

Armed Forces Bill

SECOND MARSHALLED LIST OF AMENDMENTS TO BE MOVED IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 20th October 2021, as follows –

Clauses 1 and 2	Clause 11
Schedule 1	Schedule 4
Clauses 3 to 9	Clauses 12 to 15
Schedule 2	Schedule 5
Clause 10	Clauses 16 to 26
Schedule 3	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 11

BARONESS GOLDIE

- 38** Page 22, line 33, leave out “and service police forces,” and insert “, service police forces and the tri-service serious crime unit,”

Member’s explanatory statement

This amendment would make consequential provision in connection with the new Clause proposed by Baroness Goldie to be inserted after Clause 11.

- 39** Page 23, line 26, leave out “and service police forces,” and insert “, service police forces and the tri-service serious crime unit,”

Member’s explanatory statement

This amendment would make consequential provision in connection with the new Clause proposed by Baroness Goldie to be inserted after Clause 11.

- 40** Page 23, line 37, leave out “service police force,” and insert “relevant body,”

Member’s explanatory statement

This amendment would make consequential provision in connection with the new Clause proposed by Baroness Goldie to be inserted after Clause 11.

41 Page 23, line 39, at end insert –

“(2) In subsection (1) “relevant body” means a service police force or the tri-service serious crime unit.”

Member’s explanatory statement

This amendment would make consequential provision in connection with the new Clause proposed by Baroness Goldie to be inserted after Clause 11.

After Clause 11

BARONESS GOLDIE

42 Insert the following new Clause –

“Framework for establishment of tri-service serious crime unit

- (1) The Armed Forces Act 2006 is amended as follows.
- (2) In section 365A (Provost Marshals: appointment), in subsection (1), after “force” insert “, or to be Provost Marshal for serious crime,”.
- (3) In section 115A (Provost Marshal’s duty in relation to independence of investigations) –
 - (a) in subsection (1), for “This section” substitute “Subsection (2)”;
 - (b) after subsection (2) insert –

“(2A) The Provost Marshal for serious crime has a duty, owed to the Defence Council, to seek to ensure that all investigations carried out by the tri-service serious crime unit are free from improper interference.”;
 - (c) in subsection (3), at the end insert “or (as the case may be) the unit.”
- (4) In section 375 (definitions relating to police forces) –
 - (a) in the heading, after “to” insert “the service police and other”;
 - (b) after subsection (1) insert –

“(1A) In this Act the “tri-service serious crime unit” means a unit under the direction of the Provost Marshal for serious crime, each member of which is a member of a service police force.”
- (5) Schedule (*Tri-service serious crime unit*) makes further provision about the tri-service serious crime unit and the Provost Marshal for serious crime.
- (6) The Secretary of State may by regulations made by statutory instrument make such provision amending or revoking any provision of subordinate legislation made before the passing of this Act as appears to the Secretary of State to be appropriate in consequence of any provision of this section or Schedule (*Tri-service serious crime unit*).
- (7) Regulations under subsection (6) may include transitional provisions or savings.
- (8) A statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In subsection (6) “subordinate legislation” means –
 - (a) subordinate legislation within the meaning of the Interpretation Act 1978,
 - (b) an instrument made under an Act of the Scottish Parliament, or

After Clause 11 - continued

(c) an instrument made under Northern Ireland legislation.”

Member’s explanatory statement

This amendment and the amendment in the name of Baroness Goldie to insert a new Schedule after Schedule 4 would make provision in connection with the establishment of a tri-service serious crime unit and with regard to the functions of the Provost Marshal for serious crime who is to be the head of that unit.

LORD COAKER

LORD ROBERTSON OF PORT ELLEN

LORD THOMAS OF CWMGIEDD

LORD THOMAS OF GRESFORD

As an amendment to Amendment 42

- 43 In subsection (3)(b), in inserted subsection (2A), leave out from “Council,” to end of subsection (2A) and insert “to ensure all investigations are operationally independent from the military chain of command.”;

As an amendment to Amendment 42

- 44 After subsection (4) insert—

- “(4A) The tri-service serious crime unit must contain a victim and witness care unit, funding for which is to be made available by the Secretary of State.
- (4B) The Deputy Provost Marshal for serious crime must be a civilian appointment.
- (4C) The Provost Marshal for Serious Crime must produce a report annually to the Minister chairing the Service Justice Board, who must arrange for the report to be laid before Parliament.
- (4D) Before the tri-service serious crime unit is established, a Strategic Policing Board, consisting of a Non-Executive Director (who is also a member of the Service Justice Executive Group), a retired Chief Constable, a recently retired senior military officer, and a retired Judge, must be established to provide assurance and governance of the Provost Marshal for Serious Crime and the Defence Serious Crime Unit.
- (4E) The tri-service serious crime unit must be established by 1 April 2022.
- (4F) By 1 July 2022, the Provost Marshal for Serious Crime, Director of Service Prosecutions and Judge Advocate General must have agreed protocols on fatalities and ill treatment cases.”

After Schedule 4

BARONESS GOLDIE

- 45 Insert the following new Schedule—

“TRI-SERVICE SERIOUS CRIME UNIT

Police and Criminal Evidence Act 1984 (c. 60)

- 1 (1) Section 63A of the Police and Criminal Evidence Act 1984 (fingerprints and samples: supplementary provision) is amended as follows.
- (2) In subsection (1A)—

After Schedule 4 - continued

- (a) after paragraph (b) insert—
“ (ba) the tri-service serious crime unit;”;
- (b) in paragraph (d), for “(c)” substitute “(ba)”.

(3) After subsection (1B) insert—

“(1BA) In subsection (1A) “tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

2 (1) Article 63A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (fingerprints and samples: supplementary provision) is amended as follows.

(2) In paragraph (1A)—

- (a) after sub-paragraph (b) insert—
“ (ba) the tri-service serious crime unit;”;
- (b) in sub-paragraph (c), for “or (b)” substitute “to (ba)”.

(3) After paragraph (1B) insert—

“(1BA) In paragraph (1A) “tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

Criminal Appeal Act 1995 (c. 35)

3 The Criminal Appeal Act 1995 is amended as follows.

4 (1) Section 19 (power to require appointment of investigating officers) is amended as follows.

(2) After subsection (2) insert—

“(2A) Where the Commission has power to impose a requirement under paragraph (a) of subsection (2) and the public body referred to in that paragraph is mentioned in section 22(4A), that power includes power to impose the requirement on the Provost Marshal for serious crime (instead of the person who is the appropriate person in relation to the public body).”

(3) In subsection (4)(b), for the words from “either” to the end substitute “in a body selected by the chief officer which is—

- (i) another police force,
- (ii) a service police force, or
- (iii) the tri-service serious crime unit.”

(4) In subsection (4A)—

- (a) in the words before paragraph (a), for “a Provost Marshal” substitute “the Provost Marshal of a service police force”;
- (b) in paragraph (a), for the words from “the” to “Marshal” substitute “that service police force”;
- (c) for paragraph (b) substitute—
“ (b) a requirement to appoint a person serving in a body selected by the Provost Marshal which is—
 - (i) a police force,
 - (ii) another service police force, or
 - (iii) the tri-service serious crime unit.”

(5) After subsection (4A) insert—

After Schedule 4 - continued

- “(4B) A requirement under this section imposed on the Provost Marshal for serious crime may be—
- (a) a requirement to appoint a person serving in the tri- service serious crime unit, or
 - (b) a requirement to appoint a person serving either in a police force selected by the Provost Marshal or in a service police force selected by the Provost Marshal.”
- (6) In subsection (5), for paragraph (b) substitute —
- “(b) a requirement to appoint a person serving in a body selected by the appropriate person which is —
- (i) a police force, a service police force or the tri- service serious crime unit, or
 - (ii) a public body (not falling within sub-paragraph (i)) having functions which consist of or include the investigation of offences.”
- (7) In subsection (6) —
- (a) in paragraph (b), for the words from “a police” to “body” substitute “a body mentioned in subsection (4)(b), (4A)(b), (4B)(b) or (5)(b)”;
 - (b) in the words after paragraph (b), after “(4A)” insert “, (4B)”.
- (8) In subsection (7) —
- (a) in the words before paragraph (a), after “body” insert “or by the Provost Marshal for serious crime”;
 - (b) in paragraph (a), after “body” insert “or (as the case requires) the Provost Marshal for serious crime”.
- (9) After subsection (7) insert —
- “(8) In this section “tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”
- 5 In section 20 (inquiries by investigating officers), after subsection (2) insert —
- “(2A) In the application of subsection (2) in relation to an investigating officer who is serving in a public body mentioned in section 22(4A), the reference in subsection (2) to the person who is the appropriate person in relation to that public body is to be read as including (so far as necessary) a reference to the Provost Marshal for serious crime.”

Police Act 1997 (c. 50)

- 6 The Police Act 1997 is amended as follows.
- 7 (1) Section 93 (authorisation to interfere with property etc) is amended as follows.
- (2) In subsection (3), after paragraph (aa) insert —

“(aaa) if the authorising officer is within subsection (5)(eda), by a member of the tri-service serious crime unit;”.
 - (3) In subsection (5), after paragraph (ed) insert —

“(eda) the Provost Marshal for serious crime;”.
 - (4) In subsection (6A), in the words before paragraph (a), for “or (ed)” substitute “, (ed) or (eda)”.

After Schedule 4 - continued

- 8 In section 94 (authorisations given in absence of authorising officer), in subsection (2), after paragraph (dc) insert—
 - “(dca) where the authorising officer is within paragraph (eda) of that subsection, by a person holding the position of deputy Provost Marshal in the tri-service serious crime unit;”.
- 9 In section 108 (interpretation of Part 3), in subsection (1), at the appropriate place insert—
 - ““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006;”.
- 10 In section 113B (enhanced criminal record certificates), in subsection (11), after paragraph (b) insert—
 - “(ba) the tri-service serious crime unit (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Provost Marshal for serious crime);”.
- 11 In section 126 (interpretation of Part 5), in subsection (1), at the appropriate place insert—
 - ““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

Terrorism Act 2000 (c. 11)

- 12 In Schedule 8 to the Terrorism Act 2000 (detention), in paragraph 20J, in the definition of “police force”, after paragraph (l) insert—
 - “and references to a police force are to be read as including the tri-service serious crime unit (as described in section 375(1A) of the Armed Forces Act 2006);”.

Regulation of Investigatory Powers Act 2000 (c. 23)

- 13 The Regulation of Investigatory Powers Act 2000 is amended as follows.
- 14 In section 32 (authorisation of intrusive surveillance), in subsection (6), after paragraph (i) insert—
 - “(ia) the Provost Marshal for serious crime;”.
- 15 (1) Section 33 (rules for grant of authorisations) is amended as follows.
 - (2) After subsection (1) insert—
 - “(1ZZA) A person who is a designated person for the purposes of section 28, 29 or 29B by reference to the person’s office, rank or position with the tri-service serious crime unit must not grant an authorisation under that section except on an application made by a member of that unit.”
 - (3) After subsection (3) insert—
 - “(3ZZA) The Provost Marshal for serious crime must not grant an authorisation for the carrying out of intrusive surveillance except—
 - (a) on an application made by a member of the tri-service serious crime unit; and
 - (b) in the case of an authorisation for the carrying out of intrusive surveillance in relation to any residential premises, where those premises are in the area of operation of a police force mentioned in subsection (6)(d).”

After Schedule 4 - continued

- 16 (1) Section 34 (grant of authorisations in the senior officer's absence) is amended as follows.
- (2) In subsection (1)(a), for "force," substitute "force (other than a member of the tri-service serious crime unit), a member of the tri-service serious crime unit,".
 - (3) In subsection (2)(a), after "as the case may be, as" insert "Provost Marshal for serious crime or".
 - (4) In subsection (4), after paragraph (h) insert —
 - “(ha) a person is entitled to act for the Provost Marshal for serious crime if the person holds the position of deputy Provost Marshal in the tri-service serious crime unit;”.
- 17 (1) Section 35 (notification of authorisations for intrusive surveillance) is amended as follows.
- (2) In subsection (1), after "police," insert "tri-service serious crime unit,".
 - (3) In subsection (10) —
 - (a) in the words before paragraph (a), after "police," insert "tri- service serious crime unit;”;
 - (b) after paragraph (a) insert —
 - “(aa) the Provost Marshal for serious crime;”;
 - (c) in paragraph (c), after "(a)" insert "or for a person falling within paragraph (aa)".
- 18 (1) Section 36 (approval required for authorisations to take effect) is amended as follows.
- (2) In subsection (1), after paragraph (a) insert —
 - “(aa) a member of the tri-service serious crime unit;”.
 - (3) In subsection (6) —
 - (a) after paragraph (a) insert —
 - “(aa) where the authorisation was granted by the Provost Marshal for serious crime or a person entitled to act for the Provost Marshal for serious crime by virtue of section 34(4)(ha), that Provost Marshal;”;
 - (b) in paragraph (f), for "(a) to (i)" substitute "(a) to (h) or (i)".
- 19 In section 41 (Secretary of State authorisations), in subsection (7), at the end insert "or is a member of the tri-service serious crime unit".
- 20 In section 56(1)(interpretation of Part 3), in the definition of "chief officer of police", after paragraph (h) insert —
 - “(ha) the Provost Marshal for serious crime;”.
- 21 (1) Section 81 (general interpretation) is amended as follows.
- (2) In subsection (1), at the appropriate place insert —
 - ““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006;”.
 - (3) In subsection (6)(b), for the words from "serving" to the end substitute "serving —
 - (i) with that force,

After Schedule 4 - continued

- (ii) with another of those police forces, or
- (iii) with the tri-service serious crime unit.”

22 In Schedule 1 (regulation of relevant public authorities), after paragraph A1 insert—

“A1A The tri-service serious crime unit.”

Sexual Offences Act 2003 (c. 42)

23 In section 137 of the Sexual Offences Act 2003 (service courts), in subsection (4), at the appropriate place insert—

““Provost Marshal” means the Provost Marshal of a service police force or the Provost Marshal for serious crime;”.

Armed Forces Act 2006 (c. 52)

24 The Armed Forces Act 2006 is amended as follows.

25 (1) Section 93C (preliminary impairment test) is amended as follows.

(2) In subsection (4), for the words from “means” to the end substitute “means—

- (a) the Provost Marshals of each of the service police forces, and
- (b) the Provost Marshal for serious crime.”

(3) In subsection (6), at the end insert “or the Provost Marshal for serious crime”.

26 In section 113 (CO to ensure service police aware of possibility serious offence committed), in subsection (1), after “police force” insert “or the tri-service serious crime unit”.

27 In section 114 (CO to ensure service police aware of certain circumstances), in subsection (1), after “police force” insert “or the tri-service serious crime unit”.

28 In section 115 (duty of CO with respect to investigation of service offences), in subsections (1)(b) and (4)(b), after “police force” insert “or the tri-service serious crime unit”.

29 In section 116 (referral of case following investigation by service or civilian police), in subsection (1), after “service police force” (in each place it occurs) insert “or the tri-service serious crime unit”.

30 In section 119 (circumstances in which CO has power to charge etc), in subsection (3)(b), after “force” insert “or the tri-service serious crime unit”.

31 In section 321A (inspection of service police investigations), at the end insert—
“(5) For the purposes of this section the tri-service serious crime unit is to be regarded as a service police force.”

32 In section 374 (definitions applying for purposes of whole Act), at the appropriate place insert—

““tri-service serious crime unit” means the unit described in section 375(1A);”.

Counter-Terrorism Act 2008 (c. 28)

33 In section 18E of the Counter-Terrorism Act 2008 (sections 18 to 18E: supplementary provisions) subsection (1) is amended as follows.

34 In the definition of “law enforcement authority”, after paragraph (a) insert—
“(aa) the tri-service serious crime unit,”.

35 In the definition of “the responsible officer”, after paragraph (d) insert—

After Schedule 4 - continued

“(da) in relation to material obtained or acquired by the tri- service serious crime unit, the Provost Marshal for serious crime;”.

36 At the appropriate place insert –

““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

Coroners and Justice Act 2009 (c. 25)

37 The Coroners and Justice Act 2009 is amended as follows.

38 In section 47 (interested person), in subsection (2)(j), at the end insert “of a service police force or of the tri-service serious crime unit”.

39 In section 48 (interpretation: general), in subsection (1), at the appropriate place insert –

““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

40 In Schedule 1 (duty or power to suspend investigations), in paragraph 1(3), after “Provost Marshal” insert “of a service police force, the Provost Marshal for serious crime”.

41 In Schedule 7 (allowances, fees and expenses), in paragraph 5(2)(a), for “or a member of a police force,” substitute “member of a police force or member of the tri-service serious crime unit,”.

Terrorism Prevention and Investigation Measures Act 2011 (c. 23)

42 In Schedule 6 to the Terrorism Prevention and Investigation Measures Act 2011 (fingerprints and samples), in paragraph 14 –

(a) in the definition of “police force”, after paragraph (l) insert –

“and references to a police force are to be read as including the tri-service serious crime unit;”;

(b) at the appropriate place insert –

““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

Investigatory Powers Act 2016 (c. 25)

43 The Investigatory Powers Act 2016 is amended as follows.

44 In section 56 (exclusion of matters from legal proceedings etc), in subsection (3)(d), at the end insert “or the tri-service serious crime unit”.

45 In section 57 (duty not to make unauthorised disclosures), in subsection (3)(c), at the end insert “or the tri-service serious crime unit”.

46 In section 263 (general definitions), in subsection (1), at the appropriate place insert –

““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

47 In Schedule 4 (relevant public authorities and designated senior officers etc.), in the table in Part 1, after the entry relating to the Royal Air Force Police insert –

After Schedule 4 - continued

“Tri-service serious crime unit	60A(7)(a), (b), (c) and (e)	Lieutenant Commander	Entity data	61(7)(a) and (c)	61A(7)(a) and (c)
		Major	Entity data	61(7)(a) and (c)	61A(7)(a) and (c)
		Squadron leader	Entity data	61(7)(a) and (c)	61A(7)(a) and (c)
		Commander	All	61(7)(a) and (c)	61A(7)(a) and (c)
		Lieutenant colonel	All	61(7)(a) and (c)	61A(7)(a) and (c)
		Wing commander	All	61(7)(a) and (c)	61A(7)(a) and (c)”

- 48 In Part 1 of the table in Schedule 6 (issue of warrants under section 106 etc), after the entry relating to the Provost Marshal of the Royal Air Force Police insert—

“The Provost Marshal for serious crime.	A person holding the position of deputy Provost Marshal in the tri-service serious crime unit.	A member of the tri-service serious crime unit.”
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Data Protection Act 2018 (c. 12)

- 49 In Schedule 7 to the Data Protection Act 2018 (competent authorities), after paragraph 15 insert—

“15A The Provost Marshal for serious crime.”

Counter-Terrorism and Border Security Act 2019 (c. 3)

- 50 In Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (border security), in paragraph 51—

(a) in the definition of “police force”, after paragraph (l) insert—
“and references to a police force are to be read as including the tri-service serious crime unit;”

(b) at the appropriate place insert—
““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

Crime (Overseas Production Orders) Act 2019 (c. 5)

- 51 (1) Section 15 of the Crime (Overseas Production Orders) Act 2019 (application of Act to service police) is amended as follows.

(2) For subsection (3)(c) substitute—

After Schedule 4 - continued

“(c) references to an equivalent appropriate officer are to be read as follows—

- (i) where the person who applied for the order or, as the case may be, made the application (“the applicant”) was a member of the tri-service serious crime unit, as references to a member of that unit;
- (ii) in any other case, as references to a member of the same service police force as the applicant who is not a member of that unit.”

(3) In subsection (7), at the appropriate place insert—

““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006.”

Overseas Operations (Service Personnel and Veterans) Act 2021 (c. 23)

52 In section 7 of the Overseas Operations (Service Personnel and Veterans) Act 2021 (general interpretation etc), in subsection (4)—

(a) in the definition of “investigating authority”, after paragraph (a) insert—

“(aa) the tri-service serious crime unit;”;

(b) at the appropriate place insert—

““tri-service serious crime unit” means the unit described in section 375(1A) of the Armed Forces Act 2006;”.

Member’s explanatory statement

This new Schedule and the amendment in the name of Baroness Goldie to insert a new Clause after Clause 11 would make provision in connection with the establishment of a tri- service serious crime unit and with regard to the functions of the Provost Marshal for serious crime who is to be the head of that unit.

Clause 13

BARONESS GOLDIE

46 Page 26, line 11, leave out “service police force” and insert “relevant body”

Member’s explanatory statement

This amendment would make consequential provision in connection with the new Clause proposed by Baroness Goldie to be inserted after Clause 11.

47 Page 26, line 12, at end insert—

“(8) In subsection (7) “relevant body” means a service police force or the tri-service serious crime unit.”

Member’s explanatory statement

This amendment would make consequential provision in connection with the new Clause proposed by Baroness Goldie to be inserted after Clause 11.

After Clause 18

LORD DANNATT
 LORD HOUGHTON OF RICHMOND
 LORD COAKER
 BARONESS BRINTON

48 Insert the following new Clause—

“Mental health support

- (1) A Minister of the Crown must make provision for additional mental health support for serving Armed Forces personnel, including but not limited to targeted support for serving Armed Forces personnel who have been affected by the United Kingdom’s withdrawal and Taliban takeover in Afghanistan in 2021.
- (2) This support should aim to improve mental health treatment provided to Armed Forces personnel through the Defence Medical Services, Department of Community Mental Health, the Veterans Mental Health and Wellbeing Service, and the Veterans and Reserves Mental Health Programme.
- (3) Progress, monitoring and evaluation of this support must be included in the annual Armed Forces Covenant report.”

Member’s explanatory statement

This amendment would provide additional mental health support to serving Armed Forces personnel, including those who have been affected by the UK withdrawal and Taliban takeover in Afghanistan in 2021.

LORD COAKER
 LORD DANNATT
 LORD CRAIG OF RADLEY
 BARONESS SMITH OF NEWNHAM

49 Insert the following new Clause—

“Indefinite leave to remain payments by Commonwealth and Gurkha members of armed forces

- (1) The Immigration Act 2014 is amended as follows.
- (2) In section 68(10), after “regulations” insert “must make exceptions in respect of any person with citizenship of a Commonwealth country (other than the United Kingdom) who has served at least four years in the armed forces of the United Kingdom, or in respect of any person who has served at least four years in the Brigade of Gurkhas, such exceptions to include capping the fee for any such person applying for indefinite leave to remain at no more than the actual administrative cost of processing that application, and”.”

Member’s explanatory statement

This new Clause will ensure that Commonwealth and Gurkha veterans applying for Indefinite Leave to Remain following four years of service will only pay the unit cost of an application.

LORD COAKER

50 Insert the following new Clause—

“Report on dismissals or discharges from the Armed Forces on grounds relating to sexual orientation or gender identity

- (1) The Secretary of State must lay before Parliament a report on the number of people who have been dismissed or discharged from the Armed Forces on the grounds relating to sexual orientation or gender identity.
- (2) The report under subsection (1) must include cases where—
 - (a) there is formal documentation citing sexual orientation as the reason for their dismissal, or
 - (b) there is evidence of sexual orientation or gender identity being a reason for their dismissal, though another reason is cited in formal documentation.
- (3) The report under subsection (1) must make recommendations for appropriate compensation to be awarded, including but not limited to—
 - (a) the restoration of ranks,
 - (b) pensions, and
 - (c) other forms of financial compensation.
- (4) The report must include a review of the cases of those service personnel who as a result of their sexual orientation were convicted of service discipline offences as a consequence of engaging in conduct which, if occurring in the same circumstances today, would not now be an offence and make recommendations on how to address such convictions.
- (5) The report must include dismissals and discharges back to at least 1955.
- (6) The first report under subsection (1) must be laid no later than six months after the day on which this Act is passed.
- (7) The Secretary of State may make further reports under subsection (1) from time to time.”

Member’s explanatory statement

This new Clause requires the government to conduct a comprehensive review of the number of people who were dismissed or forced to resign from the Armed Forces due to their sexual orientation and to make recommendations on appropriate forms of compensation.

51 Insert the following new Clause—

“Armed Forces Federation

- (1) The Armed Forces Act 2006 is amended as follows.
- (2) After section 333, insert—

“333A Armed Forces Federation

- (1) There shall be an Armed Forces Federation for the United Kingdom for the purpose of representing members of the Armed Forces in the United Kingdom in all matters affecting their welfare, remuneration and efficiency, except for—
 - (a) questions of promotion affecting individuals, and
 - (b) (subject to subsection (2)) questions of discipline affecting individuals.

After Clause 18 - continued

- (2) The Armed Forces Federation may represent a member of the armed forces at any proceedings or on an appeal from any such proceedings.
- (3) The Armed Forces Federation must act through local and central representative bodies.
- (4) This section applies to reservists of the Armed Forces as it applies to members of the Armed Forces, and references to the Armed Forces are to be construed accordingly.

333B Regulations for the Armed Forces Federation

- (1) The Secretary of State may by regulations—
 - (a) prescribe the constitution and proceedings of the Armed Forces Federation, or
 - (b) authorise the Federation to make rules concerning such matters relating to their constitution and proceedings as may be specified in the regulations.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision—
 - (a) with respect to the membership of the Federation;
 - (b) with respect to the raising of funds by the Federation by voluntary subscription and the use and management of funds derived from such subscriptions;
 - (c) with respect to the manner in which representations may be made by committees or bodies of the Federation to officers of the Armed Forces and the Secretary of State; and
 - (d) for the payment by the Secretary of State of expenses incurred in connection with the Federation and for the use by the Federation of premises provided by local Armed Forces bodies for Armed Forces purposes.
- (3) Regulations under this section may contain such supplementary and transitional provisions as appear to the Secretary of State to be appropriate, including provisions adapting references in any enactment (including this Act) to committees or other bodies of the Federation.
- (4) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) This section applies to reservists of the Armed Forces as it applies to members of the Armed Forces.”

Member’s explanatory statement

This new Clause would create a representative body for the Armed Forces, akin to the Police Federation, which would represent their members in matters such as welfare, pay and efficiency.

Insert the following new Clause—

“Universal Credit

- (1) The Government must publish annual statistics on the number of veterans who are receiving universal credit.

After Clause 18 - continued

- (2) These statistics should be included in the annual Armed Forces covenant report.”

Member’s explanatory statement

This amendment would require the Government to publish statistics on the number of veterans in receipt of universal credit.

- 53 Insert the following new Clause—

“Flexible Service scheme report

A Minister of the Crown must make provision to improve the uptake and use of the Flexible Service scheme, for both women and men, and report its progress by the end of 2022.”

Member’s explanatory statement

This amendment is based on recommendations in the House of Commons Defence Sub-Committee Women in the Armed Forces report, “Protecting Those Who Protect Us: Women in the Armed Forces from Recruitment to Civilian Life”.

- 54 Insert the following new Clause—

“Recommendations of the Service Complaints Ombudsman

Within three months of the passing of this Act, the Secretary of State must make the recommendations of the Service Complaints Ombudsman binding on the Armed Forces and the Ministry of Defence, including a clear timescale and action plan for implementation of changes where they are recommended.”

Member’s explanatory statement

This amendment is based on recommendations in the House of Commons Defence Sub-Committee Women in the Armed Forces report, “Protecting Those Who Protect Us: Women in the Armed Forces from Recruitment to Civilian Life”.

- 55 Insert the following new Clause—

“Experiences of veterans by sex, gender or other protected characteristics

The annual report of the Armed Forces Covenant must include a metric to monitor the experiences of veterans by sex or gender and by other protected characteristics.”

Member’s explanatory statement

This amendment is based on recommendations in the House of Commons Defence Sub-Committee Women in the Armed Forces report, “Protecting Those Who Protect Us: Women in the Armed Forces from Recruitment to Civilian Life”.

56 Insert the following new Clause—

“Armed Forces Champions

- (1) A Minister of the Crown must make provision for 100 Armed Forces Champions to be employed throughout the Jobcentre Plus network for purposes of fulfilling the Government’s commitment to the Armed Forces Covenant.
- (2) An “Armed Forces Champion” is an employee of Jobcentre Plus who has responsibility for giving employment support and benefits advice to veterans, and for raising awareness of particular issues faced by veterans and their families within the Jobcentre Plus network.
- (3) An evaluation of this support, statistics on how many veterans have been supported by champions, and whether more champions are needed should be included in the annual Armed Forces Covenant Report.”

Member’s explanatory statement

This amendment would ensure 100 Armed Forces Champions across the Jobcentre network.

LORD CASHMAN

LORD LEXDEN

57 Insert the following new Clause—

“Disregards and pardons for convictions of certain service offences

- (1) The Protection of Freedoms Act 2012 is amended as follows.
- (2) In section 92 (power of Secretary of State to disregard convictions or cautions)—
 - (a) in subsection (1)(b), omit “or”,
 - (b) in subsection (1)(c), at the end insert “or”,
 - (c) after subsection (1)(c), insert—
 - “(d) any other offence which falls within subsection (1A),”
 - (d) after subsection (1), insert—
 - “(1A) An offence falls within this subsection if the offence—
 - (a) is contained in any provision in the following enactments—
 - (i) the Naval Discipline Act 1866;
 - (ii) the Army Act 1881;
 - (iii) the Air Force Act 1917;
 - (iv) the Army Act 1955;
 - (v) the Air Force Act 1955;
 - (vi) the Naval Discipline Act 1957; and
 - (b) regulated, or was used in practice to regulate, sexual activity between persons of the same sex.
 - (1B) Where an offence once covered activity other than sexual activity between persons of the same sex, the offence falls within subsection (1A) only to the extent that it once covered sexual activity between persons of the same sex.
 - (1C) In this section, “sexual activity between persons of the same sex” includes—

After Clause 18 - continued

- (a) any physical or affectionate activity between persons of the same sex which is of a type which is characteristic of persons involved in an intimate personal relationship,
- (b) conduct intended to introduce or procure such activity.”,
- (e) in subsection (3)(a), before the words “the other person” insert “in respect of an offence mentioned in subsection (1)(a) to (c)”,
- (f) in subsection (3)(b), substitute the full stop with “; or”,
- (g) after subsection (3)(b), insert –
 - “(c) in respect of an offence that falls within subsection (1A) the conduct constituting the offence, if occurring in the same circumstances, would not be an offence on the day on which this subsection comes into force.””

Member’s explanatory statement

The purpose of this new Clause is to enable armed forces personnel who were convicted of service discipline offences as a consequence of engaging in same-sex sexual acts, of a kind that would be lawful today, to apply to have a conviction disregarded and, if successful, be pardoned.

58

Insert the following new Clause—

“Posthumous pardons for convictions of certain service offences

- (1) A person who has been convicted of an offence which falls within section 92(1A) of the Protection of Freedoms Act 2012 (“the 2012 Act”) and who has died before this section comes into force, or dies during the period of 6 months beginning with the day on which this section comes into force, is pardoned for the offence if the conduct constituting the offence, if occurring in the same circumstances, would not be an offence on the day on which this section comes into force.
- (2) For the purposes of this section, section 92(1A)(a) of the 2012 Act is to be read as including offences contained in any provision in the following enactments—
 - (a) 13 Chas. 2 c. 9 (1661) (An Act for the regulation and better government of the navy),
 - (b) 22 Geo. 2 c. 33 (1749) (An Act for amending and consolidating the laws relating to the navy),
 - (c) the Naval Discipline Act 1860,
 - (d) the Naval Discipline Act 1861,
 - (e) the Naval Discipline Act 1864,
 - (f) the Army Discipline and Regulation Act 1879,
 and in any provision in relevant Articles of War.
- (3) A pardon under this section does not—
 - (a) affect any conviction or sentence, or
 - (b) give rise to any right, entitlement or liability.
- (4) Nothing in this section affects the prerogative of mercy.

After Clause 18 - continued

- (5) Subject to subsection (6), the following provisions of section 101 of the 2012 Act apply for the purposes of this section as they apply for the purposes of Chapter 4 of Part 5 of that Act—
 - (a) in subsection (1), the definition of “conviction” and “sentence” (and the related definition of “service disciplinary proceedings”),
 - (b) subsections (2), (5) and (6).
- (6) The definition of “service disciplinary proceedings” in section 101(1) of the 2012 Act applies in accordance with subsection (5) with the modification that it also includes any proceedings (whether in England and Wales or elsewhere) under any provision mentioned in subsection (2) of this section.
- (7) In this section—
 - “relevant Articles of War” means Articles of War made under—
 - (a) the Mutiny Act 1878,
 - (b) the Marine Mutiny Act 1878, or
 - (c) any Act previously in force corresponding to either of those Acts.”

Member’s explanatory statement

The purpose of this new Clause is to provide posthumous pardons to armed forces personnel who were convicted of service discipline offences as a consequence of engaging in same-sex sexual acts, of a kind that would be lawful today, and who have since died or die within six months of these provisions coming into force.

LORD BROWNE OF LADYTON
LORD CLEMENT-JONES
LORD HOUGHTON OF RICHMOND
LORD CRAIG OF RADLEY

59

Insert the following new Clause—

“Liability for using novel technologies: review

- (1) Within three months of this Act being passed, the Secretary of State must commission a review of the implications of increasing autonomy associated with the use of artificial intelligence and machine learning, including in weapons systems, for legal proceedings against armed forces personnel that arise from overseas operations, and produce recommendations for favourable legal environments for the United Kingdom’s armed forces operating overseas, including instilling domestic processes and engaging in the shaping of international agreements and institutions.
- (2) The review must consider—
 - (a) what protection and guidance armed forces personnel need to minimise the risk of legal proceedings being brought against them which relate to overseas operations in response to novel technologies,
 - (b) how international and domestic legal frameworks governing overseas operations need to be updated in response to novel technologies, and
 - (c) what novel technologies could emerge from the Ministry of Defence and the United Kingdom’s allies, and from the private sector, which could be used in overseas operations.

After Clause 18 - continued

- (3) Within the period of one year beginning on the day on which the review is commissioned, the Secretary of State must lay a report before Parliament of its findings and recommendations.”

THE LORD BISHOP OF ST ALBANS
LORD BROWNE OF LADYTON
LORD FOSTER OF BATH

60 Insert the following new Clause—

“Gambling disorder among service people

- (1) The Secretary of State must conduct annual research on the prevalence of gambling disorder among service people.
- (2) The Secretary of State must annually publish the research gathered under subsection (1).
- (3) The Secretary of State must make reference to the findings of the research gathered under subsection (1) in any annual report reviewing the mental health of the armed forces.”

BARONESS MASSEY OF DARWEN
THE LORD BISHOP OF ST ALBANS
BARONESS LISTER OF BURTERSETT
LORD RUSSELL OF LIVERPOOL

61 Insert the following new Clause—

“Age of recruitment

In section 328 of the AFA 2006 (enlistment), in subsection (2)(c), omit “without the consent of prescribed persons.””

Member’s explanatory statement

This amendment establishes 18 as the minimum age for recruitment into the UK armed forces.

BARONESS MASSEY OF DARWEN
BARONESS LISTER OF BURTERSETT
LORD RUSSELL OF LIVERPOOL

62 Insert the following new Clause—

“The minimum term for service

In section 329 of the AFA 2006 (terms and conditions of enlistment and service), after subsection (2) insert—

“(2A) Where time is prescribed under subsection (2)(c) by reference to number of years from the date of enlistment, the age of the person on that date may not be taken into account.””

Member’s explanatory statement

This amendment ensures that soldiers aged under 18 are not required to serve for a longer period than adult personnel.

LORD COAKER
LORD CRAIG OF RADLEY
LORD DANNATT

63 Insert the following new Clause—

“Indefinite leave to remain payments by Commonwealth, Hong Kong Military Service Corps and Gurkha members of armed forces

- (1) The Immigration Act 2014 is amended as follows.
- (2) In section 68(10), after “regulations” insert “must make exceptions in respect of any person with citizenship of a Commonwealth country (other than the United Kingdom, or a veteran of the Hong Kong Military Service Corps who has served at least four years in the armed forces of the United Kingdom, or in respect of any person who has served at least four years in the Brigade of Gurkhas, such exceptions to include capping the fee for any such person applying for indefinite leave to remain at no more than the actual administrative cost of processing that application, and”.

Member’s explanatory statement

This new Clause will ensure that Commonwealth, Hong Kong Military Service Corps and Gurkha veterans applying for Indefinite Leave to Remain following four years of service will only pay the unit cost of an application.

BARONESS BRINTON
BARONESS SMITH OF NEWNHAM

64 Insert the following new Clause—

“Review of Armed Forces Covenant

- (1) Within six months of the passing of this Act the Secretary of State must commission a review of the coverage of the Armed Forces Covenant.
- (2) The review must consider whether the Covenant should be extended to cover civilians subject to service discipline who have been employed by the UK Armed Forces while on deployment.
- (3) The review must conclude, and the Secretary of State must lay the report of the review before both Houses of Parliament, within 12 months of the passing of this Act.”

Member’s explanatory statement

This amendment would require the Secretary of State to commission a review of whether the Armed Forces Covenant should be extended to cover civilians subject to service discipline who have been employed by the UK Armed Forces while on deployment.

BARONESS SMITH OF NEWNHAM

65 Insert the following new Clause—

“Review of the impact of this Act on the finances of local authorities and health providers

- (1) Within six months of the day on which this Act is passed, the Secretary of State must lay before Parliament a review of the impact of this Act on the finances of local authorities and all health trusts and providers (health providers).
- (2) The review under subsection (1) must make reference to—

After Clause 18 - continued

- (a) the impact of the Act and the duties placed on local authorities and health providers to have due regard to the principles of the Armed Forces covenant on their finances; and
 - (b) whether local authorities and health providers are able to effectively undertake their duties under this Act.
- (3) The review under subsection (1) must make a recommendation as to whether further funding should be made available to Local Authorities and health providers in order to undertake their duties under this Act.”

Member’s explanatory statement

This amendment would require the Government to report on the impact of this Act on the finances of Local Authorities and health trusts and providers, and whether funding should be made available to allow them to undertake their duties under this Act.

LORD COAKER

LORD ROBERTSON OF PORT ELLEN

LORD THOMAS OF CWMGIEDD

LORD THOMAS OF GRESFORD

66

Insert the following new Clause –

“Review of service justice

- (1) Within one month of the passing of this Act, a Minister of the Crown must make a statement to both Houses of Parliament on whether the Government has accepted or rejected the recommendation in the report of the Henriques Review into the framework, processes and skills that the service justice system required for overseas operations on establishing a Defence Representation Unit to provide a triage service to Service personnel and veterans under investigation for criminal conduct.
- (2) If the recommendation has been accepted, the Minister must lay before both Houses of Parliament a report containing a plan and timeline for establishing the Unit.
- (3) The report under subsection (2) must include, but is not limited to, a plan for implementing the following requirements –
 - (a) that the Unit should be headed by a Director of Defence Counsel Services;
 - (b) that the Director and the Unit must be fully independent of the military chain of command and act under the general supervision of the Attorney General;
 - (c) that any guidelines or instructions issued by the Attorney General must be published;
 - (d) that advice given by the Unit may be given remotely or by telephone and should not justify any unwarranted delay in investigations or in any judicial process;
 - (e) that the Unit must be contacted at the earliest opportunity by those seeking advice;
 - (f) that the Unit will be established within six months of the statement under subsection (1).”

After Clause 18 - continued

LORD DANNATT
 LORD STIRRUP
 LORD BOYCE
 LORD COAKER

66A★ 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.
- (2) This duty of care standard must provide support to, but is not limited to—
 - (a) service personnel who have been affected by the United Kingdom’s withdrawal from Afghanistan in 2021;
 - (b) service personnel involved in investigations or litigation arising from overseas operations.
- (3) The Secretary of State must lay a copy of this standard before Parliament within three months of the date on which this Act is passed.
- (4) 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.
- (5) The duty of care update is a review about the continuous process of improvement to meet the duty of care standard established under subsection (1), in particular in relation to incidents arising from—
 - (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) retention, morale, and performance of duties affected by the United Kingdom’s withdrawal from Afghanistan in 2021;
 - (e) such other related fields as the Secretary of State may determine.
- (6) In preparing a duty of care update the Secretary of State must have regard to, and publish relevant data in relation to—
 - (a) the adequacy of legal, welfare and mental health support services provided to service personnel;
 - (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.

After Clause 18 - continued

(7) In this section—

“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;
- (d) where relevant, family members of any person meeting the definition within paragraph (a), (b) or (c);

“duty of care” means both the legal and moral obligation of the Ministry of Defence to ensure the wellbeing of service personnel.

(8) Nothing in 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, and to include a duty of care update in the Armed Forces Covenant Annual Report.

LORD COAKER

66B★

Insert the following new Clause—

“Independent defence authority

- (1) The Secretary of State must review whether it is desirable to establish an independent defence authority which is responsible for interpersonal conduct within the armed forces and which has a remit, in particular—
 - (a) to assess cultures of behaviour and to identify where inappropriate behaviour is systemic,
 - (b) to promote good behaviour and, where necessary, cultural change,
 - (c) to investigate specific instances of inappropriate behaviour,
 - (d) to mediate employment-related grievances, and
 - (e) to advise service members about their rights in relation to service discipline.
- (2) Within the period of the one year beginning with the day on which this Act is passed, the Secretary of State must conclude the review and lay a report before Parliament.
- (3) If the Secretary of State recommends that it is desirable to establish an independent authority, the report must—
 - (a) set out details of a reporting and investigation system which is outside of the chain of command and outside the single services, and
 - (b) explain how the authority is to have properly trained staff and a properly resourced budget.”

Member's explanatory statement

This amendment is based on recommendations in the report of the House of Commons Defence Sub-Committee on Women in the Armed Forces, "Protecting Those Who Protect Us: Women in the Armed Forces from Recruitment to Civilian Life".

Clause 24

BARONESS GOLDIE

67 Page 38, line 21, at end insert –

“(ga) paragraphs 1 to 23 and 33 to 52 of Schedule (*Tri-service serious crime unit*)
(and section (*Framework for establishment of tri-service serious crime unit*)
(5), so far as it relates to those paragraphs);”

Member's explanatory statement

This amendment is about the territorial extent of the new Schedule proposed by Baroness Goldie to be inserted after Schedule 4.

Clause 25

BARONESS GOLDIE

68 Page 39, line 4, leave out “and” and insert –

“(ha) paragraphs 1 to 23 and 33 to 52 of Schedule (*Tri-service serious crime unit*)
(and section (*Framework for establishment of tri-service serious crime unit*)
(5), so far as it relates to those paragraphs), and”

Member's explanatory statement

This amendment is about the territorial extent of the new Schedule proposed by Baroness Goldie to be inserted after Schedule 4.

Armed Forces Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

29 October 2021
