



House of Commons

Wednesday 14 October 2020

PUBLIC BILL COMMITTEE

New Amendments handed in are marked thus ★

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

OVERSEAS OPERATIONS (SERVICE PERSONNEL AND VETERANS) BILL

NOTE

This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [6 October 2020].

Stephen Morgan
Chris Evans

Clause 1, page 2, line 1, at end insert—
“(ba) operating weapon-bearing UAVs (Unmanned Aerial Vehicles) or RPAS (Remotely Piloted Aerial Systems) from the British Islands in support of overseas operations.”

23

Stephen Morgan
Chris Evans

Clause 1, page 2, line 2, leave out “5” and insert “10”

25

Martin Docherty-Hughes
Carol Monaghan

Clause 1, page 2, line 2, leave out “the day on which the alleged conduct took place” and insert “the day on which the first investigation relevant to the alleged conduct concluded”

14

Overseas Operations (Service Personnel and Veterans) Bill, *continued*

Stephen Morgan

26

Clause 1, page 2, line 4, leave out “5” and insert “10”

Stephen Morgan

55

Page 2, line 12, leave out Clause 2

Mr Kevan Jones
Martin Docherty-Hughes
Carol Monaghan

1

Clause 3, page 2, line 20, leave out “(so far as they tend to reduce the person’s culpability or otherwise tend against prosecution)”

Member’s explanatory statement

This amendment would ensure that, in giving particular weight to the matters in subsection (2), a prosecutor may consider whether any matter tends to reduce or increase culpability, tending against or in favour of prosecution respectively.

Mr Kevan Jones

2

Clause 3, page 2, line 33, at end insert—

“(ba) the thoroughness, promptness and efficacy of any ongoing investigation into the alleged conduct or any relevant previous investigation, and the reasons for any delays in such investigations;”

Member’s explanatory statement

This amendment would ensure that the adequacy of any investigative process to date is given particular weight by a relevant prosecutor.

Stephen Morgan

56

Clause 3, page 2, line 33, at end insert—

“(ba) the quality and duration of relevant investigations.”

Member’s explanatory statement

This amendment would require prosecutors to give weight to the quality and duration of relevant investigations when deciding whether to bring or continue proceedings against a person relating to alleged conduct during overseas operations.

Overseas Operations (Service Personnel and Veterans) Bill, continued

Mr Kevan Jones
 Martin Docherty-Hughes
 Carol Monaghan

3

Clause 3, page 2, line 33, at end insert—

“(bb) the public interest in maintaining public trust in the criminal justice system and upholding the principle of accountability of the Armed Forces;”

Member’s explanatory statement

This amendment would ensure that a relevant prosecutor gives particular weight to maintaining public trust in the criminal justice system and upholding the principle of accountability of the Armed Forces.

Mr Kevan Jones
 Martin Docherty-Hughes
 Carol Monaghan

4

Clause 3, page 2, line 33, at end insert—

“(bc) the nature of the alleged conduct, in particular whether it engaged the obligations of the United Kingdom under Articles 2, 3, 4 or 5 of the European Convention on Human Rights;”

Member’s explanatory statement

This amendment would ensure that particular weight is given by a prosecutor where the alleged conduct engages the UK’s obligations under Article 2 (right to life), Article 3 (prohibition on torture and inhuman or degrading treatment, Article 4 (prohibition of slavery and forced labour) or Article 5 (prohibition of arbitrary detention) ECHR.

Mr Kevan Jones

5

Clause 3, page 2, line 33, at end insert—

“(bd) whether the person had command responsibility for the alleged conduct, and to what extent;”

Member’s explanatory statement

This amendment would ensure that particular weight is given by a relevant prosecutor where the person had command responsibility for the alleged conduct.

Stephen Morgan

27

Clause 5, page 3, line 19, leave out “5” and insert “10”

Martin Docherty-Hughes
 Carol Monaghan

10

Clause 5, page 3, line 23, leave out “Attorney General” and insert “Director of Public Prosecutions”

Martin Docherty-Hughes
 Carol Monaghan

11

Clause 5, page 3, line 26, leave out “Attorney General” and insert “Director of Public Prosecutions”

Overseas Operations (Service Personnel and Veterans) Bill, continued

Martin Docherty-Hughes
Carol Monaghan

22

Clause 5, page 3, line 29, at end insert—

“(c) where the offence is punishable with a criminal penalty by the law of Scotland, except with the consent of the Lord Advocate.”

Stephen Morgan

24

Clause 5, page 3, line 29, at end insert—

“(3A) Where the consent of the Attorney General is sought under subsection (2) or (3) above, the Attorney General must prepare a report containing his reasons for granting or withholding consent, as the case may be, with reference to sections 1 to 3 of this Act, and must lay a copy of this report before Parliament.”

Stephen Morgan

28

Clause 5, page 3, line 36, leave out “5” and insert “10”

Martin Docherty-Hughes
Carol Monaghan

13

Clause 6, page 4, line 13, at end insert—

“(3A) A service offence is not a “relevant offence” if it is an offence whose prosecution is required under the United Kingdom’s international treaty obligations.”

Member’s explanatory statement

This amendment would exclude the prosecution of serious international crimes (such as torture, genocide, crimes against humanity, and certain war crimes) from the limitations otherwise imposed by the Bill.

Stephen Morgan

58

Schedule 1, page 12, line 6, at end insert—

“13A An offence under section 1 of the Geneva Conventions Act 1957 (grave breaches of the Geneva Conventions).

13B An offence under section 134 of the Criminal Justice Act 1988 (torture).”

Member’s explanatory statement

This amendment adds to Schedule 1 specific reference to existing domestic offences in relation to torture, genocide, crimes against humanity, and grave breaches of the Geneva Conventions, in a similar way to the treatment of sexual offences.

Overseas Operations (Service Personnel and Veterans) Bill, continued

Lloyd Russell-Moyle
Clive Lewis
Bell Ribeiro-Addy
Ian Byrne
Apsana Begum
Kate Osamor

Mick Whitley
Ian Lavery
Claudia Webbe

Richard Burgon
Zarah Sultana

Beth Winter
Rebecca Long Bailey

6

Schedule 1, page 12, line 38, leave out paragraph 17 and insert—

“17 An offence under Part 5 (Offences under domestic law) of the International Criminal Court Act 2001 as it relates to the law of England and Wales.”

Member’s explanatory statement

This amendment would mean that all offences listed in Part 1 of the International Criminal Courts Act 2001 as they related to the law of England and Wales would be excluded offences, without restriction.

Stephen Morgan

59

Schedule 1, page 12, line 39, at end insert—

“(za) an act of genocide under article 6, or”

Member’s explanatory statement

This amendment would ensure that acts of genocide are also excluded from the Bill, alongside sexual offences.

Stephen Morgan

60

Schedule 1, page 12, line 40, leave out “a crime against humanity within article 7.1(g)” and insert “a crime against humanity within article 7.1(a)-(k)”

Member’s explanatory statement

This amendment would ensure that crimes against humanity are also excluded from the Bill, alongside sexual offences.

Stephen Morgan

61

Schedule 1, page 12, line 41, leave out from beginning to end of line 2 on page 13 and insert—

“(b) a war crime within article 8.2(a) (which relates to grave breaches of the Geneva Conventions).”

Member’s explanatory statement

This amendment would ensure that grave breaches of the Geneva Conventions are also excluded from the Bill, alongside sexual offences.

Overseas Operations (Service Personnel and Veterans) Bill, continued

Lloyd Russell-Moyle
Clive Lewis
Bell Ribeiro-Addy
Ian Byrne
Apsana Begum
Kate Osamor

Mick Whitley
Ian Lavery
Claudia Webbe

Richard Burgon
Zarah Sultana

Beth Winter
Rebecca Long Bailey

7

Schedule 1, page 13, line 12, leave out paragraph 20 and insert—
“20 An offence under Part 5 (Offences under domestic law) of the International Criminal Court Act 2001 as it relates to the law of Northern Ireland.”

Member’s explanatory statement

This amendment would mean that all offences listed in Part 1 of the International Criminal Courts Act 2001 as they related to the law of Northern Ireland would be excluded offences, without restriction.

Stephen Morgan

62

Schedule 1, page 13, line 13, at end insert—
“(za) an act of genocide under article 6, or”

Member’s explanatory statement

This amendment would ensure that acts of genocide are also excluded from the Bill, alongside sexual offences.

Stephen Morgan

63

Schedule 1, page 13, line 14, leave out “a crime against humanity within article 7.1(g)” and insert “a crime against humanity within article 7.1(a)-(k)”

Member’s explanatory statement

This amendment would ensure that crimes against humanity are also excluded from the Bill, alongside sexual offences.

Stephen Morgan

64

Schedule 1, page 13, leave out lines 15 to 18 and insert—
“(b) a war crime within article 8.2(a) (which relates to grave breaches of the Geneva Conventions).”

Member’s explanatory statement

This amendment would ensure that grave breaches of the Geneva Conventions are also excluded from the Bill, alongside sexual offences.

Overseas Operations (Service Personnel and Veterans) Bill, continued

Lloyd Russell-Moyle
Clive Lewis
Bell Ribeiro-Addy
Ian Byrne
Apsana Begum
Kate Osamor

Mick Whitley
Ian Lavery
Claudia Webbe

Richard Burgon
Zarah Sultana

Beth Winter
Rebecca Long Bailey

8

Schedule 1, page 13, line 28, leave out paragraph 23

Member's explanatory statement

This amendment is consequential on amendments 6 and 7.

Lloyd Russell-Moyle
Clive Lewis
Bell Ribeiro-Addy
Ian Byrne
Apsana Begum
Kate Osamor

Mick Whitley
Ian Lavery
Claudia Webbe

Richard Burgon
Zarah Sultana

Beth Winter
Rebecca Long Bailey

9

Schedule 1, page 14, line 5, leave out paragraphs 27 to 30 and insert—

“27 An offence under Part 1 (Offences) of the International Criminal Court (Scotland) Act 2001.”

Member's explanatory statement

This amendment would mean that all offences listed in Part 1 of the International Criminal Courts Act (Scotland) 2001 would be excluded offences, without restriction.

Stephen Morgan

65

Schedule 1, page 14, line 7, at end insert—

“(za) an act of genocide under article 6, or”

Member's explanatory statement

This amendment would ensure that acts of genocide are also excluded from the Bill, alongside sexual offences.

Stephen Morgan

66

Schedule 1, page 14, line 8, leave out “a crime against humanity within article 7.1(g)” and insert “a crime against humanity within article 7.1(a)-(k)”

Member's explanatory statement

This amendment would ensure that crimes against humanity are also excluded from the Bill, alongside sexual offences.

Overseas Operations (Service Personnel and Veterans) Bill, *continued*

Stephen Morgan	67
Schedule 1, page 14, leave out lines 9 to 12 and insert— “(b) a war crime within article 8.2(a) (which relates to grave breaches of the Geneva Conventions).”	
<i>Member’s explanatory statement</i> <i>This amendment would ensure that grave breaches of the Geneva Conventions are also excluded from the Bill, alongside sexual offences.</i>	
<hr/>	
Martin Docherty-Hughes Carol Monaghan	15
Page 6, line 4, leave out Clause 8	
<hr/>	
Stephen Morgan	29
Schedule 2, page 16, line 4, leave out “six” and insert “ten”	
Stephen Morgan	30
Schedule 2, page 16, line 35, leave out “six” and insert “ten”	
Stephen Morgan	31
Schedule 2, page 17, line 16, leave out “six” and insert “ten”	
Stephen Morgan	32
Schedule 2, page 18, line 34, leave out “six” and insert “ten”	
Stephen Morgan	33
Schedule 2, page 19, line 18, leave out “six” and insert “ten”	
Stephen Morgan	34
Schedule 2, page 19, line 26, leave out “six” and insert “ten”	
<hr/>	

Overseas Operations (Service Personnel and Veterans) Bill, *continued*

Martin Docherty-Hughes
Carol Monaghan

Page 6, line 15, leave out Clause 9

16

Stephen Morgan

Schedule 3, page 20, line 40, leave out “6” and insert “10”

35

Stephen Morgan

Schedule 3, page 21, line 3, leave out “6” and insert “10”

36

Stephen Morgan

Schedule 3, page 21, line 8, leave out “6” and insert “10”

37

Stephen Morgan

Schedule 3, page 21, line 14, leave out “6” and insert “10”

38

Stephen Morgan

Schedule 3, page 21, line 15, leave out “6” and insert “10”

39

Stephen Morgan

Schedule 3, page 21, line 19, leave out “6” and insert “10”

40

Stephen Morgan

Schedule 3, page 21, line 20, leave out “6” and insert “10”

41

Stephen Morgan

Schedule 3, page 21, line 26, leave out “6” and insert “10”

42

Stephen Morgan

Schedule 3, page 21, line 27, leave out “6” and insert “10”

43

Stephen Morgan

Schedule 3, page 23, line 6, leave out “6” and insert “10”

44

Stephen Morgan

Schedule 3, page 23, line 35, leave out “6” and insert “10”

45

Overseas Operations (Service Personnel and Veterans) Bill, *continued*

Stephen Morgan	46
Schedule 3, page 23, line 36, leave out “6” and insert “10”	
<hr/>	
Martin Docherty-Hughes Carol Monaghan	17
Page 6, line 26, leave out Clause 10	
<hr/>	
Stephen Morgan	47
Schedule 4, page 24, line 4, leave out “six” and insert “ten”	
Stephen Morgan	48
Schedule 4, page 24, line 28, leave out “six” and insert “ten”	
Stephen Morgan	49
Schedule 4, page 24, line 34, leave out “six” and insert “ten”	
Stephen Morgan	50
Schedule 4, page 25, line 16, leave out “six” and insert “ten”	
Stephen Morgan	51
Schedule 4, page 26, line 36, leave out “6” and insert “10”	
Stephen Morgan	52
Schedule 4, page 27, line 20, leave out “6” and insert “10”	
Stephen Morgan	53
Schedule 4, page 27, line 21, leave out “6” and insert “10”	
Stephen Morgan	54
Schedule 4, page 27, line 27, leave out “6” and insert “10”	
<hr/>	

Overseas Operations (Service Personnel and Veterans) Bill, continued

Martin Docherty-Hughes
Carol Monaghan

18

Page 6, line 38, leave out Clause 11

Stephen Morgan

57

Clause 12, page 8, line 20, at end insert—

“(1A) No order may be made by the Secretary of State under section 14 following consideration under this section unless a draft of the order has been laid before, and approved by, each House of Parliament.”

Member’s explanatory statement

This amendment would require significant derogations regarding overseas operations proposed by the Government from the European Convention on Human Rights to be approved by Parliament before being made.

Martin Docherty-Hughes
Carol Monaghan

12

Clause 15, page 9, line 21, at end insert “subject to subsection (2A).

“(2A) Before making regulations under subsection (2), the Secretary of State or Lord Chancellor must lay before Parliament the report of an independent review confirming that the Act is in full compliance with the United Kingdom’s international treaty obligations with respect to the prosecution of war crimes and other crimes committed during overseas operations.

(2B) This Act shall cease to have effect at the end of the period of five years beginning with the day on which it is brought into force, unless the Secretary of State or Lord Chancellor has, not fewer than four years after this Act has come into force, laid before Parliament the report of a further independent review confirming that the Act remains in full compliance with the United Kingdom’s international treaty obligations with respect to the prosecution of war crimes and other crimes committed during overseas operations.”

Stephen Morgan

NC1

To move the following Clause—

“Ability to conduct a fair trial

The principle referred to in section 1(1) is that a relevant prosecutor making a decision to which that section applies may determine that proceedings should be brought against the person for the offence, or, as the case may be, that the proceedings against the person for the offence should be continued, only if the prosecutor has reasonable grounds for believing that the fair trial of the person has

Overseas Operations (Service Personnel and Veterans) Bill, continued

not been materially prejudiced by the time elapsed since the alleged conduct took place.”

Member’s explanatory statement

This new clause replaces the presumption against prosecution with a requirement on a prosecutor deciding whether to bring or continue a prosecution to consider whether the passage of time has materially prejudiced the prospective defendant’s chance of a fair trial.

Stephen Morgan

NC2

To move the following Clause—

“Restrictions on time limits: actions brought against the Crown by service personnel

Nothing in this Part applies to any action brought against the Crown by a person who is a member or former member of the regular or reserve forces, or of a British overseas territory force to whom section 369(2) of the Armed Forces Act 2006 (persons subject to service law) applies.”

Member’s explanatory statement

This new clause amends Part 2 of the Bill so that it explicitly excludes actions brought against the Crown by serving or former service personnel from the limitations on courts’ discretion that the Part imposes in respect of actions relating to overseas operations.

Stephen Morgan

NC3

To move the following Clause—

“Access to legal advice for service personnel

Within 12 months of this Act coming into force, the Secretary of State shall commission an independent evaluation of access to impartial and independent legal advice for members and former members of the regular and reserve forces and of British overseas territory forces to whom section 369(2) of the Armed Forces Act 2006 (persons subject to service law) applies, in relation to legal proceedings in connection with operations of the armed forces outside the British Islands, and lay a copy of the evaluation report before Parliament.”

Member’s explanatory statement

This new clause would require the Government to commission and publish an independent evaluation of service personnel’s access to legal advice in relation to the legal proceedings covered by the provisions in the Bill.

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan

NC4

To move the following Clause—

“Access to legal aid for service personnel in criminal proceedings

Within 12 months of this Act coming into force, the Secretary of State shall commission an independent evaluation of access to legal aid for members and former members of the regular and reserve forces and of British overseas territory forces to whom section 369(2) of the Armed Forces Act 2006 (persons subject to service law) applies, in relation to criminal legal proceedings in connection with operations of the armed forces outside the British Islands, and lay a copy of the evaluation report before Parliament.”

Member’s explanatory statement

This new clause would require the Government to commission and publish an independent evaluation of service personnel’s access to legal aid in relation to the criminal proceedings covered by the provisions in the Bill.

Stephen Morgan

NC5

To move the following Clause—

“Access to legal aid for service personnel in civil proceedings

Within 12 months of this Act coming into force, the Secretary of State shall commission an independent evaluation of access to legal aid for members and former members of the regular and reserve forces and of British overseas territory forces to whom section 369(2) of the Armed Forces Act 2006 (persons subject to service law) applies, in relation to civil legal proceedings in connection with operations of the armed forces outside the British Islands, and lay a copy of the evaluation report before Parliament.”

Member’s explanatory statement

This new clause would require the Government to commission and publish an independent evaluation of service personnel’s access to legal aid in relation to the civil proceedings covered by the provisions in the Bill.

Mr Kevan Jones

NC6

To move the following Clause—

“Judicial oversight of investigations

- (1) This section applies to any investigation by a police force into alleged conduct as described in subsection 3 of section 1.
- (2) The police force investigating the conduct must place their preliminary findings before an allocated judge advocate as soon as possible, but no later than 6 months after the alleged offence was brought to their attention.

Overseas Operations (Service Personnel and Veterans) Bill, *continued*

- (3) The judge advocate shall have the power to determine—
- (a) that no serious, permanent or lasting psychological or physical injury has been caused; and order that the investigation should cease;
 - (b) that the evidence is of a tenuous character because of weakness or vagueness or because of inconsistencies with other evidence, and that it is not in the interests of justice to continue an investigation; and order that the investigation should cease; or
 - (c) that there is merit in the complaint; and make directions as to the timetable and extent of further investigation.”

Member’s explanatory statement

This amendment would set a timetable for police investigations into alleged conduct during overseas operations, to ensure they are as short as possible and provide an opportunity for a judge to stop an unmeritorious or vexatious investigation early.

Mr Kevan Jones

NC7

To move the following Clause—

“Limitation on reinvestigation

- (1) This section applies where—
- (a) a person has been acquitted of an offence relating to conduct on overseas operations, or
 - (b) a determination has been made that an investigation into an offence relating to such conduct should cease under section (*Judicial oversight of investigations*).
- (2) No further investigation into the alleged conduct shall be commenced unless—
- (a) compelling new evidence has become available, and
 - (b) an allocated judge advocate determines that the totality of the evidence against the accused is sufficiently strong that there is a real possibility that it would support a conviction.”
-

Mr Kevan Jones

NC8

To move the following Clause—

“Limitation of time for minor offences

No proceedings shall be brought against any person in relation to a relevant offence, where—

- (a) the condition set out in subsection 3 of section 1 is satisfied,
- (b) the offence is subject to summary conviction only, or is one in the commission of which no serious, permanent or lasting psychological or physical injury has been caused, and

Overseas Operations (Service Personnel and Veterans) Bill, *continued*

- (c) a period of six months has passed from the time the offence was committed or discovered.”

Member’s explanatory statement

This amendment would dispose of minor allegations of misconduct by imposing a time limit similar to that which exists in relation to summary only matters in Magistrates’ Courts.

ORDER OF THE HOUSE [23 SEPTEMBER 2020]

That the following provisions shall apply to the Overseas Operations (Service Personnel and Veterans) Bill:

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 22 October 2020.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and any proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill may be programmed.
-

ORDER OF THE COMMITTEE [6 OCTOBER 2020]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 6 October) meet—
 - (a) at 2.00 pm on Tuesday 6 October;
 - (b) at 11.30 am and 2.30 pm on Thursday 8 October;
 - (c) at 9.25 am and 2.00 pm on Wednesday 14 October;
 - (d) at 9.25 am and 2.00 pm on Tuesday 20 October;
 - (e) at 11.30 am and 2.00 pm on Thursday 22 October;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

Overseas Operations (Service Personnel and Veterans) Bill, *continued*
TABLE

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 6 October	Until no later than 10.30 am	British Armed Forces Federation Armed Forces Support Group
Tuesday 6 October	Until no later than 11.00 am	Hilary Meredith Solicitors Limited
Tuesday 6 October	Until no later than 11.25 am	Major Robert Campbell
Tuesday 6 October	Until no later than 3.00 pm	Professor Richard Ekins, Policy Exchange Dr Jonathan Morgan, University of Cambridge John Larkin QC, Policy Exchange
Tuesday 6 October	Until no later than 4.00 pm	Association of Personal Injury Lawyers Centre for Military Justice
Tuesday 6 October	Until no later than 5.00 pm	Liberty Human Rights Watch
Thursday 8 October	Until no later than 12.15 pm	Cobseo - the Confederation of Service Charities The Royal British Legion
Thursday 8 October	Until no later than 1.00 pm	General Sir Nick Parker
Thursday 8 October	Until no later than 3.15 pm	Princess of Wales's Royal Regiment Association
Thursday 8 October	Until no later than 4.00 pm	His Honour Judge Jeff Blackett, Judge Advocate General

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 6; Schedule 1; Clauses 7 and 8; Schedule 2; Clause 9; Schedule 3; Clause 10; Schedule 4; Clauses 11 to 16; new Clauses; new Schedules; remaining proceedings on the Bill;
- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 22 October.
-

Overseas Operations (Service Personnel and Veterans) Bill, *continued*

NOTICES WITHDRAWN

The following Notices were withdrawn on 12 October 2020:

20 (duplicate of 3) and 21 (duplicate of 4)
