

Judicial Review and Courts Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

LORD MARKS OF HENLEY-ON-THAMES
LORD THOMAS OF GRESFORD

1 Page 1, leave out line 9

Member's explanatory statement

This amendment, and others in the name of Lord Marks to Clause 1, would remove the power to include provision in quashing orders removing or limiting their retrospective effect ("prospective only quashing orders").

2 Page 1, leave out lines 15 to 18

Member's explanatory statement

This amendment, and others in the name of Lord Marks to Clause 1, would remove the power to include provision in quashing orders removing or limiting their retrospective effect ("prospective only quashing orders").

3 Page 2, line 2, leave out "or (4)"

Member's explanatory statement

This amendment, and others in the name of Lord Marks to Clause 1, would remove the power to include provision in quashing orders removing or limiting their retrospective effect ("prospective only quashing orders").

LORD ANDERSON OF IPSWICH
LORD ETHERTON
LORD PANNICK
LORD PONSONBY OF SHULBREDE

4 Page 2, leave out lines 24 to 32

Member's explanatory statement

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

Clause 2

LORD ETHELTON

LORD PANNICK

LORD PONSONBY OF SHULBREDE

LORD MARKS OF HENLEY-ON-THAMES

5

Leave out Clause 2 and insert the following new Clause –

“Limitation of review of Upper Tribunal’s permission-to-appeal decisions

(1) In the Tribunals, Courts and Enforcement Act 2007, after section 11 insert –

“11A Finality of decisions in exercise of the supervisory jurisdiction

- (1) Subsection (2) applies in relation to a decision by the Upper Tribunal to refuse permission (or leave) to appeal further to an application under section 11(4)(b).
- (2) Subject to subsections (3) and (4), a decision made by the court of supervisory jurisdiction in relation to any such refusal by the Upper Tribunal, whether such decision of the court of supervisory jurisdiction is to refuse permission to proceed or is to dismiss the substantive claim in the supervisory court or is any other order, is final and cannot be questioned or set aside or reversed whether by way of renewal or appeal or otherwise.
- (3) An appeal lies to the Supreme Court from any such decision of the court of supervisory jurisdiction but only with the leave of the court of supervisory jurisdiction or of the Supreme Court; and such leave may not be granted unless it is certified by the court of supervisory jurisdiction that a point of law of general public importance is involved in the decision and it appears to that court or to the Supreme Court, as the case may be, that the point is one which ought to be considered by the Supreme Court.
- (4) An application to the court of supervisory jurisdiction for leave to appeal to the Supreme Court must be made within the period of 7 days beginning with the date of the decision of the court of supervisory jurisdiction and an application to the Supreme Court for such leave must be made within the period of 7 days beginning with the date on which the application is refused by the court of supervisory jurisdiction.
- (5) In this section –
 - “decision” includes any purported decision;
 - “supervisory jurisdiction” means the supervisory jurisdiction of –
 - (a) the High Court in England and Wales or Northern Ireland, or
 - (b) the Court of Session in Scotland,
 and “the court of supervisory jurisdiction” is to be read accordingly.”
- (2) The amendment made by subsection (1) does not apply in relation to a decision (including any purported decision) of the Upper Tribunal made before the day on which this section comes into force.”

Member's explanatory statement

These amendments retain the Cart supervisory jurisdiction but, subject only to a limited right to apply for permission to appeal to the Supreme Court, bar any appeal from the court exercising the supervisory jurisdiction or any other challenge to decisions of that court whether by way of renewal or otherwise.

After Clause 2

LORD PONSONBY OF SHULBREDE

6 Insert the following new Clause—

“Review of Cart Judicial Reviews

- (1) The Lord Chancellor must carry out and publish a review of the operation of section 2 not more than two years after the passing of this Act.
- (2) In respect of the review carried out under subsection (1), the Lord Chancellor must, among other matters, in particular have regard to—
 - (a) the consequences for individuals or groups with protected characteristics under the Equality Act 2010, and
 - (b) the enforcement of rights protected under the Human Rights Act 1998.”

Member's explanatory statement

This amendment would require the Lord Chancellor to carry out and publish a review of the operation of the provisions within Clause 2.

Clause 3

LORD PONSONBY OF SHULBREDE

7 Page 5, line 37, at end insert “and

- (b) it is not a recordable offence, as specified in the Schedule to the National Police Records (Recordable Offences) Regulations 2000 (S.I. 2000/1139).”

Member's explanatory statement

This amendment seeks to exclude any offences which are recordable from the automatic online conviction option.

8★ Page 8, line 23, at end insert—

- “(3A) Criminal Procedure Rules may make provision about information that should be made available to the media and public in these circumstances.”

Clause 4

LORD PONSONBY OF SHULBREDE

9 Page 9, line 38, leave out “16” and insert “18”

Member's explanatory statement

Under this amendment the accused must have attained the age of 18 when charged to enter a guilty plea in writing under Clause 4.

After Clause 5

LORD PONSONBY OF SHULBREDE

10 Insert the following new Clause—

“Review of the single justice procedure

- (1) Within two months beginning with the day on which this Act is passed, the Secretary of State must commission a review and publish a report on the effectiveness of the single justice procedure.
- (2) A review under subsection (1) must consider—
 - (a) the transparency of the single justice procedure in line with the principle of open justice,
 - (b) the suitability of the use of the single justice procedure for Covid-19 offences,
 - (c) prosecution errors for Covid-19 offences under the single justice procedure and what redress victims of errors have.
- (3) The Secretary of State must lay a copy of the report before Parliament.”

Clause 6

LORD PONSONBY OF SHULBREDE

11 Page 11, line 13, at end insert—

“and has received the advice of a legal representative prior to submitting a plea.”

Member’s explanatory statement

This amendment would guarantee that defendants have access to legal advice before submitting a plea.

12 Page 11, line 32, after “plea” insert “and consequences of pleading guilty”

Member’s explanatory statement

The amendment would ensure that an accused person is not only informed about the consequences of giving or failing to give a written indication of plea, but also the potential legal and practical consequences of pleading guilty.

13★ Page 12, line 34, at end insert—

- “(11A) Criminal Procedure Rules may make provision about information that should be made available to the media and public relating to pleas in writing.”

Clause 8

LORD PONSONBY OF SHULBREDE

14 Leave out Clause 8

Clause 9

LORD PONSONBY OF SHULBREDE

15 Page 26, line 1, leave out subsection (5)

Member's explanatory statement

This amendment would remove cases involving children and young people from the provisions of Clause 9.

Clause 13

LORD WOLFSON OF TREDEGAR

16 Page 34, line 24, leave out “by section 224(1A)(b)” and insert “in respect of the offence by section 224(1)”

Member's explanatory statement

This amendment allows subsection (3) of Clause 13 to operate before and after the other provisions of that Clause come into force (see the amendment in the name of Lord Wolfson of Tredegar at page 59, line 4).

After Clause 13

LORD PONSONBY OF SHULBREDE

17 Insert the following new Clause—

“Magistrates’ increased sentencing powers: reporting

- (1) The Secretary of State must lay before Parliament a report every four months regarding the operation of the increased sentencing powers afforded to magistrates by virtue of section 13 of this Act and paragraph 24A of Schedule 22 to the Sentencing Act 2020 (inserted by paragraph 20 of Schedule 2 to this Act).
- (2) The report must include—
 - (a) data on the use of the increased sentencing powers in magistrates’ courts and their impact on sentencing outcomes, and
 - (b) a breakdown of sentencing outcomes for those with protected characteristics.”

Member's explanatory statement

This amendment would ensure that the new increased magistrates’ sentencing powers would be subject to regular reporting on their impact, including with respect to those with protected characteristics, every four months.

Clause 14

LORD PONSONBY OF SHULBREDE

18 Leave out Clause 14

Clause 39

LORD WOLFSON OF TREDEGAR

19 Page 53, line 27, leave out “follows” and insert “set out in subsections (2) and (3)”

Member’s explanatory statement

This amendment is consequential on the amendment at page 53, line 33 in the name of Lord Wolfson of Tredegar.

20 Page 53, line 33, at end insert –

- “(4) In the following provisions of the Births and Deaths Registration Act 1953, for “revealed by post-mortem examination” substitute “becoming clear before inquest” –
- (a) in section 2(1), paragraph (ii) of the proviso;
 - (b) in section 16(3), paragraph (ii) of the proviso;
 - (c) in section 17(3), paragraph (ii) of the proviso;
 - (d) section 29(3B).
- (5) In section 273(2)(a) of the Merchant Shipping Act 1995, for “revealed by post-mortem examination” substitute “becoming clear before inquest”.
- (6) In Schedule 21 to the Coroners and Justice Act 2009 (which, among other things, makes amendments to the Births and Deaths Registration Act 1953 that have yet to come into force) –
- (a) in paragraph 10(5), in the inserted subsection (2)(b), for “revealed by post-mortem examination” substitute “becoming clear before inquest”;
 - (b) in paragraph 11(2), in the substituted section (A1)(b), for “revealed by post-mortem examination” substitute “becoming clear before inquest”;
 - (c) in paragraph 16(2), in the substituted paragraph (a), for the words from “there has” to “the death,” substitute “ –
 - (i) there has been no investigation under Part 1 of the 2009 Act into the death, or
 - (ii) such an investigation has been discontinued under section 4 of the 2009 Act (cause of death becoming clear before inquest) other than as mentioned in paragraph (b),”.

Member’s explanatory statement

This amendment adds consequential amendments to Clause 39.

BARONESS CHAPMAN OF DARLINGTON

21 Page 53, line 33, at end insert –

- “(4) After subsection (2), insert –
- “(2A) The coroner may not 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,

Clause 39 - continued

- (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) (interested persons), and
 - (e) all interested persons known to the coroner named at section 47(2)(a) or (b) 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 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) that the investigation may only be discontinued if all such interested persons consent, and
 - (c) invite each interested person known to the coroner named at section 47(2)(a) or (b) 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.

22 Page 53, line 33, at end insert –

- “(4) In section 43(3) of the Coroners and Justice Act 2009 (coroners regulations), after paragraph (a) insert –
- “(aa) provision for the establishment of an appeals process for interested persons who disagree with the decision to discontinue an investigation under the provision in section 4;””

Member’s explanatory statement

This amendment provides that the Lord Chancellor should establish an appeal process for families who disagree with the decision to discontinue an investigation.

Clause 40

BARONESS CHAPMAN OF DARLINGTON

23 Page 54, line 18, at end insert –

- “(e) the coroner has considered the views of any of the interested persons named at section 47(2)(a) or (b) (interested persons) who are known to the coroner, and
- (f) all of the interested persons named at section 47(2)(a) or (b) who are known to the coroner consent to an inquest 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 41

BARONESS CHAPMAN OF DARLINGTON

24

Page 55, line 10, 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) (interested persons) 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.
- (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 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.

After Clause 44

BARONESS CHAPMAN OF DARLINGTON
LORD MARKS OF HENLEY-ON-THAMES

25

Insert the following new Clause –

“Publicly funded legal representation for bereaved people at inquests

- (1) Section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

After Clause 44 - continued

- (2) In subsection (1), after “(4)” insert “or (7).”
- (3) After subsection (6), insert—
 - “(7) This subsection is satisfied where—
 - (a) the services consist of advocacy at an inquest where the individual is an interested person pursuant to section 47(2)(a), (b) or (m) of the Coroners and Justice Act 2009 because of their relationship to the deceased, and
 - (b) one or more public authorities are interested persons in relation to the inquest pursuant to section 47(2) of the Coroners and Justice Act 2009 or are likely to be designated as such.
 - (8) For the purposes of this section “public authority” has the meaning given by section 6(3) of the Human Rights Act 1998.”

Member’s explanatory statement

This new Clause would ensure that bereaved people (such as family members) are entitled to publicly funded legal representation in inquests where public bodies (such as the police or a hospital trust) are legally represented.

26 Insert the following new Clause—

“Removal of the means test for legal help prior to inquest hearing

In section 21 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (financial resources), after subsection (1) insert—

“(1A) Subsection (1) does not apply in relation to civil legal services mentioned in paragraph 41 of Schedule 1 (inquests).”

Member’s explanatory statement

This new Clause would remove the means test for legal aid applications for legal help for bereaved people at inquests.

27 Insert the following new Clause—

“Eligibility for bereaved people to access legal aid under existing provisions

- (1) Section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended in accordance with subsections (2) and (3).
- (2) In subsection (4)(a), after “family”, insert “or where the individual is an interested person pursuant to section 47(2)(m) of the Coroners and Justice Act 2009 because of their relationship with the deceased”.
- (3) In subsection (6), after paragraph (c), insert “, or
 - (d) they fall within any of the groups named at section 47(2)(a), (b) or (m) of the Coroners and Justice Act 2009.”
- (4) In paragraph 41 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012, after sub-paragraph (3)(c), insert “, or
 - (d) they fall within any of the groups named at section 47(2)(a), (b) or (m) of the Coroners and Justice Act 2009.”

Member's explanatory statement

This new Clause would bring the Legal, Aid, Sentencing and Punishment of Offenders Act 2012 into line with the definition of family used in the Coroners and Justice Act 2009.

THE LORD BISHOP OF ST ALBANS

28 Insert the following new Clause—

“Permission to record relevant factors in cases of suicide

In section 10 of the Coroners and Justice Act 2009 (determinations and findings after inquest), after subsection (3) insert—

- “(4) Following the conclusion of an inquest, Coroners rules may provide for the coroner, in the case of a determination of suicide under subsection (1)(a), to record an opinion as to the factors which were relevant to the death.
- (5) The Secretary of State must issue guidance on—
 - (a) the factors which the coroner must consider in reaching an opinion under subsection (4), and
 - (b) the form in which an opinion is to be recorded under subsection (4).
- (6) The coroner must record an opinion under subsection (4) in accordance with the guidance issued by the Secretary of State under subsection (5).
- (7) Opinions recorded under subsection (4) may not be disclosed in such a way that the identity of the deceased is specified or capable of being deduced.””

Member's explanatory statement

This amendment would allow coroners to record risk factors relevant in a death by suicide, and requires the Secretary of State to issue guidance on the risk factors that the coroner must consider and the form in which the risk factors are recorded.

After Clause 47

LORD WOLFSON OF TREDEGAR

29 Insert the following new Clause—

“Payments in respect of pro bono representation

- (1) In section 194 of the Legal Services Act 2007 (payments in respect of pro bono representation in civil proceedings in England and Wales)—
 - (a) in the heading, at the end insert “: civil courts in England and Wales”;
 - (b) in subsection (8), for “by order made by the Lord Chancellor” substitute “under section 194C”;
 - (c) omit subsection (9);
 - (d) in subsection (10)—
 - (i) in the definition of “civil court”, omit paragraph (a);
 - (ii) omit the definition of “relevant civil appeal”.
- (2) After section 194 of the Legal Services Act 2007 insert—

“194A Payments in respect of pro bono representation: tribunals

- (1) This section applies to relevant tribunal proceedings in which—
 - (a) a party to the proceedings (“P”) is or was represented by a legal representative (“R”), and

After Clause 47 - continued

- (b) R's representation of P is or was provided free of charge, in whole or in part.
- (2) This section applies to such proceedings even if P is or was also represented by a legal representative not acting free of charge.
- (3) The tribunal may make an order under this section against a person if the condition in subsection (5) is met in respect of that person (and if subsection (7) does not apply).
- (4) An order under this section is an order for the person to make a payment to the prescribed charity in respect of R's representation of P (or, if only part of R's representation of P was provided free of charge, in respect of that part).
- (5) The condition is that, had R's representation of P not been provided free of charge, the tribunal would have had the power to order the person to make a payment to P in respect of sums payable to R by P in respect of that representation.
- (6) In considering whether to make an order under this section against a person, and the terms of such an order, the tribunal must have regard to—
 - (a) whether, had R's representation of P not been provided free of charge, it would have made an order against that person as described in subsection (5), and
 - (b) if it would, what the terms of the order would have been.
- (7) The tribunal may not make an order under this section against a person represented in the proceedings if the person's representation was at all times within subsection (8).
- (8) Representation is within this subsection if it is provided—
 - (a) by a legal representative acting free of charge, or
 - (b) by way of legal aid.
- (9) For the purposes of subsection (8)(b), representation is provided by way of legal aid if it is—
 - (a) provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012,
 - (b) made available under Part 2 or 3 of the Legal Aid (Scotland) Act 1986, or
 - (c) funded under Part 2 of the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)).
- (10) Procedure rules may make further provision as to the making of orders under this section, and may in particular—
 - (a) provide that such orders may not be made in proceedings of a description specified in the rules;
 - (b) make provision about the procedure to be followed in relation to such orders;
 - (c) specify matters (in addition to those mentioned in subsection (6)) to which the tribunal must have regard in deciding whether to make such an order, and the terms of any order.
- (11) In this section "relevant tribunal proceedings" means proceedings in—
 - (a) the First-tier Tribunal,

After Clause 47 - continued

- (b) the Upper Tribunal,
- (c) an employment tribunal,
- (d) the Employment Appeal Tribunal, or
- (e) the Competition Appeal Tribunal,

but does not include proceedings within devolved competence.

- (12) For the purposes of subsection (11), proceedings are within devolved competence if provision regulating the procedure to be followed in those proceedings could be made by –
- (a) an Act of the Scottish Parliament,
 - (b) an Act of Senedd Cymru (including one passed with the consent of a Minister of the Crown within the meaning of section 158(1) of the Government of Wales Act 2006), or
 - (c) an Act of the Northern Ireland Assembly passed without the consent of the Secretary of State.
- (13) The Lord Chancellor may by regulations –
- (a) amend subsection (11) so as to add a tribunal to the list in that subsection, and
 - (b) make consequential amendments of the definition of “procedure rules” in subsection (14).
- (14) In this section –
- “free of charge” means otherwise than for or in expectation of fee, gain or reward;
- “legal representative” means a person who is –
- (a) entitled in accordance with section 13 to carry on the activity of exercising a right of audience or conducting litigation,
 - (b) a solicitor enrolled in the roll of solicitors kept under section 7 of the Solicitors (Scotland) Act 1980,
 - (c) a member of the Faculty of Advocates in Scotland,
 - (d) a person having a right to conduct litigation, or a right of audience, by virtue of section 27 of the Law Reform (Miscellaneous Provisions)(Scotland) Act 1990,
 - (e) a member of the Bar of Northern Ireland, or
 - (f) a solicitor of the Court of Judicature of Northern Ireland,
- irrespective of the capacity in which the person is acting in the proceedings concerned;
- “prescribed charity” means the charity prescribed under section 194C;
- “procedure rules” means –
- (a) Tribunal Procedure Rules, in relation to proceedings in the First-tier Tribunal or the Upper Tribunal,
 - (b) Employment Tribunal Procedure Rules, in relation to proceedings in an employment tribunal or the Employment Appeal Tribunal, or
 - (c) rules under section 15 of the Enterprise Act 2002, in relation to proceedings in the Competition Appeal Tribunal;
- “tribunal” does not include an ordinary court of law.

After Clause 47 - continued

- (15) An order under this section may not be made in respect of representation if (or to the extent that) it was provided before section (*Payments in respect of pro bono representation*) of the Judicial Review and Courts Act 2022 came into force.”
- (3) After section 194A of the Legal Services Act 2007 (as inserted by subsection (2)) insert—

“194B Payments in respect of pro bono representation: Supreme Court

- (1) This section applies to proceedings in a relevant civil appeal to the Supreme Court in which—
- (a) a party to the proceedings (“P”) is or was represented by a legal representative (“R”), and
 - (b) R’s representation of P is or was provided free of charge, in whole or in part.
- (2) This section applies to such proceedings even if P is or was also represented by a legal representative not acting free of charge.
- (3) The Court may make an order under this section against a person if the condition in subsection (5) is met in respect of that person (and if subsection (7) does not apply).
- (4) An order under this section is an order for the person to make a payment to the prescribed charity in respect of R’s representation of P (or, if only part of R’s representation of P was provided free of charge, in respect of that part).
- (5) The condition is that, had R’s representation of P not been provided free of charge, the Court would have had the power to order the person to make a payment to P in respect of sums payable to R by P in respect of that representation.
- (6) In considering whether to make an order under this section against a person, and the terms of such an order, the Court must have regard to—
- (a) whether, had R’s representation of P not been provided free of charge, it would have made an order against that person as described in subsection (5), and
 - (b) if it would, what the terms of the order would have been.
- (7) The Court may not make an order under this section against a person represented in the proceedings if the person’s representation was at all times within subsection (8).
- (8) Representation is within this subsection if it is—
- (a) provided by a legal representative acting free of charge, or
 - (b) provided by way of legal aid.
- (9) For the purposes of subsection (8)(b), representation is provided by way of legal aid if it is—
- (a) provided under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or
 - (b) funded under Part 2 of the Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)).
- (10) Supreme Court Rules may make further provision as to the making of orders under this section, and may in particular—

After Clause 47 - continued

- (a) provide that such orders may not be made in proceedings of a description specified in the Rules;
 - (b) make provision about the procedure to be followed in relation to such orders;
 - (c) specify matters (in addition to those mentioned in subsection (6)) to which the Court must have regard in deciding whether to make such an order, and the terms of any order.
- (11) In this section –
- “free of charge” means otherwise than for or in expectation of fee, gain or reward;
 - “legal representative”, in relation to a party to proceedings, means –
 - (a) a person exercising a right of audience, or conducting litigation, on the party’s behalf pursuant to an entitlement under section 13, or
 - (b) a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, practising or acting as such on the party’s behalf;
 - “prescribed charity” means the charity prescribed under section 194C;
 - “relevant civil appeal” means an appeal –
 - (a) from the High Court under Part 2 of the Administration of Justice Act 1969,
 - (b) from the Upper Tribunal under section 14B(4) of the Tribunals, Courts and Enforcement Act 2007,
 - (c) from the Court of Appeal under section 40(2) of the Constitutional Reform Act 2005 or section 42 of the Judicature (Northern Ireland) Act 1978, or
 - (d) under section 13 of the Administration of Justice Act 1960 (appeal in cases of contempt of court), other than an appeal from an order or decision made in the exercise of jurisdiction to punish for criminal contempt of court.
- (12) An order under this section may not be made in respect of representation in proceedings in a relevant civil appeal –
- (a) from a court in Northern Ireland, or
 - (b) from the Upper Tribunal under section 14B(4) of the Tribunals, Courts and Enforcement Act 2007,
- if (or to the extent that) the representation was provided before section (*Payments in respect of pro bono representation*) of the Judicial Review and Courts Act 2022 came into force.”
- (4) After section 194B of the Legal Services Act 2007 (as inserted by subsection (3)) insert –
- “194C Sections 194 to 194B: the prescribed charity**
- (1) The Lord Chancellor may by order prescribe a registered charity for the purposes of sections 194 to 194B.

After Clause 47 - continued

- (2) The charity must be one which provides financial support to persons who provide, or organise or facilitate the provision of, legal advice or assistance (by way of representation or otherwise) which is free of charge.
- (3) In this section—
“free of charge” means otherwise than for or in expectation of fee, gain or reward;
“registered charity” means a charity registered in accordance with—
(a) section 30 of the Charities Act 2011,
(b) section 3 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), or
(c) section 16 of the Charities Act (Northern Ireland) 2008 (c. 12 (N.I.)).
- (4) An order under section 194(8) that was in force immediately before section (*Payments in respect of pro bono representation*) of the Judicial Review and Courts Act 2022 came into force—
(a) remains in force despite the amendment by that section of section 194(8),
(b) has effect as if its prescription of a charity for the purposes of section 194 were the prescription of that charity under this section for the purposes of sections 194 to 194B, and
(c) may be amended or revoked by an order under this section.”
- (5) For the purposes of sections 194A and 194C of the Legal Services Act 2007 (as inserted by subsections (2) and (4)), sections 204 and 206 of that Act extend to Scotland and Northern Ireland as well as England and Wales.
- (6) In paragraph 17(1) of Schedule 4 to the Enterprise Act 2002 (rules that may be made about procedure of Competition Appeal Tribunal), omit paragraph (ha).
- (7) In paragraph 32 of Schedule 8 to the Consumer Rights Act 2015 (amendments of paragraph 17 of Schedule 4 to the Enterprise Act 2002), omit sub-paragraph (a).”

Member’s explanatory statement

This new Clause allows certain tribunals to order a person to make a payment to a legal assistance charity where a party to proceedings has been represented pro bono and the person would otherwise be liable for that party’s costs. It also allows the Supreme Court to make such orders in appeals from Northern Ireland or from the Upper Tribunal.

Clause 49**LORD WOLFSON OF TREDEGAR**

30

Page 58, line 24, leave out “and” and insert “to”

Member’s explanatory statement

This amendment is consequential on the amendment at page 58, line 32 in the name of Lord Wolfson of Tredegar.

31 Page 58, line 32, at end insert –

“(3A) Section (*Payments in respect of pro bono representation*)(3) extends to England and Wales and Northern Ireland.

(3B) Section (*Payments in respect of pro bono representation*)(2) and (4) extends to England and Wales, Scotland and Northern Ireland.”

Member’s explanatory statement

This amendment provides for the provisions inserted by the new clause after Clause 47 in the name of Lord Wolfson of Tredegar to extend to Scotland or Northern Ireland as necessary.

Clause 50

LORD WOLFSON OF TREDEGAR

32 Page 59, line 3, at end insert –

“(za) section 11;”

Member’s explanatory statement

This amendment provides for Clause 11 to come into force on Royal Assent.

33 Page 59, line 4, leave out paragraphs (a) and (b) and insert –

“(a) section 13(3);”

Member’s explanatory statement

This amendment results in clause 13 and its associated amendments, except for subsection (3) of the clause, coming into force by regulations rather than on Royal Assent (subject to the amendment in the name of Lord Wolfson of Tredegar at page 59, line 10).

34 Page 59, line 9, at end insert –

“(ba) paragraphs 12 to 14 of Schedule 2, and section 18 so far as relating to those paragraphs;”

Member’s explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 59, line 3, and provides for amendments related to Clause 11 to come into force on Royal Assent.

35 Page 59, line 10, at end insert –

“(1A) If paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 (as it was enacted) has been brought in force in relation to either-way offences before the passing of this Act, the following provisions come into force on the day after the day on which this Act is passed –

(a) section 13 (except subsection (3));

(b) paragraphs 16 to 20 of Schedule 2, and section 18 so far as relating to those paragraphs.”

Member’s explanatory statement

This amendment brings Clause 13 and its associated amendments into force the day after Royal Assent if the provisions to which it relates are in force by then.

36 Page 59, line 15, at end insert –

“(d) section (*Payments in respect of pro bono representation*).”

Member’s explanatory statement

This amendment provides for the new Clause after Clause 47 in the name of Lord Wolfson of Tredegar to come into force two months after Royal Assent.

LORD PONSONBY OF SHULBREDE

37 Page 59, line 18, at end insert –

“(4A) Before section 45 may be commenced, the Lord Chancellor must –

- (a) undertake a consultation with relevant stakeholders regarding the proposed abolition of local justice areas under that section, considering in particular the impact on the principle of local justice,
- (b) lay before Parliament the report and the findings of such consultation, and
- (c) provide a response explaining whether and how such issues which have been identified would be mitigated.”

LORD WOLFSON OF TREDEGAR

38 Page 59, line 21, at end insert –

“(5A) The coming into force of paragraph 20(b) of Schedule 2 results in the provision it inserts becoming subject to section 417(1) of the Sentencing Act 2020 (power to commence Schedule 22 to that Act).”

Member’s explanatory statement

This amendment clarifies the prospective effect of paragraph 20(b) of Schedule 2.

Schedule 2

LORD WOLFSON OF TREDEGAR

39 Page 76, line 4, at end insert –

“19A In section 42 of the Gambling Act 2005 (offence of cheating at gambling) –

- (a) in subsection (4)(b), for “51 weeks” substitute “the general limit in a magistrates’ court”;
- (b) in subsection (5), for “51 weeks” substitute “the general limit in a magistrates’ court”.”

Member’s explanatory statement

This amendment brings the maximum term of imprisonment on summary conviction of an either-way offence under section 42 of the Gambling Act 2005 into line with the maximum term generally available in such cases.

Judicial Review and Courts Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

29 March 2022
