



House of Commons

Tuesday 20 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*

Amendments tabled since the last publication: NC10

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This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end.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].

Clause 3, Amendment 1, Mr Kevan Jones

Amendment (No. 1) proposed, in page 2, line 20, leave out “(so far as they tend to reduce the person’s culpability or otherwise tend against prosecution)”

Question proposed, That the Amendment be made.

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.

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan
Chris Evans

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.

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
Chris Evans

27

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

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

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”

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
Chris Evans

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
Chris Evans

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.

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

Stephen Morgan
Chris Evans

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.

Stephen Morgan
Chris Evans

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
Chris Evans

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
Chris Evans

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.

Stephen Morgan
Chris Evans

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.

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan
Chris Evans

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
Chris Evans

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.

Stephen Morgan
Chris Evans

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
Chris Evans

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.

Stephen Morgan
Chris Evans

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).”

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*

Martin Docherty-Hughes
Carol Monaghan

Page 6, line 4, leave out Clause 8

15

Stephen Morgan
Chris Evans

Schedule 2, page 16, line 4, leave out “six” and insert “ten”

29

Stephen Morgan
Chris Evans

Schedule 2, page 16, line 5, leave out “the section 11 relevant date” and insert “the date of knowledge”

76

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in England and Wales so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for personal injury arising out of overseas operations.

Stephen Morgan
Chris Evans

Schedule 2, page 16, line 5, at end insert “except where it appears to the court that it would be equitable to do so having regard to the reasons for the delay, in particular whether the delay resulted from—

69

- (c) the nature of the injuries;
- (d) logistical difficulties in securing the services required to bring a claim, so long as the claimant was making all reasonable attempts to secure such services, or
- (e) any other reasons outside the control of the person bringing the claim.”

Member’s explanatory statement

This amendment introduces a discretion for the courts of England and Wales to allow a civil claim for personal injury arising out of overseas operations to proceed in prescribed circumstances so as to account for legitimate and explicable delays commonly experienced by persons bringing such claims.

Mr Kevan Jones

Schedule 2, page 16, line 5, at end insert “save for exceptional cases where the overriding interest of justice should be served.”

93

Stephen Morgan
Chris Evans

Schedule 2, page 16, line 30, leave out “the section 11 relevant date (ignoring, for this purpose, the reference to section 11 (5) in paragraph (a) of the definition of that term)” and insert “the date of knowledge”

77

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop

Overseas Operations (Service Personnel and Veterans) Bill, continued

starts to run in England and Wales so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for wrongful death arising out of overseas operations.

Stephen Morgan
Chris Evans

Schedule 2, page 16, line 35, leave out “six” and insert “ten”

30

Stephen Morgan
Chris Evans

Schedule 2, page 16, line 35, leave out “the section 12 relevant date” and insert “the date of knowledge”

78

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in England and Wales so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for wrongful death arising out of overseas operations.

Stephen Morgan
Chris Evans

Schedule 2, page 16, line 36, at end insert—

70

“(2C) Subsections (2A) and (2B) shall not apply where it appears to the court this would be equitable having regard to the reasons for the delay, in particular whether the delay resulted from—

- (a) the nature of the injuries;
- (b) logistical difficulties in securing the services required to bring a claim, so long as the claimant was making all reasonable attempts to secure such services, or
- (c) any other reasons outside the control of the person bringing the claim.”

Member’s explanatory statement

This amendment introduces a discretion for the courts of England and Wales to allow a civil claim for wrongful death arising out of overseas operations to proceed in prescribed circumstances so as to account for legitimate and explicable delays commonly experienced by persons bringing such claims.

Stephen Morgan
Chris Evans

Schedule 2, page 17, line 5, at end insert—

89

“(c) the court must also have particular regard to the importance of the proceedings in securing the rights of the claimant.”

Member’s explanatory statement

This amendment adds a further consideration to which the courts of England and Wales must have particular regard when determining whether to disapply the standard limitation period of three years so as to ensure that the claimant’s interest in having their civil claim proceed is not subordinated.

Stephen Morgan
Chris Evans

Schedule 2, page 17, line 16, leave out “six” and insert “ten”

31

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan
Chris Evans

79

Schedule 2, page 17, leave out from the beginning of line 35 to end of line 5 on page 18, and insert—

““the date of knowledge” means the date on which the person bringing the proceedings first knew, or first ought to have known—

- (a) of the act complained of;
- (b) that it was an act of the Ministry of Defence or the Secretary of State for Defence;
- (c) of the manifestation of the injury resulting from that act which is the subject of the claim, and
- (d) that they were eligible to bring a claim against the Ministry of Defence or Secretary of State for Defence in the courts of the United Kingdom.”

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in England and Wales so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for personal injury and wrongful death arising out of overseas operations.

Stephen Morgan
Chris Evans

32

Schedule 2, page 18, line 34, leave out “six” and insert “ten”

Stephen Morgan
Chris Evans

33

Schedule 2, page 19, line 18, leave out “six” and insert “ten”

Stephen Morgan
Chris Evans

34

Schedule 2, page 19, line 26, leave out “six” and insert “ten”

Martin Docherty-Hughes
Carol Monaghan

16

Page 6, line 15, leave out Clause 9

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan
Chris Evans

90

Schedule 3, page 20, line 32, at end insert—

“(c) the importance of the proceedings in securing the rights of the claimant.”

Member’s explanatory statement

This amendment adds a further consideration to which the courts of Scotland must have particular regard when determining whether to disapply the standard limitation period of three years so as to ensure that the claimant’s interest in having their civil claim proceed is not subordinated.

Stephen Morgan
Chris Evans

35

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

Stephen Morgan
Chris Evans

80

Schedule 3, page 20, line 41, leave out “the section 17 relevant date” and insert “the date of knowledge (see subsection (13))”

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in Scotland so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for personal injury arising out of overseas operations.

Stephen Morgan
Chris Evans

36

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

Stephen Morgan
Chris Evans

81

Schedule 3, page 21, line 4, leave out “the section 18 relevant date” and insert “the date of knowledge (see subsection (13))”

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in Scotland so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for wrongful death arising out of overseas operations.

Stephen Morgan
Chris Evans

37

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

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan
Chris Evans

82

Schedule 3, page 21, line 9, leave out “the section 17 relevant date” and insert “the date of knowledge (see subsection (13))”

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in Scotland so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for personal injury arising out of overseas operations.

Stephen Morgan
Chris Evans

71

Schedule 3, page 21, line 9, at end insert—

“(7A) The court may disapply the rules in subsections (5) to (7) where it appears to the court that it would be equitable to do so having regard to the reasons for the delay, in particular whether the delay resulted from—

- (a) the nature of the injuries;
- (b) logistical difficulties in securing the services required to bring a claim, so long as the claimant was making all reasonable attempts to secure such services, or
- (c) any other reasons outside the control of the person bringing the claim.”

Member’s explanatory statement

This amendment introduces a discretion for the courts of Scotland to allow a civil claim for personal injury or wrongful death arising out of overseas operations to proceed in prescribed circumstances so as to account for legitimate and explicable delays commonly experienced by persons bringing such claims.

Stephen Morgan
Chris Evans

38

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

Stephen Morgan
Chris Evans

39

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

Stephen Morgan
Chris Evans

40

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

Stephen Morgan
Chris Evans

41

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

Stephen Morgan
Chris Evans

42

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

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan
Chris Evans

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

43

Stephen Morgan
Chris Evans

Schedule 3, page 22, leave out lines 12 to 17 and insert—

83

““the date of knowledge” means the date on which the person bringing the proceedings first knew, or first ought to have known—

- (a) of the act complained of;
- (b) that it was an act of the Ministry of Defence or the Secretary of State for Defence;
- (c) of the manifestation of the injury resulting from that act which is the subject of the claim, and
- (d) that they were eligible to bring a claim against the Ministry of Defence or Secretary of State for Defence in the courts of the United Kingdom.”

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in Scotland so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for personal injury and wrongful death arising out of overseas operations.

Stephen Morgan
Chris Evans

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

44

Stephen Morgan
Chris Evans

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

45

Stephen Morgan
Chris Evans

Schedule 3, page 23, line 36, leave out “6” and insert “10”

46

Martin Docherty-Hughes
Carol Monaghan

Page 6, line 26, leave out Clause 10

17

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan
Chris Evans

Schedule 4, page 24, line 4, leave out “six” and insert “ten”

47

Stephen Morgan
Chris Evans

Schedule 4, page 24, line 5, leave out “the Article 7 relevant date” and insert “the date of knowledge”

84

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in Northern Ireland so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for personal injury arising out of overseas operations.

Stephen Morgan
Chris Evans

Schedule 4, page 24, line 5, at end insert “except where it appears to the court that it would be equitable to do so having regard to the reasons for the delay, in particular whether the delay resulted from—

72

- (a) the nature of the injuries;
- (b) logistical difficulties in securing the services required to bring a claim, so long as the claimant was making all reasonable attempts to secure such services, or
- (c) any other reasons outside the control of the person bringing the claim.”

Member’s explanatory statement

This amendment introduces a discretion for the courts of Northern Ireland to allow a civil claim for personal injury or wrongful death arising out of overseas operations to proceed in prescribed circumstances so as to account for legitimate and explicable delays commonly experienced by persons bringing such claims.

Stephen Morgan
Chris Evans

Schedule 4, page 24, line 28, leave out “six” and insert “ten”

48

Stephen Morgan
Chris Evans

Schedule 4, page 24, line 29, leave out “the Article 7 relevant date (ignoring, for this purpose, the reference to Article 7(5) in paragraph (a) of the definition of that term)” and insert “the date of knowledge”

85

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in Northern Ireland so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for personal injury out of overseas operations.

Stephen Morgan
Chris Evans

Schedule 4, page 24, line 34, leave out “six” and insert “ten”

49

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan
Chris Evans

Schedule 4, page 24, line 34, leave out “the Article 9 relevant date” and insert “the date of knowledge” 86

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in Northern Ireland so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for wrongful death arising out of overseas operations.

Stephen Morgan
Chris Evans

Schedule 4, page 25, line 5, at end insert— 91
“(c) the court must also have particular regard to the importance of the proceedings in securing the rights of the claimant.”

Member’s explanatory statement

This amendment adds a further consideration to which the courts of Northern Ireland must have particular regard when determining whether to disapply the standard limitation period of three years so as to ensure that the claimant’s interest in having their civil claim proceed is not subordinated.

Stephen Morgan
Chris Evans

Schedule 4, page 25, leave out line 16 and insert “ten years is to be treated as a reference to the period of ten years”. 50

Stephen Morgan
Chris Evans

Schedule 4, page 25, leave out lines 25 to 43 and insert— 87
““the date of knowledge” means the date on which the person bringing the proceedings first knew, or first ought to have known—

- (a) of the act complained of;
- (b) that it was an act of the Ministry of Defence or the Secretary of State for Defence;
- (c) of the manifestation of the injury resulting from that act which is the subject of the claim, and
- (d) that they were eligible to bring a claim against the Ministry of Defence or Secretary of State for Defence in the courts of the United Kingdom.”

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run in Northern Ireland so as to account for legitimate and explicable delays commonly experienced by persons bringing civil claims for personal injury and wrongful death arising out of overseas operations.

Stephen Morgan
Chris Evans

Schedule 4, page 26, line 36, leave out “6” and insert “10” 51

Overseas Operations (Service Personnel and Veterans) Bill, continued

Stephen Morgan Chris Evans		52
	Schedule 4, page 27, line 20, leave out “6” and insert “10”	
Stephen Morgan Chris Evans		53
	Schedule 4, page 27, line 21, leave out “6” and insert “10”	
Stephen Morgan Chris Evans		54
	Schedule 4, page 27, leave out line 27 and insert “10 years is to be treated as a reference to the period of 10 years plus —”.	
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Martin Docherty-Hughes Carol Monaghan		18
	Page 6, line 38, leave out Clause 11	
Stephen Morgan Chris Evans		88
	Clause 11, page 7, line 23, at end insert— “(c) the importance of the proceedings in securing the rights of the claimant.” <i>Member’s explanatory statement</i> <i>This amendment adds a further consideration to which UK courts must have particular regard when determining whether to disapply the standard HRA limitation period of one year so as to ensure that the claimant’s interest in having their claim proceed is not subordinated.</i>	
Stephen Morgan Chris Evans		73
	Clause 11, page 7, line 30, leave out from “before” to the end of line 34, and insert “the end of the period of 6 years beginning with the date of knowledge.” <i>Member’s explanatory statement</i> <i>This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run so as to account for legitimate and explicable delays commonly experienced by persons bringing claims under the HRA arising out of overseas operations.</i>	
Stephen Morgan Chris Evans		68
	Clause 11, page 7, line 34, at end insert— “(4A) The court may disapply the rule in subsection (4) where it appears to the court that it would be equitable to do so having regard to the reasons for the delay, in particular whether the delay resulted from— (a) the nature of the injuries;	

Overseas Operations (Service Personnel and Veterans) Bill, continued

- (b) logistical difficulties in securing the services required to bring a claim, so long as the claimant was making all reasonable attempts to secure such services, or
- (c) any other reasons outside the control of the person bringing the claim.”

Member’s explanatory statement

This amendment introduces a discretion for UK courts to allow a HRA claim arising out of overseas operations to proceed in prescribed circumstances so as to account for legitimate and explicable delays commonly experienced by persons bringing such claims.

Mr Kevan Jones

Clause 11, page 7, line 36, leave out “or first ought to have known”

92

Stephen Morgan
Chris Evans

Clause 11, page 7, line 37, leave out “both”

74

Stephen Morgan
Chris Evans

Clause 11, page 7, line 40, at end insert—

“(c) of the manifestation of the harm resulting from that act which is the subject of the claim; and

(d) that they were eligible to bring a claim under the Human Rights Act 1998 against the Ministry of Defence or Secretary of State for Defence in the courts of the United Kingdom.”

75

Member’s explanatory statement

This amendment is one of a series that changes the relevant date from which the six-year longstop starts to run so as to account for legitimate and explicable delays commonly experienced by persons bringing claims under the HRA arising out of overseas operations.

Stephen Morgan
Chris Evans

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.

57

Overseas Operations (Service Personnel and Veterans) Bill, continued

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
Chris Evans

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 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
Chris Evans

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 Operations (Service Personnel and Veterans) Bill, continued

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
Chris Evans

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.

Stephen Morgan
Chris Evans

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.

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

Stephen Morgan
Chris Evans

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.
- (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.

Overseas Operations (Service Personnel and Veterans) Bill, continued

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
- (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.

Mr Kevan Jones

NC9

To move the following Clause—

“Access to justice for service personnel

Within 12 months of this Act coming into force, the Secretary of State shall commission an independent evaluation comparing—

- (a) access to justice 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)

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

- applies, in relation to legal proceedings in connection with operations of the armed forces outside the British Islands, with
- (b) access to justice for asylum seekers and prisoners seeking to bring an action against the Crown.”
-

Stephen Morgan
Chris Evans

NC10

★ To move the following Clause—

“Duty of care to service personnel

- (1) The Secretary of State shall establish a duty of care standard in relation to legal, pastoral and mental health support provided to service personnel involved in investigations or litigation arising from overseas operations, as defined in subsection (6) of section 1.
- (2) The Secretary of State shall lay a copy of this standard before Parliament within six months of the date on which this Act receives Royal Assent.
- (3) The Secretary of State shall thereafter in each calendar year—
 - (a) prepare a duty of care report; and
 - (b) lay a copy of the report before Parliament.
- (4) The duty of care report is a report about the continuous process of review and improvement to meet the duty of care standard established in subsection (1), in particular in relation to incidents arising from overseas operations of—
 - (a) litigation and investigations brought against service personnel for allegations of criminal misconduct and wrongdoing;
 - (b) civil litigation brought by service personnel against the Ministry of Defence for negligence and personal injury;
 - (c) judicial reviews and inquiries into allegations of misconduct by service personnel;
 - (d) in such other fields as the Secretary of State may determine.
- (5) In preparing a duty of care report the Secretary of State must have regard to, and publish relevant data in relation to (in respect of overseas operations)—
 - (a) the adequacy of legal, welfare and mental health support services provided to service personnel who are accused of crimes;
 - (b) complaints made by service personnel and, or their legal representation when in the process of bringing or attempting to bring civil claims against the Ministry of Defence for negligence and personal injury;
 - (c) complaints made by service personnel and, or their legal representation when in the process of investigation or litigation for an accusation of misconduct;
 - (d) meeting national care standards and safeguarding to families of service personnel, where relevant.
- (6) In section (1) “service personnel” means—
 - (a) members of the regular forces and the reserve forces;
 - (b) members of British overseas territory forces who are subject to service law;
 - (c) former members of any of Her Majesty’s forces who are ordinarily resident in the United Kingdom; and

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

- (d) where relevant, family members of any person meeting the definition within (a), (b) or (c).”
- (7) In subsection (1) “Duty of Care” means both the legal and moral obligation of the Ministry of Defence to ensure the wellbeing of service personnel.
- (8) None of the provisions contained within this clause shall be used to alter the principle of Combat Immunity.

Member’s explanatory statement

This new clause will require the Ministry of Defence to identify a new duty of care to create a new standard for policy, services and training in relation to legal, pastoral and mental health support provided to service personnel involved in investigations or litigations arising from overseas operations, and to report annually on their application of this standard.

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.
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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

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

Table:

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.
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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)

The following Notices were withdrawn on 14 October 2020:

6, 7, 8 and 9
