

Judicial Review and Courts Bill

MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENT AND REASONS

[The page and line references are to HL Bill 102, the bill as first printed for the Lords]

MOTION A

Clause 1

LORDS AMENDMENTS 1, 2 AND 3

1 Page 1, leave out line 9

COMMONS REASON

The Commons disagree to Lords Amendment 1 for the following Reason –

1A *Because it is appropriate for the courts to be able to remove or limit the retrospective effect of quashing orders.*

2 Page 1, leave out lines 15 to 18

COMMONS REASON

The Commons disagree to Lords Amendment 2 for the following Reason –

2A *Because it is appropriate for the courts to be able to remove or limit the retrospective effect of quashing orders.*

3 Page 2, line 2, leave out “or (4)”

COMMONS REASON

The Commons disagree to Lords Amendment 3 for the following Reason –

3A *Because it is appropriate for the courts to be able to remove or limit the retrospective effect of quashing orders.*

A **Lord Stewart of Dirleton to move, That this House do not insist on its Amend-**

ments 1, 2 and 3, to which the Commons have disagreed for their Reasons 1A, 2A and 3A.

A1★ Lord Marks of Henley-on-Thames to move, as an amendment to Motion A, at end insert “and do propose Amendment 1B in lieu –

1B Page 2, line 23, at the end insert –

“provided that the court should seek to avoid exercising the power under subsection (1)(b) in such a way as to deprive a remedy from any persons who would have been entitled to seek a remedy by reason of the unlawfulness of the impugned act but who had not themselves been party to the application for the quashing order.””

MOTION B

Clause 2

LORDS AMENDMENT 5

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.”

COMMONS DISAGREEMENT AND AMENDMENT TO THE WORDS SO RESTORED TO THE BILL

The Commons disagree to Lords Amendment 5 and propose the following amendment to the words so restored to the Bill –

- 5A** Page 4, line 2, leave out “passed without” and insert “the Bill for which would not require”
- B** **Lord Stewart of Dirleton to move, That this House do not insist on its Amendment 5, and do agree with the Commons in their Amendment 5A to the words restored to the Bill by the Commons’ disagreement to Lords Amendment 5.**

MOTION C

After Clause 42

LORDS AMENDMENT 11

- 11** 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.
- (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.””

COMMONS REASON

The Commons disagree to Lords Amendment 11 for the following Reason –

11A *Because it would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this reason may be deemed sufficient.*

C **Lord Stewart of Dirleton to move, That this House do not insist on its Amendment 11, to which the Commons have disagreed for their Reason 11A.**

C1 **Lord Ponsonby of Shulbrede to move, as an amendment to Motion C, at end insert “and do propose Amendment 11B in lieu –**

11B Insert the following new Clause –

“Independent review of publicly funded legal representation for bereaved people at inquests

- (1) The Lord Chancellor must commission an independent review of the need for provision of publicly funded legal representation for bereaved people at inquests not more than six months after the passing of this Act.
- (2) The review must be chaired by a person appointed by the Lord Chancellor.
- (3) The review must include a consultation with interested stakeholders, whose submissions must be published.
- (4) The Lord Chancellor must publish the outcome of the review and lay it before Parliament no later than one year after the passing of this Act.””

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27th April 2022

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS