Tabled up to and including

23 March 2021

[Sheets HL Bill 147 – R(a) to (e)]

Clause 5

BARONESS RITCHIE OF DOWNPATRICK

Page 3, line 27, leave out paragraph (b)

Member's explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Clause 6

LORD ROBERTSON OF PORT ELLEN
LORD ALTON OF LIVERPOOL
LORD WEST OF SPITHEAD
LORD CAMPBELL OF PITTENWEEM

Page 4, line 11, at end insert –

“() An offence is not a “relevant offence” if it amounts to –

- (a) torture, within the meaning of section 134 of the Criminal Justice Act 1988 (torture); or
- (b) genocide, a crime against humanity or a war crime as defined in section 50 of the International Criminal Court Act 2001 (meaning of “genocide”, “crime against humanity” and “war crime”).”

Member's explanatory statement

This amendment provides that the presumption against prosecution does not apply to war crimes, crimes against humanity, genocide or torture.

BARONESS RITCHIE OF DOWNPATRICK

Page 4, line 15, leave out “, or of Northern Ireland,”

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Clause 7

BARONESS RITCHIE OF DOWNPATRICK

Page 5, line 3, leave out paragraph (d)

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Clause 10

BARONESS RITCHIE OF DOWNPATRICK

Leave out Clause 10

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Clause 11

BARONESS RITCHIE OF DOWNPATRICK

Page 8, line 7, at end insert –

“(10) The rule referred to in this section does not apply before the courts of Northern Ireland.”

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Clause 12

LORD HOPE OF CRAIGHEAD
BARONESS SMITH OF NEWNHAM
LORD FALCONER OF THOROTON
LORD CRAIG OF RADLEY

Leave out Clause 12

After Clause 12

LORD TUNNICLIFFE

Insert the following new Clause—

“Access to legal aid for service personnel in criminal proceedings

Within 12 months of this Act coming into force, the Secretary of State shall commission an independent evaluation of access to legal aid for members and former members of the regular and reserve forces and of British overseas territory forces to whom section 369(2) of the Armed Forces Act 2006 (members of British overseas territories’ forces serving with UK forces) applies, in relation to criminal legal proceedings in connection with operations of the armed forces outside the British Islands, and lay a copy of the evaluation report before each House of Parliament.”

Member’s explanatory statement

This new Clause would require the Government to commission and publish an independent evaluation of service personnel’s access to legal aid in relation to the criminal proceedings covered by the provisions in the Bill.

LORD FALCONER OF THOROTON
LORD STIRRUP
LORD BOYCE
LORD THOMAS OF GRESFORD

Insert the following new Clause—

“Restrictions on time limits: actions brought against the Crown by service personnel

Nothing in this Part applies to any action brought against the Crown by a person who is a member or former member of the regular or reserve forces, or of a British overseas territory force to whom section 369(2) of the Armed Forces Act 2006 (members of British overseas territories’ forces serving with UK forces) applies.”

Member’s explanatory statement

This new Clause amends Part 2 of the Bill so that it explicitly excludes actions brought against the Crown by serving or former service personnel from the limitations on courts’ discretion that the Part imposes in respect of actions relating to overseas operations.

LORD DANNATT
LORD STIRRUP
LORD BOYCE
LORD TUNNICLIFFE

Insert the following new Clause –

“Duty of care to service personnel

- (1) The Secretary of State must establish a duty of care standard in relation to legal, pastoral and mental health support provided to service personnel involved in investigations or litigation arising from overseas operations, as defined in subsection (6) of section 1.
- (2) The Secretary of State must lay a copy of this standard before Parliament within six months of the date on which this Act is passed.
- (3) The Secretary of State must thereafter in each calendar year –
 - (a) prepare a duty of care update, and
 - (b) include the update in the Armed Forces Covenant annual report when it is laid before Parliament.
- (4) The duty of care update is a review about the continuous process and improvement to meet the duty of care standard established in subsection (1), in particular in relation to incidents arising from overseas operations of –
 - (a) litigation and investigations brought against service personnel for allegations of criminal misconduct and wrongdoing;
 - (b) civil litigation brought by service personnel against the Ministry of Defence for negligence and personal injury;
 - (c) judicial reviews and inquiries into allegations of misconduct by service personnel;
 - (d) such other related fields as the Secretary of State may determine.
- (5) In preparing a duty of care update the Secretary of State must have regard to, and publish relevant data in relation to (in respect of overseas operations) –
 - (a) the adequacy of legal, welfare and mental health support services provided to service personnel who are accused of crimes;
 - (b) complaints made by service personnel or their legal representation when in the process of bringing or attempting to bring civil claims against the Ministry of Defence for negligence and personal injury;
 - (c) complaints made by service personnel or their legal representation when in the process of investigation or litigation for an accusation of misconduct;
 - (d) meeting national standards of care and safeguarding for families of service personnel, where relevant.
- (6) In subsection (1) “service personnel” means –
 - (a) members of the regular forces and the reserve forces;
 - (b) members of British overseas territory forces who are subject to service law;
 - (c) former members of any of Her Majesty’s forces who are ordinarily resident in the United Kingdom; and
 - (d) where relevant, family members of any person meeting the definition within paragraph (a), (b) or (c).

After Clause 12 - continued

- (7) In subsection (1) “duty of care” means both the legal and moral obligation of the Ministry of Defence to ensure the wellbeing of service personnel.
- (8) None of the provisions of this section may be used to alter the principle of combat immunity.”

Member’s explanatory statement

This new Clause will require the Ministry of Defence to identify a new duty of care to create a new standard for policy, services and training in relation to legal, pastoral and mental health support provided to service personnel involved in investigations or litigations arising from overseas operations, and to include a duty of care update in the Armed Forces Covenant Annual Report.

Clause 13

BARONESS RITCHIE OF DOWNPATRICK

Page 9, line 11, leave out paragraph (c)

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Clause 14

BARONESS RITCHIE OF DOWNPATRICK

Page 9, line 13, leave out “, Scotland and Northern Ireland” and insert “and Scotland”

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Page 9, line 17, leave out subsection (4)

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Clause 15

BARONESS RITCHIE OF DOWNPATRICK

Page 9, line 36, leave out subsection (10)

Member's explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Schedule 1

BARONESS RITCHIE OF DOWNPATRICK

Page 12, line 34, leave out "or Northern Ireland"

Member's explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Page 13, line 12, leave out paragraphs 20 to 22

Member's explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Page 13, line 40, leave out paragraph (b)

Member's explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Page 14, line 40, leave out "or Northern Ireland"

Member's explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Page 15, line 2, leave out “or Northern Ireland”

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Page 15, line 6, leave out paragraph 33

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Page 15, line 26, leave out “or Northern Ireland”

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.

Schedule 4

BARONESS RITCHIE OF DOWNPATRICK

Leave out Schedule 4

Member’s explanatory statement

This amendment is one of a series in the name of Baroness Ritchie designed to limit the extent of the bill insofar as it applies to the courts in Northern Ireland in order to remedy the incompatibility of the present bill with the provisions of the Belfast Agreement that require incorporation of the European Convention on Human Rights into Northern Irish law in a manner that ensures direct access to the courts and remedies for ECHR breaches.