

# Overseas Operations (Service Personnel and Veterans) Bill

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AMENDMENTS  
TO BE MOVED  
ON REPORT

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**Clause 2**

LORD FALCONER OF THOROTON  
LORD THOMAS OF GRESFORD  
LORD HOPE OF CRAIGHEAD

Leave out Clause 2 and insert the following new Clause—

**“Ability to conduct a fair trial**

The principle referred to in section 1(1) is that a relevant prosecutor making a decision to which that section applies may determine that proceedings should be brought against the person for the offence, or, as the case may be, that the proceedings against the person for the offence should be continued, only if the prosecutor has reasonable grounds for believing that the fair trial of the person has not been materially prejudiced by the time elapsed since the alleged conduct took place.”

**After Clause 7**

LORD THOMAS OF GRESFORD  
LORD FALCONER OF THOROTON  
LORD BOYCE  
LORD DANNATT

Insert the following new Clause—

**“Investigation of allegations related to overseas operations**

- (1) In deciding whether to commence criminal proceedings for allegations against a member of Her Majesty’s Forces arising out of overseas operations, the relevant prosecutor must take into account whether the investigation has been timely and comprehensively conducted.
- (2) Where an investigator of allegations arising out of overseas operations is satisfied that there is sufficient evidence of criminal conduct to continue the investigation, the investigator must within 21 days refer the investigation to the Service Prosecuting Authority with any initial findings and accompanying case papers.

**After Clause 7 - continued**

- (3) An investigation may not proceed after the period of 6 months beginning with the day on which the allegation was first reported without the reference required in subsection (2).
- (4) On receiving a referral under subsection (2), the Service Prosecuting Authority must either –
  - (a) order the investigation to cease if it considers it unlikely that charges will be brought, or
  - (b) give appropriate advice and directions to the investigator about avenues of inquiry to pursue and not pursue, including –
    - (i) possible defendants to consider,
    - (ii) possible explanations to consider for the circumstances giving rise to the investigation, and
    - (iii) overseas inquiries and seeking the help of jurisdictions.
- (5) Where the investigation proceeds, the Service Prosecuting Authority must monitor and review its progress at intervals of three months and must on each review make a decision on the terms set out in subsection (4).
- (6) On the conclusion of the investigation, the investigator must send a final report with accompanying case papers to the Service Prosecuting Authority for the consideration of criminal proceedings.
- (7) After receipt of the final report, the facts and circumstances of the allegations may not be further investigated or reinvestigated without the direction of the Director of Service Prosecutions acting on the ground that there is new compelling evidence or information which might –
  - (a) materially affect the previous decision, and
  - (b) lead to a charge being made.
- (8) The Judge Advocate General may give Practice Directions as he or she deems appropriate for the investigation of allegations arising out of overseas operations.
- (9) For the purposes of this section –

“investigator” means a member of the service police or a civil police force;

“case papers” includes summaries of interviews or other accounts given by the suspect, previous convictions and disciplinary record, available witness statements, scenes of crime photographs, CCTV recordings, medical and forensic science reports.”

**Clause 8**

LORD THOMAS OF GRESFORD  
BARONESS SMITH OF NEWNHAM

Leave out Clause 8

**Clause 9**

LORD THOMAS OF GRESFORD  
BARONESS SMITH OF NEWNHAM

Leave out Clause 9

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*29 March 2021*

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