

All line references relate to the large font accessible version of the Bill



House of Commons

Tuesday 3 November 2020

CONSIDERATION OF BILL (REPORT STAGE)

*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: 65 to 69 and NC8

OVERSEAS OPERATIONS (SERVICE PERSONNEL AND VETERANS) BILL

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NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

Mr Kevan Jones

NC1

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

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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 new clause 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

NC2

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—

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- (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 new clause 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

NC3

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

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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, with
(b) access to justice for asylum seekers and prisoners seeking to bring an action against the Crown.”

John Healey

NC4

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

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place.”

Member’s explanatory statement

This new clause is intended to replace Clause 2 of the Bill. It 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.

John Healey

NC5

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

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limitations on courts' discretion that the Part imposes in respect of actions relating to overseas operations.

John Healey

NC6

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

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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;

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- (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
 - (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 well-being of service personnel.
- (8) None of the provisions contained within this clause shall be used to alter the principle of Combat Immunity.”

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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.

John Healey

NC7

To move the following Clause—

“Duty of care to service personnel

(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

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(b) an allocated judge advocate determines that the totality of the evidence against the accused is sufficiently strong.”

Member’s explanatory statement

This new clause would require a judge advocate of the armed services to determine if new evidence is sufficient to grant reinvestigation of armed forces personnel for alleged offences in which they have been acquitted or the original investigation was ceased.

Geraint Davies

NC8

* To move the following Clause—

“Court’s discretion to disregard Schedule 2
The court may disregard Schedule 2 if it considers it just and reasonable to do so.”

Member’s explanatory statement

This new clause preserves the court’s discretion in respect of individual cases.

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Ms Harriet Harman

11

Page 2, line 5, leave out Clause 1

Member's explanatory statement

Part 1 of the Bill introduces restrictions on prosecution for certain offences, including a presumption against prosecution. This amendment is one of a series that would remove Part 1 from the Bill.

Ms Harriet Harman

18

Clause 1, page 3, line 13, leave out "5" and insert "10"

Member's explanatory statement

This amendment is one of two providing that the presumption against prosecution should apply after 10 years (instead of 5 years).

Ms Harriet Harman

19

Clause 1, page 3, line 17, leave out "5" and insert "10"

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Member's explanatory statement

This amendment is one of two providing that the presumption against prosecution should apply after 10 years (instead of 5 years).

John Healey

64

Page 4, line 1, leave out Clause 2

Member's explanatory statement

This amendment, which would remove Clause 2 from the Bill, should be read together with NC4, which replaces the presumption against prosecution with a requirement on a prosecutor to consider whether the passage of time has materially prejudiced the prospective defendant's chance of a fair trial.

Ms Harriet Harman

13

Page 4, line 10, leave out Clause 3

Member's explanatory statement

Part 1 of the Bill introduces restrictions on prosecution for certain offences, including a presumption against

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prosecution. This amendment is one of a series that would remove Part 1 from the Bill.

Mr Kevan Jones

24

Clause 3, page 4, line 14, 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.

Ms Harriet Harman

21

Clause 3, page 4, leave out lines 18 to 29

Member’s explanatory statement

This amendment is one of two that together would delete the requirement for a prosecutor to give “particular weight” in a prosecution decision after 5 years to the adverse effect on a person of the conditions the person was exposed to during deployment.

All line references relate to the large font accessible version of the Bill

Mr Kevan Jones

25

Clause 3, page 5, line 7, 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.

Mr Kevan Jones

26

Clause 3, page 5, line 7, 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.

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Mr Kevan Jones

27

Clause 3, page 5, line 7, 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

28

Clause 3, page 5, line 7, at end insert—

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

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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.

John Healey

38

Clause 3, page 5, line 7, after subsection (2)(b), insert—

“(c) 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.

Ms Harriet Harman

22

Clause 3, page 5, leave out lines 8 to 24

Member’s explanatory statement

This amendment is one of two that together would delete the requirement for a prosecutor to give “particular weight” in a prosecution decision after 5 years to the adverse effect on a person of the

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conditions the person was exposed to during deployment.

Ms Harriet Harman

14

Page 5, line 25, leave out Clause 4

Member's explanatory statement

Part 1 of the Bill introduces restrictions On prosecution for certain offences, including a presumption against prosecution. This amendment is one of a series that would remove Part 1 from the Bill.

Ms Harriet Harman

15

Page 6, line 18, leave out Clause 5

Member's explanatory statement

Part 1 of the Bill introduces restrictions on prosecution for certain offences, including a presumption against prosecution. This amendment is one of a series that would remove Part 1 from the Bill.

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Martin Docherty-Hughes

31

Clause 5, page 7, line 13, 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.”

John Healey

39

Clause 5, page 7, line 13, 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.”

Member’s explanatory statement

This amendment requires the Attorney General to lay out their evidence and assessment as to why they granted or refused consent to prosecute.

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Ms Harriet Harman

16

Page 8, line 2, leave out Clause 6

Member's explanatory statement

Part 1 of the Bill introduces restrictions on prosecution for certain offences, including a presumption against prosecution. This amendment is one of a series that would remove Part 1 from the Bill.

Ms Harriet Harman

20

Clause 6, page 8, line 26, at end insert—

“(2A) An offence is not a “relevant offence” if it amounts to—

(a) torture, within the meaning of section 134 Criminal Justice Act 1988; or

(b) genocide, a crime against humanity or a war crime as defined in section 50 of the International Criminal Court Act 2001.”

Member's explanatory statement

This amendment provides that the presumption against prosecution does not apply to war crimes, crimes against humanity, genocide or torture.

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Martin Docherty-Hughes

32

Clause 6, page 8, line 26, 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.

Ms Harriet Harman

17

Page 9, line 21, leave out Clause 7

Member’s explanatory statement

Part 1 of the Bill introduces restrictions on prosecution for certain offences, including a presumption against prosecution. This amendment is one of a series that would remove Part 1 from the Bill.

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Martin Docherty-Hughes **33**
Page **13**, line **5**, leave out Clause 8

Martin Docherty-Hughes **34**
Page **13**, line **20**, leave out Clause 9

Martin Docherty-Hughes **35**
Page **14**, line **8**, leave out Clause 10

Ms Harriet Harman **23**
Page **14**, line **25**, leave out Clause 11

Member's explanatory statement

This clause would introduce a hard deadline for human rights claims and also includes detailed provision around the impact of proceedings on the mental health of Armed Forces witnesses. This amendment deletes this clause from the bill.

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Jamie Stone

60

Clause 11, page 16, line 2, 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 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.

Jamie Stone

46

Clause 11, page 16, line 12, 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.”

Member’s explanatory statement

This amendment is one of a series that change 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.

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Jamie Stone

41

Clause 11, page 16, line 17, at end insert—

“(4A) The court may disapply the rule in subsection (1) (b) 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 UK courts to allow a Human Rights Act 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.

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Mr Kevan Jones

29

Clause 11, page 16, line 20, leave out “first ought to have known”

Jamie Stone

47

Clause 11, page 16, line 24, 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.”

Member’s explanatory statement

This amendment is one of a series that change 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.

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Jamie Stone

40

Page 18, line 2, leave out Clause 12

Member’s explanatory statement

Clause 12 would require the Secretary of State to consider making a derogation under Article 15(1) ECHR in respect of any significant overseas operations. This amendment would remove this requirement.

Geraint Davies

65

** Clause 12, page 18, line 7, after “operations” insert “in time of war or any other public emergency threatening the life of the nation”*

Member’s explanatory statement

This amendment reflects the language used in Article 15 of the European Convention on Human Rights (which sets out the circumstances in which states parties are entitled to derogate from the Convention).

John Healey

37

Clause 12, page 18, line 13, at end, insert—

“(1A) No order may be made by the Secretary of State under section 14 following consideration

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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.

Ms Harriet Harman

66

* Page 22, line 1, leave out Schedule 1

Member’s explanatory statement

This amendment is consequential on Amendment 16.

Mr David Davis

1

Schedule 1, page 24, line 11, at end insert—

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

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block

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prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

Mr David Davis

2

Schedule 1, page 26, line 15, leave out “or” and insert—

- “(b) a crime against humanity within article 7.1(f),
- (c) a crime against humanity within article 7.1(i)
- (d) a crime against humanity within article 7.1(k), or”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws

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of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

Mr David Davis

3

Schedule 1, page 26, line 18, leave out “or” and insert—

“(ii) article 8.2(a)(ii) (which relates to international conflict),
(iii) article 8.2(b)(xxi) (which relates to international conflict), or”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

Mr David Davis

4

Schedule 1, page 26, line 21, at end insert— “, or

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(iv) article 8.2(c)(i) (which relates to armed conflicts not of an international character) insofar as it relates to the offences of cruel treatment and torture,

(v) article 8.2(c)(ii) (which relates to armed conflicts not of an international character).”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

Mr David Davis

5

Schedule 1, page 27, line 13, leave out “or” and insert—

“(b) a crime against humanity within article 7.1(f),

(c) a crime against humanity within article 7.1(i),

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(d) a crime against humanity within article 7.1(k), or”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

Mr David Davis

6

Schedule 1, page 27, line 16, leave out “or” and insert—

“(ii) article 8.2(a)(ii) ((which relates to international conflict),
(iii) article 8.2(b)(xxi) (which relates to international conflict), or”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments

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would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

Mr David Davis

7

Schedule 1, page 19, line 27, at end insert—

“(iii) article 8.2(c)(i) (which relates to armed conflicts not of an international character) insofar as it relates to the offences of cruel treatment and torture,
(iv) article 8.2(c)(ii) (which relates to armed conflicts not of an international character).”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

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Mr David Davis

8

Schedule 1, page 29, line 12, leave out “or” and insert—

- “(b) a crime against humanity within article 7.1(f),
- (c) a crime against humanity within article 7.1(i),
- (d) a crime against humanity within article 7.1(k), or”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

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Mr David Davis

9

Schedule **1**, page **29**, line **15**, leave out “or” and insert—

“(iii) article 8.2(a)(ii) ((which relates to international conflict),
(iv) article 8.2(b)(xxi) (which relates to international conflict), or”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

Mr David Davis

10

Schedule **1**, page **29**, line **18**, at end insert—

“(iii) article 8.2(c)(i) (which relates to armed conflicts not of an international character)

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insofar as it relates to the offences of cruel treatment and torture, or
(iv) article 8.2(c)(ii) (which relates to armed conflicts not of an international character).”

Member’s explanatory statement

This amendment is one of a series designed to ensure that the Bill’s “triple lock” provisions to block prosecutions would not apply to torture and related offences under UK law. This suite of amendments would ensure that the existing offences of torture – contained in the 1988 Criminal Justice Act and in other parts of UK law incorporating longstanding laws of war – would not be included within the Bill’s “triple lock” against prosecutions of UK soldiers.

Martin Docherty-Hughes

67

* Page 33, line 14, leave out Schedule 2

Member’s explanatory statement

This amendment is consequential on Amendment 33.

Jamie Stone

48

Schedule 2, page 34, line 3, leave out “the section 11 relevant date” and insert “the date of knowledge”

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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.

Mr Kevan Jones

30

Schedule 2, page 34, line 3, at end insert "save for exceptional cases where the overriding interest of justice should be served."

Jamie Stone

42

Schedule 2, page 34, line 3, at end insert—

“(1ZAi) The court may disapply the rule in subsection (1ZA) 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

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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 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.

Jamie Stone

49

Schedule 2, page 35, line 15, 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.”

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.

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Jamie Stone

50

Schedule 2, page 35, line 25, leave out “the section 12 relevant date” and insert “the date of knowledge”

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.

Jamie Stone

43

Schedule 2, page 35, line 26, at end insert—

“(2Bi) The court may disapply the rules in subsections (2A) and (2B) 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

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(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.

Jamie Stone

61

Schedule 2, page 36, line 24, at end insert—

“(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 illegitimately subordinated.

All line references relate to the large font accessible version of the Bill

Jamie Stone

51

Schedule 2, page 38, leave out from beginning of line 13 to end of line 14 on page 39, 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.

All line references relate to the large font accessible version of the Bill

Martin Docherty-Hughes

68

* Page 43, line 15, leave out Schedule 3

Member’s explanatory statement

This amendment is consequential on Amendment 34.

Jamie Stone

62

Schedule 3, page 45, line 2, 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.

Jamie Stone

52

Schedule 3, page 45, line 15, leave out “the section 17 relevant date” and insert “the date of knowledge (see subsection (13))”

All line references relate to the large font accessible version of the Bill

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

Jamie Stone

53

Schedule 3, page 45, line 21, 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.

Jamie Stone

54

Schedule 3, page 45, line 28, leave out “the section 17 relevant date” and insert “the date of knowledge (see subsection (13))”

All line references relate to the large font accessible version of the Bill

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.

Jamie Stone

44

Schedule 3, page 45, line 28, 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

All line references relate to the large font accessible version of the Bill

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.

Jamie Stone

55

Schedule 3, page 48, leave out lines 13 to 20 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 Scotland so as to account for legitimate and

All line references relate to the large font accessible version of the Bill

explicable delays commonly experienced by persons bringing civil claims for personal injury and wrongful death arising out of overseas operations.

Martin Docherty-Hughes

69

* Page **52**, line **1**, leave out Schedule 4

Member’s explanatory statement

This amendment is consequential on Amendment 35.

Jamie Stone

56

Schedule **4**, page **52**, line **14**, leave out “the Article 7 relevant date” and insert “the date of knowledge”

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.

All line references relate to the large font accessible version of the Bill

Jamie Stone

45

Schedule 4, page 52, line 15, at end insert—

“(1Ai) The court may disapply the rule in paragraph (1A) 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 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.

All line references relate to the large font accessible version of the Bill

Jamie Stone

57

Schedule 4, page 53, line 21, 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”

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.

Jamie Stone

58

Schedule 4, page 53, line 29, leave out “the Article 9 relevant date” and insert “the date of knowledge”

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.

All line references relate to the large font accessible version of the Bill

Jamie Stone

63

Schedule 4, page 54, line 23, at end insert—

“(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.

Jamie Stone

59

Schedule 4, page 55, leave out line 19 to page 56 line 17 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;

All line references relate to the large font accessible version of the Bill

(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.

ORDER OF THE HOUSE [23 SEPTEMBER 2020]

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

Committal

All line references relate to the large font accessible version of the Bill

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.

All line references relate to the large font accessible version of the Bill

Other proceedings

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

NOTICES WITHDRAWN

The following Notices were withdrawn on 29 October 2020:

Amendment 12
