



House of Commons

NOTICES OF AMENDMENTS

given on

Tuesday 10 June 2014

*For other Amendment(s) see the following page(s) of Supplement to Votes:
7-30*

CONSIDERATION OF BILL

CRIMINAL JUSTICE AND COURTS BILL, AS AMENDED

NOTE

The Amendments have been arranged in accordance with the Order of the House [12 May 2014].

Secretary Chris Grayling

NC44

To move the following Clause—

“Corrupt or other improper exercise of police powers and privileges

- (1) A police constable commits an offence if he or she—
 - (a) exercises the powers and privileges of a constable improperly, and
 - (b) knows or ought to know that the exercise is improper.
- (2) A police constable guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for a term not exceeding 14 years or a fine (or both).
- (3) “Police constable” means—
 - (a) a constable of a police force;
 - (b) a special constable for a police area;
 - (c) a constable or special constable of the British Transport Police Force;
 - (d) a constable of the Civil Nuclear Constabulary;
 - (e) a constable of the Ministry of Defence Police;
 - (f) a National Crime Agency officer designated by the Director General of the National Crime Agency as having the powers and privileges of a constable.

Criminal Justice and Courts Bill, continued

- (4) For the purposes of this section, a police constable exercises the powers and privileges of a constable improperly if—
- (a) he or she exercises a power or privilege of a constable for the purpose of achieving—
 - (i) a benefit for himself or herself, or
 - (ii) a benefit or a detriment for another person, and
 - (b) a reasonable person would not expect the power or privilege to be exercised for the purpose of achieving that benefit or detriment.
- (5) For the purposes of this section, a police constable is to be treated as exercising the powers and privileges of a constable improperly in the cases described in subsections (6) and (7).
- (6) The first case is where—
- (a) the police constable fails to exercise a power or privilege of a constable,
 - (b) the purpose of the failure is to achieve a benefit or detriment described in subsection (4)(a), and
 - (c) a reasonable person would not expect a constable to fail to exercise the power or privilege for the purpose of achieving that benefit or detriment.
- (7) The second case is where—
- (a) the police constable threatens to exercise, or not to exercise, a power or privilege of a constable,
 - (b) the threat is made for the purpose of achieving a benefit or detriment described in subsection (4)(a), and
 - (c) a reasonable person would not expect a constable to threaten to exercise, or not to exercise, the power or privilege for the purpose of achieving that benefit or detriment.
- (8) An offence is committed under this section if the act or omission in question takes place in England and Wales or in the adjacent United Kingdom waters.
- (9) In this section—
- “benefit” and “detriment” mean any benefit or detriment, whether or not in money or other property and whether temporary or permanent;
- “United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom’s territorial sea.
- (10) References in this section to exercising, or not exercising, the powers and privileges of a constable include performing, or not performing, the duties of a constable.
- (11) Nothing in this section affects what constitutes the offence of misconduct in public office at common law.”

Member’s explanatory statement

This new Clause makes it an offence for a police officer and certain other persons to exercise the powers and privileges of a constable in a way which is corrupt or otherwise improper. It supplements the existing common law offence of misconduct in public office

Secretary Chris Grayling

45

Clause 66, page 63, line 18, at end insert—

“() section (*Corrupt or other improper exercise of police powers and privileges*);”

Member’s explanatory statement

This amendment provides for new Clause 44 to extend to England and Wales only.

Criminal Justice and Courts Bill, *continued*

Secretary Chris Grayling

46

Title, line 2, after “conviction;” insert “to create an offence of the corrupt or other improper exercise of police powers and privileges;”

Secretary Chris Grayling

NC45

To move the following Clause—

“Ill-treatment or wilful neglect: care worker offence

- (12) It is an offence for an individual who has the care of another individual by virtue of being a care worker to ill-treat or wilfully to neglect that individual.
- (13) An individual guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both);
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both).
- (14) “Care worker” means an individual who, as paid work, provides—
 - (a) health care for an adult or child, other than excluded health care, or
 - (b) social care for an adult,
 including an individual who, as paid work, supervises or manages individuals providing such care or is a director or similar officer of an organisation which provides such care.
- (15) An individual does something as “paid work” if he or she receives or is entitled to payment for doing it other than—
 - (a) payment in respect of the individual’s reasonable expenses,
 - (b) payment to which the individual is entitled as a foster parent,
 - (c) a benefit under social security legislation, or
 - (d) a payment made under arrangements under section 2 of the Employment and Training Act 1973 (arrangements to assist people to select, train for, obtain and retain employment).
- (16) “Health care” includes—
 - (a) all forms of health care provided for individuals, including health care relating to physical health or mental health and health care provided for or in connection with the protection or improvement of public health, and
 - (b) procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition,
 and “excluded health care” has the meaning given in Schedule (*Ill-treatment or wilful neglect: excluded health care*).
- (17) “Social care” includes all forms of personal care and other practical assistance provided for individuals who are in need of such care or assistance by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs or any other similar circumstances.
- (18) References in this section to a person providing health care or social care do not include a person whose provision of such care is merely incidental to the carrying out of other activities by the person.
- (19) In this section—
 - “adult” means an individual aged 18 or over;
 - “child” means an individual aged under 18;
 - “foster parent” means—

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- (a) a local authority foster parent within the meaning of the Children Act 1989,
 - (b) a person with whom a child has been placed by a voluntary organisation under section 59(1)(a) of that Act, or
 - (c) a private foster parent within the meaning of section 53 of the Safeguarding Vulnerable Groups Act 2006.
- (20) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(b) to 12 months is to be read as a reference to 6 months.
- (21) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (2)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.”

Member’s explanatory statement

This establishes a criminal offence of ill-treatment or wilful neglect of an individual by a care worker who is paid to provide the individual with health care, other than excluded health care (see new Schedule 2), or adult social care. It sets out the penalties on conviction for the new offence.

Secretary Chris Grayling

NC46

To move the following Clause—

“Ill-treatment or wilful neglect: care provider offence

- (22) A care provider commits an offence if—
- (a) an individual who has the care of another individual by virtue of being part of the care provider’s arrangements ill-treats or wilfully neglects that individual,
 - (b) the care provider’s activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the individual who is ill-treated or neglected, and
 - (c) in the absence of the breach, the ill-treatment or wilful neglect would not have occurred or would have been less likely to occur.
- (23) “Care provider” means—
- (a) a body corporate or unincorporated association which provides or arranges for the provision of—
 - (i) health care for an adult or child, other than excluded health care, or
 - (ii) social care for an adult, or
 - (b) an individual who provides such care and employs, or has otherwise made arrangements with, other persons to assist him or her in providing such care,
- subject to section (*Ill-treatment or wilful neglect: excluded care providers*).
- (24) An individual is “part of a care provider’s arrangements” where the individual—
- (a) is not the care provider, but
 - (b) provides health care or social care as part of health care or social care provided or arranged for by the care provider,
- including where the individual is not the care provider but supervises or manages individuals providing health care or social care as described in paragraph (b) or is a director or similar officer of an organisation which provides health care or social care as described there.
- (25) A “relevant duty of care” means—
- (a) a duty owed under the law of negligence, or

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- (b) a duty that would be owed under the law of negligence but for a provision contained in an Act, or an instrument made under an Act, under which liability is imposed in place of liability under that law, but only to the extent that the duty is owed in connection with providing, or arranging for the provision of, health care or social care.
- (26) For the purposes of this section, there is to be disregarded any rule of the common law that has the effect of—
 - (a) preventing a duty of care from being owed by one person to another by reason of the fact that they are jointly engaged in unlawful conduct, or
 - (b) preventing a duty of care being owed to a person by reason of that person’s acceptance of a risk of harm.
- (27) A breach of a duty of care by a care provider is a “gross” breach if the conduct alleged to amount to the breach falls far below what can reasonably be expected of the care provider in the circumstances.
- (28) In this section—
 - (a) references to a person providing health care or social care do not include a person whose provision of such care is merely incidental to the carrying out of other activities by the person, and
 - (b) references to a person arranging for the provision of such care do not include a person who makes arrangements under which the provision of such care is merely incidental to the carrying out of other activities.
- (29) References in this section to providing or arranging for the provision of health care or social care do not include making payments under—
 - (a) regulations under section 57 of the Health and Social Care Act 2001 (direct payments for community services and carers);
 - (b) section 12A of the National Health Act 2006 (direct payments for health care);
 - (c) section 31 or 32 of the Care Act 2014 (direct payments for care and support);
 - (d) regulations under section 50 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (direct payments to meet an adult’s needs).
- (30) In this section—
 - “Act” includes an Act or Measure of the National Assembly for Wales;
 - “adult”, “child”, “excluded health care”, “health care” and “social care” have the same meaning as in section (*Ill-treatment or wilful neglect: care worker offence*).

Member’s explanatory statement

This establishes a criminal offence committed by care providers, i.e. bodies and certain individuals that provide or arrange for the provision of health care, other than excluded health care (see new Schedule 2), or adult social care. It applies where ill-treatment or wilful neglect of an individual has followed a gross breach of a duty of care by the care provider.

Secretary Chris Grayling

NC47

To move the following Clause—

“Ill-treatment or wilful neglect: excluded care providers

- (31) A local authority in England is not a care provider for the purposes of section (*Ill-treatment or wilful neglect: care provider offence*) to the extent that it carries out functions to which Chapter 4 of Part 8 of the Education and Inspections Act 2006 applies.
- (32) Where a body corporate has entered into arrangements with a local authority in England under Part 1 of the Children and Young Persons Act 2008 (social work

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services for children and young persons), the body is not a care provider for the purposes of section (*Ill-treatment or wilful neglect: care provider offence*) to the extent that it carries out relevant care functions of that authority (as defined in that Part of that Act) under those arrangements.

- (33) A local authority in Wales is not a care provider for the purposes of section (*Ill-treatment or wilful neglect: care provider offence*) to the extent that it—
- (a) carries out functions under Part 2 of the Childcare Act 2006;
 - (b) carries out the education functions of the authority (as defined in section 579(1) of the Education Act 1996);
 - (c) carries out the social services functions of the authority (as defined in the Local Authority Social Services Act 1970), so far as relating to a child.
- (34) In this section, “local authority” means—
- (a) in England, a county council, a metropolitan district council, a non-metropolitan district council for an area for which there is no county council, a London borough council, the Council of the Isles of Scilly and (in its capacity as a local authority) the Common Council of the City of London, and
 - (b) in Wales, a county council or a county borough council.
- (35) In this section, “child” has the same meaning as in section (*Ill-treatment or wilful neglect: care worker offence*).”

Member’s explanatory statement

This excludes from the scope of the offence in new clause 46, relating to care providers, local authorities when carrying out their wider children’s services functions and other organisations when carrying out those functions on a local authority’s behalf.

Secretary Chris Grayling

NC48

To move the following Clause—

“Care provider offence: penalties

- (36) A person guilty of an offence under section (*Ill-treatment or wilful neglect: care provider offence*) is liable, on conviction on indictment or summary conviction, to a fine.
- (37) A court before which a person is convicted of an offence under section (*Ill-treatment or wilful neglect: care provider offence*) may make either or both of the following orders—
- (a) a remedial order;
 - (b) a publicity order;
- (whether instead of or as well as imposing a fine).
- (38) A “remedial order” is an order requiring the person to take specified steps to remedy one or more of the following—
- (a) the breach mentioned in section (*Ill-treatment or wilful neglect: care provider offence*)(1)(b) (“the relevant breach”);
 - (b) any matter that appears to the court to have resulted from the relevant breach and to be connected with the ill-treatment or neglect;
 - (c) any deficiency in the person’s policies, systems or practices of which the relevant breach appears to the court to be an indication.
- (39) A “publicity order” is an order requiring the person to publicise in a specified manner—
- (a) the fact that the person has been convicted of the offence;
 - (b) specified particulars of the offence;
 - (c) the amount of any fine imposed;

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- (d) the terms of any remedial order made.
- (40) A remedial order—
 - (a) may be made only on an application by the prosecution which specifies the terms of the proposed order,
 - (b) must be made on such terms as the court considers appropriate having regard to any representations made, and any evidence adduced, in relation to its terms by the prosecution or by or on behalf of the person convicted, and
 - (c) must specify a period within which the steps specified in the order must be taken.
- (41) A publicity order must specify a period within which the requirements specified in the order must be complied with.
- (42) A person who fails to comply with a remedial order or a publicity order commits an offence and is liable, on conviction on indictment or summary conviction, to a fine.
- (43) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, subsections (1) and (7) have effect as if they provided for a fine on summary conviction not exceeding the statutory maximum.”

Member’s explanatory statement

This sets out the penalties available following conviction of the offence in new clause 46 relating to care providers. Courts will have powers to impose fines or to make remedial or publicity orders (or any combination of those options).

Secretary Chris Grayling

NC49

To move the following Clause—

“Care provider offence: application to unincorporated associations

- (44) For the purposes of sections (*Ill-treatment or wilful neglect: care provider offence*) and (*Care provider offence: penalties*), an unincorporated association is to be treated as owing whatever duties of care it would owe if it were a body corporate.
- (45) Proceedings for an offence under those sections alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).
- (46) In relation to such proceedings, rules of court relating to the service of documents have effect as if the unincorporated association were a body corporate.
- (47) In proceedings under section (*Ill-treatment or wilful neglect: care provider offence*) or (*Care provider offence: penalties*) brought against an unincorporated association, the following apply as they apply in relation to a body corporate—
 - (a) section 33 of the Criminal Justice Act 1925 (procedure on charge of offence against corporation);
 - (b) Schedule 3 to the Magistrates’ Courts Act 1980 (provision about corporation charged with offence before a magistrates’ court).
- (48) A fine imposed on an unincorporated association on its conviction of an offence under section (*Ill-treatment or wilful neglect: care provider offence*) or (*Care provider offence: penalties*) is to be paid out of the funds of the association.”

Member’s explanatory statement

This sets out how the new criminal offence in new clause 46 relating to care providers is to be applied in relation to unincorporated associations, including partnerships.

Criminal Justice and Courts Bill, continued

Secretary Chris Grayling

NC50

To move the following Clause—

“Care provider offence: liability for ancillary and other offences

- (49) An individual cannot be guilty of—
- (a) aiding, abetting, counselling or procuring the commission of an offence under section (*Ill-treatment or wilful neglect: care provider offence*), or
 - (b) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) by reference to an offence under section (*Ill-treatment or wilful neglect: care provider offence*).
- (50) Where, in the same proceedings, there is—
- (a) a charge under section (*Ill-treatment or wilful neglect: care provider offence*) arising out of a particular set of circumstances, and
 - (b) a charge against the same defendant of a relevant offence arising out of some or all of those circumstances,
- the defendant may, if the interests of justice so require, be convicted of both offences.
- (51) A person convicted of an offence under section (*Ill-treatment or wilful neglect: care provider offence*) arising out of a particular set of circumstances may, if the interests of justice so require, be charged with a relevant offence arising out of some or all of those circumstances.
- (52) “Relevant offence” means an offence under an Act, or an instrument made under an Act, dealing with—
- (a) health and safety matters, or
 - (b) the provision of health care or social care.
- (53) In this section—
- “Act” includes an Act or Measure of the National Assembly for Wales;
- “health care” and “social care” have the same meaning as in section (*Ill-treatment or wilful neglect: care worker offence*).”

Member’s explanatory statement

This provides for there to be no individual liability for ancillary offences connected to the new criminal offence in new clause 46 relating to care providers. It also makes provision in relation to proceedings before a court where the same circumstances result in the commission of both the new offence and another relevant offence.

Secretary Chris Grayling

NS2

To move the following Schedule—

“ILL-TREATMENT OR WILFUL NEGLECT: EXCLUDED HEALTH CARE

Excluded health care

- 1 (1) For the purposes of section (*Ill-treatment or wilful neglect: care worker offence*), “excluded health care” means—
- (a) health care provided on the premises of an educational institution listed in paragraph 3, subject to sub-paragraph (2);
 - (b) health care provided at accommodation provided by an educational institution listed in paragraph 3 for an individual being educated at the institution, other than accommodation provided in connection with a residential trip away from the institution;

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- (c) health care provided at a children’s home or a residential family centre in respect of which a person is registered under Part 2 of the Care Standards Act 2000;
- (d) health care provided on a part of other premises at a time when the part is being used entirely or mainly for an education or childcare purpose; subject to sub-paragraph (3).
- (2) Health care is not excluded health care if it is provided on a part of the premises of an educational institution listed in paragraph 3 at a time when the sole or main purpose for which the part of the premises is being used—
 - (a) is not connected with the operation of the institution, and
 - (b) is not an education or childcare purpose.
- (3) Health care is not excluded health care if it is provided on the premises of a hospital to an individual who is being educated there by reason of a decision made by a registered medical practitioner.

Use “for an education or childcare purpose”

- 2 A part of premises is used “for an education or childcare purpose” when it is used—
 - (a) for the purposes of education provided for an individual being educated at an educational institution listed in paragraph 3 in circumstances in which the institution requires the individual to attend at the premises for that purpose;
 - (b) for the purposes of education provided for a child of compulsory school age under section 19 of the Education Act 1996 or section 100 of the Education and Inspections Act 2006 (provision of education in cases of illness, exclusion etc);
 - (c) for the purposes of education provided for a child of compulsory school age as required by section 7 of the Education Act 1996, otherwise than by regular attendance at an educational institution listed in paragraph 3;
 - (d) for the purposes of early years provision or later years provision provided in England by a person who is registered, or required to be registered, to provide such provision under Part 3 of the Childcare Act 2006;
 - (e) for the purposes of later years provision provided in England for a child who is aged 8 or over in circumstances in which a requirement to register would arise under Part 3 of the Childcare Act 2006 if the child were aged under 8;
 - (f) for the purposes of childminding or day care provided in Wales by a person who is registered, or is required to be registered, to provide such care under Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1);
 - (g) for the purposes of a holiday scheme for disabled children in England carried on or managed by a person who is registered to carry on or manage such schemes, or required to be so registered, under Part 2 of the Care Standards Act 2000.

Educational institutions

- 3 The educational institutions mentioned in paragraphs 1(1)(a) and (b) and (2) and 2(a) and (c) are—
 - (a) a maintained school (as defined in section 20(7) of the School Standards and Framework Act 1998);

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- (b) a maintained nursery school (as defined in section 22(9) of the Schools Standards and Framework Act 1998);
- (c) an independent school (as defined in section 463 of the Education Act 1996) entered on a register of independent schools kept under section 158 of the Education Act 2002;
- (d) an independent educational institution (as defined in section 92(1) of the Education and Skills Act 2008) entered on a register of independent educational institutions kept under section 95 of that Act;
- (e) a school approved under section 342 of the Education Act 1996 (non-maintained special schools);
- (f) a pupil referral unit (as defined in section 19 of the Education Act 1996);
- (g) an alternative provision Academy (as defined in section 1C(3) of the Academies Act 2010);
- (h) a 16 to 19 Academy (as defined in section 1B(3) of the Academies Act 2010);
- (i) a sixth form college (as defined in section 91(3A) of the Further and Higher Education Act 1992);
- (j) a special post-16 institution (as defined in section 83(2) of the Children and Families Act 2014).

Definitions

4 In this Schedule—

“childminding” has the same meaning as in Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1);

“children’s home” has the meaning given in section 1 of the Care Standards Act 2000;

“day care” has the same meaning as in Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1);

“early years provision” has the meaning given in section 96 of the Childcare Act 2006;

“education”—

(d) does not include higher education;

(e) includes vocational, social, physical and recreational training;

“health care” has the same meaning as in section *(Ill-treatment or wilful neglect: care worker offence)*;

“higher education” has the meaning given in section 579(1) of the Education Act 1996;

“hospital”—

(f) in relation to England, has the same meaning as in section 275 of the National Health Service Act 2006, and

(g) in relation to Wales, has the same meaning as in section 206 of the National Health Service (Wales) Act 2006;

“later years provision” has the meaning given in section 96 of the Childcare Act 2006;

“premises”, in relation to an educational institution, includes detached playing fields but does not include land occupied solely as a dwelling by a person employed at the institution;

“residential family centre” has the meaning given in section 4 of the Care Standards Act 2000.”

Member’s explanatory statement

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This excludes from the scope of the offence in new clause 45 health care provided in specified education and childcare settings.

Secretary Chris Grayling

47

Clause 66, page 63, line 18, at end insert—

“() sections (*Ill-treatment or wilful neglect: care worker offence*), (*Ill-treatment or wilful neglect: care provider offence*), (*Ill-treatment or wilful neglect: excluded care providers*), (*Care provider offence: penalties*), (*Care provider offence: application to unincorporated associations*) and (*Care provider offence: liability for ancillary and other offences*);”

Member’s explanatory statement

This amendment provides for the new clauses relating to ill-treatment and wilful neglect by care workers and care providers to extend to England and Wales only.

Secretary Chris Grayling

48

Clause 66, page 63, line 20, at end insert—

“() Schedule (*Ill-treatment or wilful neglect: excluded health care*);”

Member’s explanatory statement

This amendment provides for new Schedule 2, which contains exclusions from the new offences relating to ill-treatment and wilful neglect by care workers and care providers, to extend to England and Wales only.

Secretary Chris Grayling

49

Title, line 2, after “conviction;” insert “to create offences involving ill-treatment or wilful neglect by a person providing health care or social care;”

Secretary Chris Grayling

NC51

To move the following Clause—

“Personal injury claims: cases of fundamental dishonesty

- (54) This section applies where, in proceedings on a claim for damages in respect of personal injury (“the primary claim”)—
 - (a) the court finds that the claimant is entitled to damages in respect of the claim, but
 - (b) on an application by the defendant for the dismissal of the claim under this section, the court is satisfied on the balance of probabilities that the claimant has been fundamentally dishonest in relation to the primary claim or a related claim.
- (55) The court must dismiss the primary claim, unless it is satisfied that the claimant would suffer substantial injustice if the claim were dismissed.
- (56) The duty under subsection (2) includes the dismissal of any element of the primary claim in respect of which the claimant has not been dishonest.
- (57) The court’s order dismissing the claim must record the amount of damages that the court would have awarded to the claimant in respect of the primary claim but for the dismissal of the claim.
- (58) A costs order made by a court which dismisses a claim under this section may require the claimant to pay costs incurred by the defendant only to the extent that

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they exceed the amount of the damages recorded in accordance with subsection (4).

- (59) If a claim is dismissed under this section, subsection (7) applies to—
- (a) any subsequent criminal proceedings against the claimant in respect of the fundamental dishonesty mentioned in subsection (1)(b), and
 - (b) any subsequent proceedings for contempt of court against the claimant in respect of that dishonesty.
- (60) If the court in those proceedings finds the claimant guilty of an offence or of contempt of court, it must have regard to the dismissal of the primary claim under this section when sentencing the claimant or otherwise disposing of the proceedings.
- (61) In this section—
- “personal injury” includes any disease and any other impairment of a person’s physical or mental condition;
- “related claim” means a claim for damages in respect of personal injury which is made—
- (h) in connection with the same incident or series of incidents in connection with which the primary claim is made, and
 - (i) by a person other than the person who made the primary claim;
- “claim” includes a counter-claim and, accordingly, “claimant” includes a counter-claimant and “defendant” includes a defendant to a counter-claim.
- (62) This section does not apply to proceedings started by the issue of a claim form before the date on which this section comes into force.”

Member’s explanatory statement

This new clause requires a court to dismiss in its entirety any personal injury claim where it is satisfied that the claimant has been fundamentally dishonest, unless it would cause substantial injustice to the claimant to do so, and makes certain related provision.

Secretary Chris Grayling

50

Clause 66, page 63, line 19, at end insert—

“() section (*Personal injury claims: cases of fundamental dishonesty*);”

Member’s explanatory statement

This amendment provides for new clause 51 to extend to England and Wales only.

Secretary Chris Grayling

NC52

To move the following Clause—

“Procedure for certain planning challenges

Schedule (*Procedure for certain planning challenges*) contains amendments—

- (a) that require leave of court to be obtained before certain planning applications may be made, and
- (b) that set out a procedure for challenging costs orders made in connection with certain planning orders and decisions.”

Member’s explanatory statement

This amendment introduces a new Schedule (see new Schedule 3) which provides that challenges to a range of planning-related decisions and other actions may only be brought with the leave of the High Court; and enables challenges to costs orders connected with some planning decisions and actions to be challenged as part of the same application.

Criminal Justice and Courts Bill, *continued*

Secretary Chris Grayling

NS3

To move the following Schedule—

“PROCEDURE FOR CERTAIN PLANNING CHALLENGES

Town and Country Planning Act 1990 (c. 8)

- 5 Part 12 of the Town and Country Planning Act 1990 (validity) is amended as follows.
- 6 In section 284 (validity of development plans and certain orders, decisions and directions)—
- (a) in subsection (1), after paragraph (f) insert “; or—
- (g) a relevant costs order made in connection with an order mentioned in subsection (2) or an action mentioned in subsection (3),” and
- (b) after subsection (3) insert—
- “(3A) In this section, “relevant costs order” means an order made under section 250(5) of the Local Government Act 1972 (orders as to costs of parties), as applied by virtue of any provision of this Act.”
- 7 (1) Section 287 (proceedings for questioning validity of development plans and certain schemes and orders) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) An application under this section may not be made without the leave of the High Court.
- (2B) An application for leave for the purposes of subsection (2A) must be made before the end of the period of six weeks beginning with the day after the relevant date.”
- (3) After subsection (3) insert—
- “(3ZA) An interim order has effect—
- (a) if made on an application for leave, until the final determination of—
- (i) the question of whether leave should be granted, or
- (ii) where leave is granted, the proceedings on any application under this section made with such leave;
- (b) in any other case, until the proceedings are finally determined.”
- (4) Omit subsections (3C) and (4).
- (5) In subsection (5), for “subsection (4)” substitute “subsection (2B)”.
- (6) After subsection (5) insert—
- “(5A) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (2A).”
- 8 (1) Section 288 (proceedings for questioning validity of other orders, decisions and directions) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) If a person is aggrieved by a relevant costs order made in connection with an order or action to which this section applies and wishes to question its validity, the person may make an application to the High

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Court under this section (whether or not as part of an application made by virtue of subsection (1)) on the grounds—

- (a) that the relevant costs order is not within the powers of this Act, or
 - (b) that any of the relevant requirements have not been complied with in relation to the order.”
- (3) In subsection (2)—
- (a) after “subsection (1)” (in the first place) insert “or (1A)”,
 - (b) after “applies,” (in the second place) insert “or with any relevant costs order,”, and
 - (c) after “subsection (1)” (in the second place) insert “or (1A) (as the case may be)”.
- (4) Omit subsection (3).
- (5) After subsection (4) insert—
- “(4A) An application under this section may not be made without the leave of the High Court.
 - (4B) An application for leave for the purposes of subsection (4A) must be made before the end of the period of six weeks beginning with the day after—
 - (a) in the case of an application relating to an order under section 97 that takes effect under section 99 without confirmation, the date on which the order takes effect;
 - (b) in the case of an application relating to any other order to which this section applies, the date on which the order is confirmed;
 - (c) in the case of an application relating to an action to which this section applies, the date on which the action is taken;
 - (d) in the case of an application relating to a relevant costs order, the date on which the order is made.
 - (4C) When considering whether to grant leave for the purposes of subsection (4A), the High Court may, subject to subsection (6), make an interim order suspending the operation of any order or action the validity of which the person or authority concerned wishes to question, until the final determination of—
 - (a) the question of whether leave should be granted, or
 - (b) where leave is granted, the proceedings on any application under this section made with such leave.”
- (6) In subsection (5)—
- (a) in paragraph (a), for “the order or action” substitute “any order or action”, and
 - (b) in paragraph (b), for “the order or action in question” substitute “any such order or action”.
- (7) For subsection (6) substitute—
- “(6) The High Court may not suspend a tree preservation order under subsection (4C) or (5)(a).”
- (8) In subsection (7), after “subsection” insert “(4C) or”.
- (9) For subsection (9) substitute—
- “(9) In this section—
 “relevant costs order” has the same meaning as in section 284;

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“the relevant requirements”—

- (a) in relation to any order or action to which this section applies, means any requirements of this Act or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under either of those Acts, which are applicable to that order or action;
- (b) in relation to a relevant costs order, means any requirements of this Act, of the Local Government Act 1972 or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under any of those Acts, which are applicable to the relevant costs order.”

(10) After subsection (10) insert—

“(11) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (4A).”

Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9)

9 In section 62 of the Planning (Listed Buildings and Conservation Areas) Act 1990—

- (a) in subsection (1), after paragraph (b) insert “; or
 - (c) a relevant costs order made in connection with any such order or decision,” and
- (b) after subsection (2) insert—

“(2A) In this section, “relevant costs order” means an order made under section 250(5) of the Local Government Act 1972 (orders as to costs of parties), as applied by virtue of any provision of this Act.”

10 (1) Section 63 of that Act (proceedings for questioning validity of other orders, decisions and directions) is amended as follows.

- (2) In subsection (1), for “section 62(1)” substitute “section 62(1)(a) or (b)”.
- (3) After subsection (1) insert—

“(1A) If a person is aggrieved by a relevant costs order made in connection with an order or decision mentioned in section 62(1)(a) or (b) and wishes to question its validity, the person may make an application to the High Court under this section (whether or not as part of an application made by virtue of subsection (1)) on the grounds—

- (a) that the relevant costs order is not within the powers of this Act, or
- (b) that any of the relevant requirements have not been complied with in relation to the order.”

(4) In subsection (2)—

- (a) after “subsection (1)” (in the first place) insert “or (1A)”,
- (b) for “such order or decision” substitute “order or decision mentioned in section 62(1)”, and
- (c) for “those grounds” substitute “the grounds mentioned in subsection (1) or (1A) (as the case may be)”.

(5) For subsection (3) substitute—

“(3) An application under this section may not be made without the leave of the High Court.

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- (3A) An application for leave for the purposes of subsection (3) must be made before the end of the period of six weeks beginning with the day after—
- (a) in the case of an application relating to an order under section 23 that takes effect under section 25 without confirmation, the date on which the order takes effect;
 - (b) in the case of an application relating to any other order mentioned in section 62(1)(a), the date on which the order is confirmed;
 - (c) in the case of an application relating to a decision mentioned in section 62(1)(b) or a relevant costs order, the date on which the decision or order is made.
- (3B) When considering whether to grant leave for the purposes of subsection (3), the High Court may make an interim order suspending the operation of any order or decision the validity of which the person or authority concerned wishes to question, until the final determination of—
- (a) the question of whether leave should be granted, or
 - (b) where leave is granted, the proceedings on any application under this section made with such leave.”
- (6) In subsection (4)—
- (a) after “this section” insert “(other than an application for leave)”,
 - (b) in paragraph (a), for “the order or decision” substitute “any order or decision”, and
 - (c) in paragraph (b)(i), for “the order or decision” substitute “any such order or decision”.
- (7) For subsection (6) substitute—
- “(6) In this section—
- “relevant costs order” has the same meaning as in section 62;
- “the relevant requirements”—
- (c) in relation to an order or decision mentioned in section 62(1)(a) or (b), means any requirements of this Act or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under either of those Acts, which are applicable to the order or decision;
 - (d) in relation to a relevant costs order, means any requirements of this Act, of the Local Government Act 1972 or of the Tribunals and Inquiries Act 1992, or of any order, regulations or rules made under any of those Acts, which are applicable to the order.”

Planning (Hazardous Substances) Act 1990 (c. 10)

- 11 (1) Section 22 of the Planning (Hazardous Substances) Act 1990 (validity of decisions as to applications) is amended as follows.
- (2) In subsections (1) and (2), omit “within six weeks from the date on which the decision is taken”.
- (3) After subsection (2) insert—
- “(2A) An application under this section may not be made without the leave of the High Court.
- (2B) An application for leave for the purposes of subsection (2A) must be made before the end of the period of six weeks beginning with the day

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after the date on which the decision to which the application relates is taken.

- (2C) When considering whether to grant leave for the purposes of subsection (2A), the High Court may by interim order suspend the operation of the decision the validity of which the person or authority concerned wishes to question, until the final determination of—
- (a) the question of whether leave should be granted, or
 - (b) where leave is granted, the proceedings on any application under this section made with such leave.”
- (4) In subsection (3), after “section” insert “(other than an application for leave)”.

Planning and Compulsory Purchase Act 2004 (c. 5)

- 12 (1) Section 113 of the Planning and Compulsory Purchase Act 2004 (validity of strategies, plans and documents) is amended as follows.
- (2) After subsection (3) insert—
- “(3A) An application may not be made under subsection (3) without the leave of the High Court.
- (3B) An application for leave for the purposes of subsection (3A) must be made before the end of the period of six weeks beginning with the day after the relevant date.”
- (3) Omit subsection (4).
- (4) After subsection (5) insert—
- “(5A) An interim order has effect—
- (a) if made on an application for leave, until the final determination of—
 - (i) the question of whether leave should be granted, or
 - (ii) where leave is granted, the proceedings on any application under this section made with such leave;
 - (b) in any other case, until the proceedings are finally determined.”
- (5) Omit subsection (8).”

Member’s explanatory statement

The Schedule provides that challenges to a range of planning-related decisions and actions may only be brought with the leave of the High Court. It also makes challenges to costs orders associated with certain planning orders and decisions subject to the same procedural requirements. The amendments to section 288 of the Town and Country Planning Act 1990 (previously contained in clause 59) are no longer confined to challenges relating to English matters.

NOTICES WITHDRAWN

The following Notices were withdrawn on: 10 June 2014
 New Clause 12 and New Schedule 1
