



House of Commons
 Tuesday 29 January 2013
PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

JUSTICE AND SECURITY BILL [LORDS]

RESOLUTION OF THE PROGRAMMING SUB-COMMITTEE

The Programming Sub-Committee appointed by the Speaker in respect of the Bill agreed the following Resolution at its meeting on Monday 28 January (Standing Order No. 83C):

That—

- (1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 29 January) meet—
 - (a) at 2.00 pm on Tuesday 29 January;
 - (b) at 11.30 am and 2.00 pm on Thursday 31 January;
 - (c) at 8.55 am and 2.00 pm on Tuesday 5 February;
 - (d) at 11.30 am and 2.00 pm on Thursday 7 February;
 - (e) at 8.55 am and 2.00 pm on Tuesday 12 February; and
 - (f) at 11.30 am and 2.00 pm on Thursday 14 February;
- (2) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 16; Schedules 2 and 3; Clause 17; new Clauses; new Schedules; remaining proceedings on the Bill;
- (3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 14 February.

James Brokenshire has given notice of his intention to move a motion in the terms of the Resolution of the Programming Sub-Committee (Standing Order No. 83C).

James Brokenshire

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

Justice and Security Bill [Lords], continued

James Brokenshire Diana Johnson		4
Clause 1, page 1, line 5, after ‘Committee’, insert ‘of Parliament’.		
Diana Johnson		5
Clause 1, page 1, line 6, at end insert—		
‘(1A) Article 9 of the Bill of Rights shall apply to the proceedings of the ISC as if they were proceedings in Parliament.’.		
Diana Johnson		6
Clause 1, page 1, line 9, at end insert—		
‘(2A) A majority of the ISC’s members shall be drawn from the members of the House of Commons.’.		
Diana Johnson		7
Clause 1, page 1, line 16, at end insert—		
‘(5A) The Prime Minister must ensure that no more than six members of the ISC are members of parties participating in Her Majesty’s Government.’.		
Diana Johnson		8
Clause 1, page 2, line 1, after first ‘ISC’, insert ‘who is in opposition to Her Majesty’s Government’.		
Dr Julian Lewis		29
Clause 1, page 2, line 1, after ‘members’, insert ‘and the Chair shall be remunerated in line with the arrangements for Chairs of Departmental Select Committees of the House of Commons.’.		
Diana Johnson		13
Clause 1, page 2, line 1, at end insert—		
‘(6A) Financial support shall be available to members of the ISC who are members of the House of Commons as if they were members of a Select Committee of that House; and to those who are members of the House of Lords as if they were members of a Select Committee of that House.’.		
Dr Julian Lewis		30
Clause 1, page 2, line 1, at end insert—		
‘(6A) The ISC shall be supported by a body to be known as the ISC Secretariat about which a memorandum of understanding under section 2 may make further provision.’.		

Justice and Security Bill [*Lords*], *continued*

- James Brokenshire 35
Schedule 1, page 15, line 31, leave out '(5)' and insert '(6)'.
- Diana Johnson 9
Schedule 1, page 15, line 31, leave out '(5)' and insert '(7)'.
- James Brokenshire 36
Schedule 1, page 16, line 3, at end insert—
'(6) Any oath taken by a witness before the ISC may be administered by the Chair of the ISC (or, in the Chair's absence, by a person appointed under sub-paragraph (3)).'
- Diana Johnson 10
Schedule 1, page 16, line 3, at end insert—
'(6) The ISC shall have a duty to consider meeting in public where it considers that to do so will not lead to the disclosure of sensitive information.
(7) The ISC shall not less than once in each calendar year hold a public meeting for which it shall determine applicable procedures.'
- Diana Johnson 25
Schedule 1, page 16, line 3, at end insert—
'(6) The ISC shall consider any request by a select committee of either House of Parliament to—
(a) review any particular issue related to national security; or
(b) transfer information to that select committee which it has stated it needs to carry out its functions as a select committee.
(7) The terms of any consideration under sub-paragraph (6) are to be set out in a memorandum of understanding between the ISC and the select committee in question.'
- James Brokenshire 37
Schedule 1, page 16, line 5, at beginning insert—
'(A1) This paragraph applies to information requested by the ISC in the exercise of its functions that—
(a) does not relate to any particular operational matter, or
(b) relates to a particular operational matter that the ISC is considering under section 2(3)(a) or (b).'
- James Brokenshire 38
Schedule 1, page 16, line 7, leave out from 'ISC' to first 'information' in line 8 and insert 'to disclose the'.
- James Brokenshire 39
Schedule 1, page 16, line 15, leave out 'in the exercise of its functions'.

Justice and Security Bill [*Lords*], *continued*

- James Brokenshire 40
Schedule 1, page 16, line 16, after 'disclose' insert 'the'.
- Diana Johnson 14
Schedule 1, page 16, line 17, leave out 'Minister of the Crown' and insert 'Secretary of State'.
- James Brokenshire
Diana Johnson 15
Schedule 1, page 16, line 23, leave out 'Minister of the Crown' and insert 'Secretary of State'.
- James Brokenshire 42
Schedule 1, page 16, line 24, leave out 'A Minister of the Crown' and insert 'The Secretary of State'.
- Diana Johnson 21
Schedule 1, page 16, leave out from 'ISC' in line 30 to end of line 38.
- James Brokenshire 43
Schedule 1, page 16, line 25, leave out 'Minister' and insert 'Secretary of State'.
- James Brokenshire 44
Schedule 1, page 16, line 31, leave out 'Minister' and insert 'Secretary of State'.
- James Brokenshire 45
Schedule 1, page 16, line 33, leave out 'Minister' and insert 'Secretary of State'.
- Dr Julian Lewis 28
Schedule 1, page 16, line 34, at end insert 'except that the ISC may have access to information that is sub judice or that relates to papers of a previous administration.'
- James Brokenshire 46
Schedule 1, page 16, line 36, leave out 'Minister' and insert 'Secretary of State'.
- Diana Johnson 17
Schedule 1, page 16, line 44, leave out 'Minister of the Crown' and insert 'Secretary of State'.
- Diana Johnson 18
Schedule 1, page 16, line 46, leave out 'Minister of the Crown' and insert

Justice and Security Bill [*Lords*], *continued*

‘Secretary of State’.

Diana Johnson

Schedule 1, page 17, line 1, leave out first ‘Minister of the Crown’ and insert ‘Secretary of State’.

19

Diana Johnson

Schedule 1, page 17, line 1, leave out second ‘Minister of the Crown’ and insert ‘Secretary of State’.

20

Diana Johnson

Schedule 1, page 17, line 5, leave out ‘paragraph 3(3)(a)’ and insert ‘paragraphs 2(6) and 3(3)(a)’.

11

James Brokenshire

Schedule 1, page 17, line 20, at end insert—

47

‘Publication of information received in private

- 5
- (1) This paragraph applies to information received by the ISC in private in connection with the exercise of its functions.
 - (2) The ISC—
 - (a) may only publish the information by way of a report under section 3, and
 - (b) must not disclose the information to any person if the ISC considers that there is a risk that the person will publish it.
 - (3) The restrictions on publication and disclosure of information in sub-paragraph (2) do not apply if—
 - (a) publication or disclosure is necessary for the ISC to comply with any enactment or rule of law, or
 - (b) the information has on an earlier occasion been disclosed to the public, in circumstances which do not contravene—
 - (i) sub-paragraph (2), or
 - (ii) any other enactment or rule of law prohibiting or restricting the disclosure of information.’.

James Brokenshire

Schedule 1, page 17, line 20, at end insert—

48

‘Protection for witnesses

- 6
- Evidence given by a person who is a witness before the ISC may not be used against the person in any criminal, civil or disciplinary proceedings, unless the evidence was given in bad faith.’.
-

Justice and Security Bill [*Lords*], *continued*

Diana Johnson

12

Clause 2, page 2, line 8, at end insert—

- (1A) The ISC shall consider the proposed appointment of each of the following, including by questioning the prospective appointee at a meeting of the ISC—
- (a) the Director-General of the Security Service,
 - (b) the Chief of the Secret Intelligence Service,
 - (c) the Director of the Government Communications Headquarters, and
 - (d) such other persons as the Prime Minister may direct.’.

Diana Johnson

22

Clause 2, page 2, line 9, leave out from ‘oversee’ to end of line 11 and insert ‘any part of a government department, or any part of Her Majesty’s forces, which is engaged in intelligence or security activities’.

James Brokenshire

32

Clause 2, page 2, line 13, leave out from ‘as’ to end of line 19 and insert ‘—

- (a) the ISC and the Prime Minister are satisfied that the matter—
 - (i) is not part of any ongoing intelligence or security operation, and
 - (ii) is of significant national interest,
- 5 (b) the Prime Minister has asked the ISC to consider the matter, or
- (c) the ISC’s consideration of the matter is limited to the consideration of information provided voluntarily to the ISC by—
 - 10 (i) the Security Service,
 - (ii) the Secret Intelligence Service,
 - (iii) the Government Communications Headquarters, or
 - (iv) a government department.
- (3A) The ISC’s consideration of a particular operational matter under subsection (3)(a) or (b) must, in the opinion of the ISC and the Prime Minister, be consistent with any principles set out in, or other provision made by, a memorandum of understanding.’.
- 15

As an Amendment to James Brokenshire’s proposed Amendment (No. 32):—

Dr Julian Lewis

(a)

Line 7, leave out ‘voluntarily’.

Diana Johnson

23

Clause 2, page 2, line 19, at end insert—

- (3A) The ISC may, notwithstanding subsection (3), consider any particular operational matter if the relevant Minister of the Crown agrees to the consideration of the matter.’.

James Brokenshire

33

Clause 2, page 2, line 22, leave out ‘(3)’ and insert ‘(3A)’.

Justice and Security Bill [*Lords*], *continued*

Diana Johnson

24

- Clause 2, page 2, line 26, leave out from ‘(5)’ to end of line 27 and add—
 ‘A memorandum of understanding shall not take effect under this section unless a draft has been laid before, and approved by a resolution of, each House of Parliament.’

Diana Johnson

26

- Clause 3, page 2, line 36, leave out from ‘matter’ to end of line 39, and insert ‘contains—
 (a) sensitive information (as defined in Schedule 1, paragraph 4), or
 (b) information which, in the interests of national security, should not be disclosed.’

Diana Johnson

27

- Clause 3, page 3, line 3, at end add—
 ‘(8) Where the ISC makes a report under subsection (7), the Prime Minister or Secretary of State must provide a response to the ISC within three months of receiving the report.’

James Brokenshire

53

- ★ Clause 6, page 4, line 18, leave out from ‘may’ to ‘make’ in line 19.

James Brokenshire

54

- ★ Clause 6, page 4, line 20, at end insert—
 ‘(1A) The court may make such a declaration—
 (a) on the application of—
 (i) the Secretary of State (whether or not the Secretary of State is a party to the proceedings), or
 (ii) any party to the proceedings, or
 (b) of its own motion.’

James Brokenshire

55

- ★ Clause 6, page 4, line 21, leave out subsections (2) to (6) and insert—
 ‘(1B) The court may make such a declaration if it considers that the following two conditions are met.
 (1C) The first condition, in a case where the court is considering whether to make a declaration on the application of the Secretary of State or of its own motion, is that—

Justice and Security Bill [*Lords*], *continued*

- 10 (a) a party to the proceedings (whether or not the Secretary of State) would be required to disclose sensitive material in the course of the proceedings to another person (whether or not another party to the proceedings), or
- (b) a party to the proceedings (whether or not the Secretary of State) would be required to make such a disclosure were it not for one or more of the following—
- 15 (i) the possibility of a claim for public interest immunity in relation to the material,
- (ii) the fact that there would be no requirement to disclose if the person concerned chose not to rely on the material,
- (iii) section 17(1) of the Regulation of Investigatory Powers Act 2000 (exclusion for intercept material),
- 20 (iv) any other enactment that would prevent the party from disclosing the material but would not do so if the proceedings were proceedings in relation to which there was a declaration under this section.
- (1D) The first condition, in a case where the court is considering whether to make a declaration on the application of a party to the proceedings (other than the Secretary of State), is that—
- 25 (a) the applicant would be required to disclose sensitive material in the course of the proceedings to another person (whether or not another party to the proceedings), or
- (b) the applicant would be required to make such a disclosure were it not for one or more of the following—
- 30 (i) the possibility of a claim for public interest immunity in relation to the material,
- (ii) the fact that there would be no requirement to disclose if the applicant chose not to rely on the material,
- 35 (iii) section 17(1) of the Regulation of Investigatory Powers Act 2000 (exclusion for intercept material),
- (iv) any other enactment that would prevent the applicant from disclosing the material but would not do so if the proceedings were proceedings in relation to which there was a declaration under this section.
- 40 (1E) The second condition is that it is in the interests of the fair and effective administration of justice in the proceedings to make a declaration.
- (1F) The two conditions are met if the court considers that they are met in relation to any material that would be required to be disclosed in the course of the proceedings (and an application under subsection (1A)(a) need not be based on all of the material that might meet the conditions).
- 45 (1G) A declaration under this section must identify the party or parties to the proceedings who would be required to disclose the sensitive material (“a relevant person”).’.

As Amendments to James Brokenshire’s proposed Amendment (No. 55):—

Dr Julian Huppert
Mike Crookart

(a)

★ Line 1, leave out ‘(6)’ and insert (4)’.

Justice and Security Bill [*Lords*], *continued*

Dr Julian Huppert
Mike Crockart

- ★ Line 4, leave out from ‘condition’ to ‘is’ in line 5.

(b)

Dr Julian Huppert
Mike Crockart

- ★ Leave out lines 23 to 40.

(c)

Dr Julian Huppert
Mike Crockart

- ★ Clause 6, page 5, line 3, leave out ‘subsection (2)’ and insert ‘this section’.

52

Mr Andy Slaughter

- ★ Clause 6, page 5, line 3, leave out from ‘must’ to end of line 4 and insert—
- (a) ensure that the material is disclosed to a special advocate,
 - (b) determine whether a claim for public interest immunity could have been made in relation to any part of the material, and
 - (c) order disclosure of any part of the material to which public interest immunity would not apply.
- () In making a determination pursuant to subsection 2(d), the court—
- (a) must not make such a determination solely by reason of the fact that such material would be excluded by the operation of the doctrine of public interest immunity; and
 - (b) must only make such a determination if otherwise the proceedings would be struck out pursuant to any rule of law; and
 - (c) must only make such a determination if the court is satisfied that the unfairness to the relevant person or the Secretary of State by not making a declaration under this section would be substantially greater than the unfairness to the other parties by making such a declaration.’.

68

James Brokenshire

- ★ Clause 6, page 5, line 12, leave out ‘the Secretary of State’ and insert ‘a person’.

56

James Brokenshire

- ★ Clause 6, page 5, line 15, after ‘section’, insert ‘or proceedings for or about such a declaration’.

57

James Brokenshire

- ★ Clause 6, page 5, line 18, leave out ‘the Secretary of State’ and insert ‘a person’.

58

James Brokenshire

- ★ Clause 6, page 5, line 19, leave out ‘(1)’ and insert ‘(1A)(a)’.

59

 Justice and Security Bill [*Lords*], *continued*

- James Brokenshire 60
 ★ Clause 6, page 5, line 19, leave out ‘Secretary of State’s’ and insert ‘person’s’.
- James Brokenshire 61
 ★ Clause 6, page 5, line 20, leave out ‘all of the parties’ and insert ‘every other person entitled to make such an application in relation’.
- James Brokenshire 62
 ★ Clause 6, page 5, line 22, leave out ‘Secretary of State’ and insert ‘applicant’.
- James Brokenshire 63
 ★ Clause 6, page 5, line 22, leave out from ‘inform’ to first ‘of’ in line 23 and insert ‘every other such person’.
- James Brokenshire 64
 ★ Clause 6, page 5, line 32, at end insert—
 “‘sensitive material’ means material the disclosure of which would be
 damaging to the interests of national security.’.
- Mr Andy Slaughter 69
 ★ Clause 6, page 5, line 32, at end add ‘except for proceedings which arise in
 connection with the claimant’s loss of liberty.’.
-
- Mr Andy Slaughter 71
 ★ Clause 7, page 5, line 47, at end add ‘and that damage outweighs the public interest
 in the fair and open administration of justice.’.
- Dr Julian Huppert
 Mike Crockart 1
 Clause 7, page 6, line 2, leave out ‘consider requiring’ and insert ‘require’.
- Dr Julian Huppert
 Mike Crockart 2
 Clause 7, page 6, line 4, at end insert ‘sufficient to enable the party to whom the
 summary is provided to give effective instructions on the undisclosed material to their
 legal representatives and special advocates.’.
- Dr Julian Huppert
 Mike Crockart 3
 Clause 7, page 6, line 5, after ‘ensure’, insert ‘so far as it is possible to do so’.

Justice and Security Bill [Lords], continued

Mr Andy Slaughter 72

- ★ Clause 7, page 6, line 16, leave out ‘authorised’ and insert ‘required’.

Mr Andy Slaughter 73

- ★ Clause 7, page 6, line 21, leave out ‘or’ and insert ‘and’.

Mr Andy Slaughter 74

- ★ Clause 8, page 6, line 28, leave out ‘may’ and insert ‘must’.

Mr Andy Slaughter 70

- ★ Clause 8, page 6, line 40, at end add—
- ‘() Rules of court relating to any relevant civil proceedings in relation to which there is a declaration under section 6 proceedings must secure—
- (a) that, where a party is excluded from such an application, his interests are represented by a special advocate appointed in advance of the court hearing such application and, if the application is granted, for the duration of the section 6 proceedings and related proceedings,
 - (b) that the special advocate is afforded the opportunity to take instructions from the party whose interests he is appointed to represent.’

Mr Andy Slaughter 75

- ★ Clause 10, page 7, line 16, leave out subsection (b).

Mr Andy Slaughter 76

- ★ Clause 10, page 7, line 27, at end add—
- ‘(2A) Rules of court relating to section 6 proceedings must make provision—
- (a) requiring the court concerned to notify relevant representatives of the media of proceedings in which an application for a declaration under section 6 has been made,
 - (b) providing for any person notified under paragraph (a) to intervene in the proceedings,
 - (c) providing for a stay or sist of relevant civil proceedings to enable anyone notified under paragraph (a) to consider whether to intervene in the proceedings,
 - (d) enabling any party to the proceedings or any intervener to apply to the court concerned for a determination of whether there continues to be justification for not giving full particulars of the reasons for decisions in the proceedings, and

Justice and Security Bill [*Lords*], *continued*

- (e) requiring the court concerned, on an application under paragraph (d), to publish such of the reasons for decision as the court determines can no longer be justifiably withheld.’

James Brokenshire

65

- ★ Clause 10, page 7, line 31, leave out subsections (4) and (5) and insert—
 - ‘(4) The following proceedings are to be treated as section 6 proceedings for the purposes of sections 7 to 9, this section and section 11—
 - (a) proceedings on, or in relation to, an application for a declaration under section 6;
 - (b) proceedings on, or in relation to, a decision of the court to make a declaration under that section of its own motion.
 - (5) In proceedings treated as section 6 proceedings by virtue of subsection (4), a relevant person, for the purposes of sections 7 to 9, this section and section 11, is a person who would be required to disclose sensitive material in the course of the proceedings.’

Mr Andy Slaughter

77

- ★ Clause 10, page 7, line 36, at end insert—
 - ‘(6) Rules of court relating to section 6 proceedings must make provision—
 - (a) to ensure that the burden of proof in section 6 proceedings shall be on the relevant person and, where a party, the Secretary of State,
 - (b) to ensure that, upon the Secretary of State making an application under section 6(1), he shall be obliged to make full and frank unredacted disclosure to the court and special advocate of all material and information relevant to—
 - (i) the issues in the action,
 - (ii) the admissibility of any evidence in section 6 proceedings,
 - (iii) the reliability of any such evidence,
 - (iv) the existence of witnesses or lines of inquiry leading to the discovery of relevant material, or
 - (v) the appropriate court procedure for determining the issues in the claim,
 - (c) to ensure that any material which the special advocate represents may have been procured by torture or by cruel, inhumane or degrading treatment is ruled inadmissible unless the contrary is proved to a high degree of conviction,
 - (d) to ensure that opinion evidence is ruled inadmissible unless provided by an independent expert,
 - (e) to ensure that the court shall not without the consent of the special advocate admit any statement constituting hearsay evidence without—
 - (i) the source being identified to the court’s satisfaction,
 - (ii) the court being satisfied that it is impracticable for the source to provide live evidence to the court by oral evidence or video-link and to be available for cross-examination, and
 - (iii) the court being satisfied that the words of the source are reported or recorded accurately and there is no risk of significant misquotation through multiple hearsay or otherwise,

Justice and Security Bill [Lords], continued

- (f) to ensure that the costs of all the parties to any proceedings in which a declaration under section 6 is made shall be paid by the Secretary of State in any event,
- (g) to ensure that any judgement or decision of the court in any proceedings in which a section 6 declaration is sought shall be deemed to be an interlocutory judgement and any party excluded from such proceedings may at any time apply to the court to set aside such judgement or decision on the basis of relevant evidence not reasonably available to that party at the time of the section 6 proceedings.’.

James Brokenshire

- ★ Clause 11, page 8, line 10, leave out ‘(4)’ and insert ‘(1G)’.

66

James Brokenshire

- ★ Clause 11, page 8, line 14, at end insert—
“sensitive material” has the meaning given by section 6(9),’.

67

James Brokenshire

- Schedule 2, page 17, line 30, at end insert—

49

‘Data Protection Act 1998 (c. 29)

- 1A In section 63A of the Data Protection Act 1998 (application to Parliament)—
 - (a) in subsection (2), after “Commons,” insert “other than where they are determined by or on behalf of the Intelligence and Security Committee of Parliament,”, and
 - (b) in subsection (3), after “Lords,” insert “other than where they are determined by or on behalf of the Intelligence and Security Committee of Parliament,”’.

James Brokenshire

- Schedule 2, page 18, line 4, at end insert—

50

‘Freedom of Information Act 2000 (c. 36)

- 3A (1) The Freedom of Information Act 2000 is amended as follows.
 - (2) In section 23 (information supplied by, or relating to, bodies dealing with security matters), in subsection (3), at the end insert—
“(o) the Intelligence and Security Committee of Parliament.”
 - (3) In Part 1 of Schedule 1 (Public Authorities; General)—
 - (a) in paragraph 2, after paragraph (d) insert—
“(e) information held by the Intelligence and Security Committee of Parliament.”;

Justice and Security Bill [*Lords*], *continued*

- (b) in paragraph 3, after paragraph (d) insert—
 “(e) information held by the Intelligence and Security Committee of Parliament.”.
-

James Brokenshire

Schedule 3, page 21, line 22, after ‘Committee’, insert ‘of Parliament’.

51

James Brokenshire

Clause 17, page 14, line 1, leave out subsection (8).

34

NEW CLAUSES
Review and revocation of declaration under section 6

James Brokenshire

NC5

★ To move the following Clause:—

- ‘(1) This section applies where a court seised of relevant civil proceedings has made a declaration under section 6.
- (2) The court must keep the declaration under review, and may at any time revoke it if it considers that the declaration is no longer in the interests of the fair and effective administration of justice in the proceedings.
- (3) The court must undertake a formal review of the declaration once the pre-trial disclosure exercise in the proceedings has been completed, and must revoke it if it considers that the declaration is no longer in the interests of the fair and effective administration of justice in the proceedings.
- (4) The court may revoke a declaration under subsection (2) or (3)—
 - (a) on the application of—
 - (i) the Secretary of State (whether or not the Secretary of State is a party to the proceedings), or
 - (ii) any party to the proceedings, or
 - (b) of its own motion.
- (5) In deciding for the purposes of subsection (2) or (3) whether a declaration continues to be in the interests of the fair and effective administration of justice in the proceedings, the court must consider all of the material that has been put before it in the course of the proceedings (and not just the material on which the decision to make the declaration was based).
- (6) Rules of court must make provision—
 - (a) as to how a formal review is to be conducted under subsection (3);

Justice and Security Bill [*Lords*], *continued*

- (b) as to when the pre-trial disclosure exercise is to be considered to have been completed for the purposes of subsection (3).’
-

Reporting and review

Dr Julian Huppert
Mike Crockart

NC1

To move the following Clause:—

- ‘(1) As soon as reasonably practicable after the end of every three-month period the Secretary of State must—
- (a) prepare a report about his exercise of the powers conferred on him under this Part of this Act during that period; and
 - (b) lay a copy of that Report before Parliament.
- (2) The person appointed by the Secretary of State to review the operation of the provisions of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006 must also carry out an annual review of the operation of the provisions of this Part of this Act.’
-

Annual renewal

Dr Julian Huppert
Mike Crockart

NC2

To move the following Clause:—

- ‘(1) The Secretary of State’s powers under Part 2 of this Act expire at the end of the period of one year beginning with the day on which this Act is passed.
- (2) The Secretary of State may, by order made by statutory instrument, provide that the Secretary of State’s powers under Part 2 of this Act are not to expire at the time when they would otherwise expire under subsection (1) or in accordance with an order under this subsection but are to continue in force after that time for a period not exceeding one year.
- (3) An order under this section may not be made unless a draft of it has been laid before Parliament and approved by a resolution of each House.’
-

Justice and Security Bill [Lords], continued

Criminal, civil and disciplinary proceedings and tribunals: disclosure of information held by the ISC

Dr Julian Lewis

NC3

To move the following Clause:—

‘Information held by the ISC in connection with the discharge of its functions under sections 1 to 4 and Schedule 1 may not be disclosed in any criminal, civil or disciplinary proceedings or tribunal.’.

Publication or disclosure of information by the ISC

Dr Julian Lewis

NC4

To move the following Clause:—

‘The ISC may not disclose or publish information if such a disclosure or publication by a person subject to the Official Secrets Act 1989 would be considered an offence for that person under that Act.’.

Access to special advocates

Mr Andy Slaughter

NC6

★ To move the following Clause:—

- ‘() In any proceedings where a relevant person or the Secretary of State successfully claims public interest immunity over any material on the grounds that its disclosure would damage the interests of national security—
- (a) any other party shall be entitled upon application to the court to have a special advocate appointed to inspect such material; and
 - (b) the special advocate shall be entitled to advise that party whether it would be in that party’s interests to apply for a declaration under this section.’.
-

Open statements for closed judgements

Mr Andy Slaughter

NC7

★ To move the following Clause:—

- ‘() Closed judgements must be accompanied by an open statement from the court, which shall include—

Justice and Security Bill [Lords], continued

- (a) the reasons for the closed material procedure;
- (b) any factors which would be particularly relevant in determining whether all or part of the closed judgement could be made open at a later date;
- (c) the duration of open hearings and closed hearings;
- (d) the number of witnesses heard in closed proceedings, and the nature of those witnesses;
- (e) the length of a closed judgement;
- (f) whether national security was an issue in the proceedings; and
- (g) the date at which the closed status of the judgement should be reviewed, which must be no later than five years from the date of the judgement.’.

Recording of data relating to closed proceedings

Mr Andy Slaughter

NC8

★ To move the following Clause:—

- ‘(1) Rules of court relating to closed material proceedings under this Act, and applications for them, must make provision—
- (a) ensuring that key data is centrally recorded for all proceedings, including:
 - (i) the duration of open and closed proceedings, and
 - (ii) the number of witnesses heard in closed proceedings and the nature of those witnesses, and
 - (iii) the length of a closed judgement, and
 - (iv) whether the claimant, defendant and/or intervener applied for closed material proceedings, and
 - (v) whether the claimant, defendant and/or intervener contested the application for closed proceedings.
 - (b) ensuring that centrally recorded data is available to the independent person appointed by the Secretary of State to review the operation of the provisions of the Terrorism Act 2000 and Part 1 of the Terrorism Act 2006,
 - (c) ensuring that centrally recorded data is subject to the provisions of the Freedom of Information Act 2000.’.

Disclosure judge

Mr Andy Slaughter

NC9

★ To move the following Clause:—

- ‘(1) The jurisdiction of the court in section 6 proceedings shall be exercised by a judge designated by the Lord Chief Justice for such purposes.
- (2) A judge so designated shall be referred to as the “disclosure judge”.

Justice and Security Bill [Lords], continued

- (3) The disclosure judge shall not be the trial judge of the relevant civil proceedings.’
-

Further provision about section 6 proceedings

Mr Andy Slaughter

NC10

- ★ To move the following Clause:—

- ‘() The judge at trial of the relevant civil proceedings may not take into account in determining the issues between the parties any material placed before him in section 6 proceeding which would not be relevant and admissible evidence in an open hearing.’
-

Expiry and renewal

Mr Andy Slaughter

NC11

- ★ To move the following Clause:—

- ‘(1) The Secretary of State’s powers under sections 6 to 11 of this Act expire at the end of the period of one year beginning with the day on which this Act is passed.
- (2) the Secretary of State may, by order made by statutory instrument, provide that the Secretary of State’s powers under part 2 of this Act are not to expire at the time when they would otherwise expire under subsection (1) or in accordance with an order under this subsection but are to continue in force after that time for a period not exceeding one year.
- (3) An order under this section may not be made unless a draft of it has been laid before Parliament and approved by a resolution of each house.’
-

Reporting and review

Mr Andy Slaughter

NC12

- ★ To move the following Clause:—

- ‘(1) As soon as reasonably practicable after the end of every three month period the Secretary of State must—
- (a) prepare a report about his exercise of the powers conferred on him, and the exercise of the powers and rights conferred on others, under clauses 6 to 11 of this Act during that period; and
- (b) lay a copy of that report before Parliament.
- (2) The person appointed by the Secretary of State to review the operation of the provision of the Terrorism Act 2000 and part 1 of the Terrorism Act 2006 must

Justice and Security Bill [*Lords*], *continued*

also carry out an annual review of the operation of the provisions of this part of this Act.’

ORDER OF THE HOUSE [18 DECEMBER 2012]

That the following provisions shall apply to the Justice and Security Bill [*Lords*]:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 14 February 2013.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Consideration and Third Reading

4. Proceedings on Consideration and Third Reading shall be taken in two days in accordance with the following provisions of this Order.
5. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the second day.
6. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on the second day.
7. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

8. Any other proceedings on the Bill (including any proceedings on consideration of any message from the Lords) may be programmed.
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