



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Wednesday 14 October 2020

New Amendments handed in are marked thus ★

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

PUBLIC BILL COMMITTEE

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This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end.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

Another 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

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.

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

- Stephen Morgan 27
 Clause 5, page 3, line 19, leave out “5” and insert “10”
- Martin Docherty-Hughes 10
 Carol Monaghan
 Clause 5, page 3, line 23, leave out “Attorney General” and insert “Director of Public Prosecutions”
- Martin Docherty-Hughes 11
 Carol Monaghan
 Clause 5, page 3, line 26, leave out “Attorney General” and insert “Director of Public Prosecutions”
- Martin Docherty-Hughes 22
 Carol Monaghan
 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 13
 Carol Monaghan
 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

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

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.

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.

Overseas Operations (Service Personnel and Veterans) Bill, continued

- 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.
- 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.
- 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).”
- Member’s explanatory statement**
This amendment would ensure that grave breaches of the Geneva Conventions are also excluded from the Bill, alongside sexual offences.
-
- Martin Docherty-Hughes
Carol Monaghan 15
- Page 6, line 4, leave out Clause 8
-
- 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”

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

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/>		
Martin Docherty-Hughes Carol Monaghan		16
Page 6, line 15, leave out Clause 9		
<hr/>		
Stephen Morgan		35
Schedule 3, page 20, line 40, leave out “6” and insert “10”		
Stephen Morgan		36
Schedule 3, page 21, line 3, leave out “6” and insert “10”		
Stephen Morgan		37
Schedule 3, page 21, line 8, leave out “6” and insert “10”		
Stephen Morgan		38
Schedule 3, page 21, line 14, leave out “6” and insert “10”		
Stephen Morgan		39
Schedule 3, page 21, line 15, leave out “6” and insert “10”		
Stephen Morgan		40
Schedule 3, page 21, line 19, leave out “6” and insert “10”		

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

Stephen Morgan	41
Schedule 3, page 21, line 20, leave out “6” and insert “10”	
Stephen Morgan	42
Schedule 3, page 21, line 26, leave out “6” and insert “10”	
Stephen Morgan	43
Schedule 3, page 21, line 27, leave out “6” and insert “10”	
Stephen Morgan	44
Schedule 3, page 23, line 6, leave out “6” and insert “10”	
Stephen Morgan	45
Schedule 3, page 23, line 35, leave out “6” and insert “10”	
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”	

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

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”	

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.”	
<i>Member’s explanatory statement</i>	
<i>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.</i>	

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,	

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

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 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.

Overseas Operations (Service Personnel and Veterans) Bill, continued

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.

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

Overseas Operations (Service Personnel and Veterans) Bill, continued

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.

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

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

- (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.

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.
-

Overseas Operations (Service Personnel and Veterans) Bill, continued

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:

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

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

- (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.
-

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
