

Armed Forces Bill

AMENDMENT TO BE MOVED IN GRAND COMMITTEE

Clause 7

LORD THOMAS OF CWMGIEDD

Page 4, line 27, at end insert –

- “(4B) The general principles set out in the guidance under subsection (3)(a) must ensure that due consideration is given to –
- (a) the ordinary right of a defendant in the United Kingdom to trial for certain offences by a randomly selected jury of 12 persons;
 - (b) the view of the defendant as to the choice of jurisdiction;
 - (c) the view of the complainant or victim of the alleged offence as to the choice of jurisdiction;
 - (d) the way in which the offence was investigated;
 - (e) the relevance to the fairness and effectiveness of the trial of –
 - (i) knowledge of specific naval or military complexity;
 - (ii) knowledge of naval or military codes of conduct or methods of operation or rules of discipline;
 - (iii) experience of naval or military service to the determination of whether conduct was honest or dishonest by the standards of ordinary decent people;
 - (iv) any differences in the procedure as between by the civilian police and service police applicable to the investigation of the offence or as between the Crown Prosecution Service and the Service Prosecuting Authority in the conduct of the prosecution of the offence;
 - (v) the intended location of the trial;
 - (f) the desirability of a uniform approach to the exercise of the jurisdiction as between prosecutions in the Courts of England and Wales, Scotland and Northern Ireland.
- (4C) Before a protocol may be agreed under subsection (1), the Secretary of State must also lay a draft of the protocol before Parliament.
- (4D) If, within the 40-day period, either House of Parliament resolves not to approve the draft of the protocol, the protocol may not be agreed.
- (4E) If no such resolution is made within that period, the protocol may be agreed.

Clause 7 - continued

- (4F) If the protocol is agreed, the Secretary of State must publish it and lay it before Parliament.
- (4G) In this section, the “40-day period”, in relation to a draft of a protocol, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House of Parliament on the same day, the later of the 2 days on which it is laid).
- (4H) For the purposes of calculating the 40-day period, no account is to be taken of any period during which –
 - (a) Parliament is dissolved or prorogued, or
 - (b) both Houses are adjourned for more than 4 days.
- (4I) Where the Courts of England and Wales and the Court Martial have concurrent jurisdiction over any offence wherever committed, the principles set out in a protocol agreed under subsection (1) should be applied by the Director of Service Prosecutions and the Director of Public Prosecutions in deciding the jurisdiction in which the prosecution should be brought.”

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22 October 2021
