

# Judicial Review and Courts Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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**Clause 1**

LORD PANNICK

Page 1, leave out line 9

***Member's explanatory statement***

*The purpose of this amendment, along with amendments to page 1, line 15, and page 2, line 2, in the name of Lord Pannick, is to remove the proposed power for the court to prevent a quashing order from having retrospective effect, thereby validating what would otherwise be quashed as unlawful.*

Page 1, leave out lines 15 to 18

***Member's explanatory statement***

*The purpose of this amendment, along with amendments to page 1, line 9, and page 2, line 2, in the name of Lord Pannick, is to remove the proposed power for the court to prevent a quashing order from having retrospective effect, thereby validating what would otherwise be quashed as unlawful.*

Page 2, line 2, leave out “or (4)”

***Member's explanatory statement***

*The purpose of this amendment, along with amendments to page 1, line 9, and page 1, line 15, in the name of Lord Pannick, is to remove the proposed power for the court to prevent a quashing order from having retrospective effect, thereby validating what would otherwise be quashed as unlawful.*

LORD ANDERSON OF IPSWICH  
LORD EHERTON  
LORD PANNICK

Page 2, leave out lines 24 to 32

**Member's explanatory statement**

*This amendment would remove the presumption that where a suspended or retrospective-only quashing order would offer adequate redress, such a quashing order should be made in preference to an ordinary quashing order.*

BARONESS CHAKRABARTI

Page 2, leave out lines 24 to 32 and insert –

“(9) Provision may only be made under subsection (1) if and to the extent that the court considers that an order making such provision would, as a matter of substance, offer an effective remedy to the claimant and any other person materially affected by the impugned act in relation to the relevant defect.”

**Member's explanatory statement**

*The amendment would remove the presumption and insert a precondition of the court's exercise of the new remedial powers that they would offer an effective remedy to the claimant and any other person materially affected by the impugned act.*

LORD PONSONBY OF SHULBREDE

*Lord Ponsonby of Shulbrede gives notice of his intention to oppose the Question that Clause 1 stand part of the Bill.*

**Clause 2**

LORD PANNICK

Page 3, line 37, at end insert “or  
(iii) in reliance on a fundamental error of law”

**Member's explanatory statement**

*The purpose of this amendment is to allow courts to hear a judicial review of a tribunal decision where there is a fundamental error of law, and not just where the tribunal has acted in bad faith or in fundamental breach of natural justice.*

BARONESS CHAKRABARTI

LORD PONSONBY OF SHULBREDE

*The above-named Lords give notice of their intention to oppose the Question that Clause 2 stand part of the Bill.*

**Member's explanatory statement**

*This would remove the measure which allows for the exclusion of review of Upper Tribunal's permission-to-appeal decisions from the Bill.*

**Clause 3**

BARONESS CHAKRABARTI

*Baroness Chakrabarti gives notice of her intention to oppose the Question that Clause 3 stand part of the Bill.*

**Member's explanatory statement**

*This would remove the automatic online conviction and standard statutory penalty provision from the Bill.*

**Clause 13**

BARONESS CHAKRABARTI

Leave out Clause 13 and insert the following new Clause –

**“Commencement of Schedule 22 of the Sentencing Act 2020: repeal**

- (1) In Part 5 (custodial sentences) of Schedule 22 of the Sentencing Act 2020, omit paragraph 24 (increase in magistrates' court's power to impose imprisonment).
- (2) Any regulation made pursuant to section 417 of the Sentencing Act 2020 (commencement of Schedule 22) which brings into force paragraph 24 of Schedule 22 of the same Act is revoked.”

***Member’s explanatory statement***

*This amendment would remove the provisions that allow the Secretary of State to vary magistrates’ sentencing powers, and revoke any order made under section 417 of the Sentencing Act 2020 which brings into force paragraph 24 of Schedule 22 of that Act.*

**Clause 38**

BARONESS CHAKRABARTI

Page 53, line 12, at end insert –

“(4) After subsection (2), insert –

“(2A) The coroner is not to decide that the investigation should be discontinued unless –

- (a) the coroner is satisfied that no outstanding evidence that is relevant to the death is available,
  - (b) the coroner has considered whether Article 2 of the European Convention on Human Rights is engaged and is satisfied that it is not,
  - (c) there are no ongoing investigations by public bodies into the death,
  - (d) the coroner has invited and considered representations from any interested person known to the coroner named at section 47(2)(a) or (b) of this Act (“interested person”), and
  - (e) all interested persons known to the coroner named at section 47(2)(a) or (b) of this Act consent to discontinuation of the investigation.
- (2B) If a coroner is satisfied that subsection (1) applies, and has complied with the provisions at subsection (2A)(a) to (d), prior to discontinuing the investigation, the coroner must –
- (a) inform each interested person known to the coroner named at section 47(2)(a) or (b) of this Act of the coroner’s intended decision and provide a written explanation as to the reasons for this intended decision,
  - (b) explain to each interested person known to the coroner named at section 47(2)(a) or (b) of this Act that the investigation may only be discontinued if all such interested persons consent, and

**Clause 38 - continued**

- (c) invite each interested person known to the coroner named at section 47(2)(a) or (b) of this Act to consent to the discontinuation of the investigation.””

***Member’s explanatory statement***

*This amendment would ensure that certain safeguards are met before a coroner can discontinue an investigation into a death and that family members and personal representatives of the deceased are provided with the coroner’s provisional reasons for why the coroner considers that the investigation should be discontinued, helping ensure that family members make an informed decision as to whether to consent to the discontinuation.*

**Clause 39**

BARONESS CHAKRABARTI

Page 53, line 32, at end insert –

- “(e) the coroner has considered the views of any of the interested persons named at section 47(2)(a) or (b) of this Act (“interested person”) who are known to the coroner,  
 (f) all of the interested persons named at section 47(2)(a) or (b) of this Act who are known to the coroner consent to a hearing in writing.”

***Member’s explanatory statement***

*This amendment will ensure that inquests are not held without a hearing if that is against the wishes of the deceased’s family.*

**Clause 40**

BARONESS CHAKRABARTI

Page 54, line 24, at end insert –

- “(2B) Coroners rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must specify that, other than for any pre-inquest hearing, such a hearing may only be held if –
- (a) all interested persons known to the coroner named at section 47(2)(a) or (b) of this Act (“interested person”) consent to such a hearing,
  - (b) the coroner is satisfied, and continues to be satisfied until the conclusion of any such hearing, that such a hearing is in the interests of justice, considering all the circumstances of the case,
  - (c) the coroner has considered the likely complexity of the inquest, and
  - (d) the coroner has considered the ability of interested persons known to the coroner to engage effectively with the hearing by way of electronic transmission of sounds or images.

**Clause 40 - continued**

- (2C) Coroners rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must require coroners to set out to all interested persons the reasons why such a hearing, other than for any pre-inquest hearing, is to be held wholly or partly by way of electronic transmission –
- (a) at the conclusion of any pre-inquest hearing where any such hearing is ordered, if applicable, and
  - (b) in writing as soon as practicable after a decision has been taken for such a hearing to be held and prior to the commencement of the hearing.”

***Member’s explanatory statement***

*This amendment would ensure that certain safeguards are met before a remote inquest hearing is held and that interested persons are provided with the reasons why a remote hearing is to be held.*

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*8 February 2022*

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