
Committee Stage: Wednesday 23 June 2021

Armed Forces Bill (Amendment Paper)

This document lists all amendments tabled to the Armed Forces Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

This document should be read alongside the Chair’s provisional Selection and Grouping, which sets out the order in which the amendments will be debated.

Stephen Morgan
Stephanie Peacock
Carol Monaghan
Martin Docherty-Hughes

7

Clause 7, page 4, line 27, at end insert—

“(4A) Guidance under subsection (3)(a) must provide for charges of murder, manslaughter, domestic violence, child abuse and rape to be tried only in civilian court when the offences are alleged to have been committed in the United Kingdom.”

Member’s explanatory statement

This amendment would ensure that the most serious crimes – murder, manslaughter domestic violence, child abuse and rape - are tried in the civilian courts when committed in the UK.

Stephen Morgan
Stephanie Peacock

1

Clause 8, page 9, line 19, at end insert—

“(aa) a relevant government department;”

Member’s explanatory statement

This amendment, with amendments 2, 3 and 4, would place the same legal responsibility to have ‘due regard’ to the Armed Forces Covenant on central government and the devolved administrations as the Bill currently requires of local authorities and other public bodies.

Carol Monaghan 39
Martin Docherty-Hughes

Clause 8, page 10, line 2, at end insert “and
“(g) in relation to accommodation provided to service people in
England, a requirement for that accommodation to meet the
Decent Homes Standard.”

Member’s explanatory statement

The intention of this amendment is to ensure that all service housing is regulated in line with the minimum quality housing standard which pertains to whatever part of the united Kingdom that housing is situated in.

Stephen Morgan 2
Stephanie Peacock

Clause 8, page 11, line 18, at end insert—
“(aa) a relevant department in the devolved administration in
Wales;”

Member’s explanatory statement

See Explanatory Statement for Amendment 1

Secretary Ben Wallace 8

Clause 8, page 11, line 23, at end insert “other than a cross-border Special Health
Authority”

Member’s explanatory statement

This amendment and Amendment 9 exclude cross-border Special Health Authorities from the scope of section 343AB of the Armed Forces Act 2006.

Carol Monaghan 40
Martin Docherty-Hughes

Clause 8, page 11, line 38, at end insert “and
“(e) in relation to accommodation provided to service people in
Wales, a requirement for that accommodation to meet the Welsh
Housing Quality Standard.”

Member’s explanatory statement

See the explanatory statement for Amendment 39.

Secretary Ben Wallace

9

Clause 8, page 12, line 10, at end insert—

““cross-border Special Health Authority” means a Special Health Authority which is established under the National Health Service Act 2006 and the National Health Service (Wales) Act 2006 by virtue of—

- (a) paragraph 1(2) of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006, or
- (b) the power under section 28 of the National Health Service Act 2006 and the power under section 22 of the National Health Service (Wales) Act 2006 being exercised together;”

Member’s explanatory statement

This amendment and Amendment 8 exclude cross-border Special Health Authorities from the scope of section 343AB of the Armed Forces Act 2006.

Stephen Morgan
Stephanie Peacock

3

Clause 8, page 12, line 32, at end insert—

- (aa) a relevant department in the devolved administration in Scotland;”

Member’s explanatory statement

See Explanatory Statement for Amendment 1

Carol Monaghan
Martin Docherty-Hughes

41

Clause 8, page 13, line 9, at end insert “and

- “(e) in relation to accommodation provided to service people in Scotland, a requirement for that accommodation to meet the Scottish Housing Quality Standard.”

Member’s explanatory statement

See the explanatory statement for Amendment 39.

Secretary Ben Wallace

10

Clause 8, page 13, line 21, leave out “and 5 (child’s plan)”

Member’s explanatory statement

This amendment provides that functions under Part 5 of the Children and Young People (Scotland) Act 2014 are not to be “relevant education functions” for the purposes of section 343AC of the Armed Forces Act 2006.

Stephen Morgan 4
Stephanie Peacock

Clause 8, page 14, line 4, at end insert—

“(aa) a relevant department in the devolved administration in Northern Ireland;”

Member’s explanatory statement

See Explanatory Statement for Amendment 1

Secretary Ben Wallace 11

Clause 8, page 14, line 25, at end insert “, except Article 15”

Member’s explanatory statement

This amendment provides that functions under Article 15 of the Housing (Northern Ireland) Order 1988 (assistance for voluntary organisations) are not to be “relevant housing functions” for the purposes of section 343AD of the Armed Forces Act 2006.

Secretary Ben Wallace 12

Clause 8, page 14, line 26, leave out paragraph (c) and insert—

“(c) Chapter 2 of Part 3 of the Housing (Northern Ireland) Order 2003 (S.I. 2003/412 (N.I. 2)), so far as that Chapter relates to disabled facilities grants.”

Member’s explanatory statement

This amendment makes it clearer that all functions under Chapter 2 of Part 3 of the Housing (Northern Ireland) Order 2003, so far as they relate to disabled facilities grants, are to be “relevant housing functions” for the purposes of section 343AD of the Armed Forces Act 2006. Amendment 14 defines “disabled facilities grant”.

Carol Monaghan 42
Martin Docherty-Hughes

Clause 8, page 14, line 27, at end insert “and

“(d) in relation to accommodation provided to service people in Northern Ireland, a requirement for that accommodation to meet the Decent Homes standard for Northern Ireland.”

Member’s explanatory statement

See the explanatory statement for Amendment 39.

Secretary Ben Wallace

13

Clause 8, page 14, line 43, leave out “provision of” and insert “of the following, so far as the function relates to health care”

Member’s explanatory statement

This amendment ensures that a function specified in section 343AD(6) of the Armed Forces Act 2006 is a “relevant healthcare function” only so far as it relates to health care. Amendment 15 defines “health care”.

Secretary Ben Wallace

14

Clause 8, page 15, line 5, after “section” insert—

““disabled facilities grant” has the meaning given by Article 35(4) of the Housing (Northern Ireland) Order 2003;”

Member’s explanatory statement

This amendment is consequential on Amendment 12.

Secretary Ben Wallace

15

Clause 8, page 15, line 7, at end insert—

““health care” means all forms of health care provided for individuals, whether relating to physical or mental health.”

Member’s explanatory statement

This amendment is consequential on Amendment 13.

Stephen Morgan
Stephanie Peacock

6

Clause 8, page 18, line 7, at end insert—

“343AG Section 343AF: report

The Secretary of State must lay a report before each House of Parliament no later than three months after the day on which this Act is passed on how the powers in section 343F (Sections 343AA to 343AD: power to add bodies and functions) will work in practice.”

Member's explanatory statement

This amendment would require the Secretary of State to set out how powers in the Bill could be used to widen its scope to address all matters of potential disadvantage for service personnel under the Armed Forces Covenant including employment, pensions, compensation, social care, criminal justice and immigration.

Secretary Ben Wallace

16

Clause 10, page 20, line 8, after "(2)" insert"—

(i) "

Member's explanatory statement

This amendment is ancillary to Amendment 17.

Secretary Ben Wallace

17

Clause 10, page 20, line 11, at end insert—

"(ii) after paragraph (c) insert—

"(ca) requiring the Defence Council to decide any question relating to whether an appeal has been brought on valid grounds;".

Member's explanatory statement

This amendment (to which Amendment 16 is ancillary) enables service complaints regulations to provide that it is to be for the Defence Council to decide whether an appeal against a decision on a service complaint has been brought on valid grounds.

Secretary Ben Wallace

18

Clause 10, page 20, line 12, at end insert—

"(4A)In subsection (6)—

(a) after paragraph (a) insert—

"(aa) for the Service Complaints Ombudsman, on an application by the complainant, to review a decision by the Defence Council that an appeal cannot be proceeded with because it was not brought on a valid ground;";

(b) in paragraph (b) for "such a review," substitute "a review such as is mentioned in paragraph (a) or (aa),".

Member's explanatory statement

This amendment provides for a complainant to be able to apply for a review by the Service Complaints Ombudsman of a decision that their appeal was not made on a valid ground.

Secretary Ben Wallace

19

Clause 10, page 20, line 13, leave out "In"

Member's explanatory statement

This amendment is ancillary to Amendments 20, 22 and 23.

Secretary Ben Wallace

20

Clause 10, page 20, line 13, after "investigations)" insert "is amended as follows.

(5A) After subsection (5) insert—

"(5A)A decision on a service complaint is not to be taken to fall within subsection (5)(b) if the complainant does not have grounds (of which the complainant is aware) on which the complainant is entitled to bring an appeal against the decision."

(5B) "

Member's explanatory statement

This amendment (to which Amendment 19 is ancillary) clarifies the meaning of "finally determined" in section 340H of the Armed Forces Act 2006 in relation to cases where a person does not have grounds (of which they are aware) for bringing an appeal against the decision on their service complaint.

Secretary Ben Wallace

21

Clause 10, page 20, line 13, after "(9)" insert "—

(a) "

Member's explanatory statement

This amendment is ancillary to Amendment 22.

Secretary Ben Wallace

22

Clause 10, page 20, line 14, at end insert—

"(b) for the words from "date" to the end substitute "relevant date (see subsection (9A))"."

Member's explanatory statement

This amendment (to which Amendment 19 is ancillary) and Amendment 23 make special provision about the time limit for applications to the Service Complaints Ombudsman about a service complaint where the complainant is notified that their appeal against the decision on the complaint was not made on a valid ground.

Secretary Ben Wallace

23

Clause 10, page 20, line 14, at end insert—

“(5C)After subsection (9) insert—

“(9A)For the purposes of subsection (9) “the relevant date” in relation to a service complaint that has been finally determined is—

- (a) where the service complaint falls within subsection (5)(b), the date on which the complainant is notified of the determination of the appeal;
- (b) where the decision on the service complaint does not fall within subsection (5)(b)—
 - (i) if the conditions in subsection (9B) are met, the date of the final invalidity decision;
 - (ii) otherwise, the date of the decision on the service complaint.

(9B) The conditions mentioned in subsection (9A)(b)(i) are that—

- (a) the complainant brings an appeal against the decision on the service complaint;
- (b) the Defence Council decides that the appeal cannot be proceeded with because (and only because) it was not brought on a valid ground;
- (c) on any review of that decision of the Defence Council in accordance with regulations made by virtue of section 340D(6)(aa), the decision is upheld.

(9C) In subsection (9A)(b) “the date of the final invalidity decision” means—

- (a) if the complainant does not apply for a review by the Service Complaints Ombudsman of the decision mentioned in subsection (9B)(b), the date on which the Defence Council notifies the complainant of that decision;
- (b) if the complainant does apply for such a review, the date on which the Service Complaints Ombudsman notifies the complainant that the appeal cannot be proceeded with because it was not brought on a valid ground.””

Member’s explanatory statement

This amendment (to which Amendment 19 is ancillary) and Amendment 14 make special provision about the time limit for applications to the Service Complaints Ombudsman about a service complaint in cases where the complainant is notified that their appeal relating to the service complaint was not made on a valid ground.

Secretary Ben Wallace

24

Clause 14, page 29, line 5, at end insert—

"1A	a sentence of detention under section 224B (special sentence of detention for terrorist offenders of particular concern)	two-thirds of the term imposed pursuant to section 252A(5) of the Sentencing Code by virtue of section 224B(4) of this Act (the appropriate custodial term)"
-----	--	--

Member’s explanatory statement

This amends the table in proposed new section 177J of the Armed Forces Act 2006 to refer to a new sentence introduced by the Counter-Terrorism and Sentencing Act 2021.

Secretary Ben Wallace

25

Clause 14, page 29, line 12, leave out "half" and insert "two-thirds of"

Member’s explanatory statement

This amends the table in proposed new section 177J of the Armed Forces Act 2006 to reflect changes to release points made by the Terrorist Offenders (Restriction of Early Release) Act 2020 and the Police, Crime, Sentencing and Courts Bill.

Secretary Ben Wallace

26

Clause 14, page 29, line 26, at end insert—

"4A	a serious terrorism sentence of detention in a young offender institution under section 268A of the Sentencing Code by virtue of section 219ZA of this Act (serious terrorism sentences)	the term imposed pursuant to section 268C(2) of the Sentencing Code (the appropriate custodial term)"
-----	--	---

Member’s explanatory statement

This amends the table in proposed new section 177J of the Armed Forces Act 2006 to refer to a new sentence introduced by the Counter-Terrorism and Sentencing Act 2021.

Secretary Ben Wallace

27

Clause 14, page 29, line 27, leave out “half” and insert “two-thirds of”

Member’s explanatory statement

This amends the table in proposed new section 177J of the Armed Forces Act 2006 to reflect changes to release points made by the Terrorist Offenders (Restriction of Early Release) Act 2020 and the Police, Crime, Sentencing and Courts Bill.

Secretary Ben Wallace

28

Clause 14, page 29, line 40, at end insert—

“6A	a serious terrorism sentence of imprisonment under section 282A of the Sentencing Code by virtue of section 219ZA of this Act (serious terrorism sentences)	the term imposed pursuant to section 282C(2) of the Sentencing Code (the appropriate custodial term)
6B	a custodial sentence in respect of which section 244ZA of the Criminal Justice Act 2003 applies to the offender	two-thirds of the sentence
6C	a custodial sentence not within any of the preceding entries in respect of which section 247A of the Criminal Justice Act 2003 applies to the offender	two-thirds of the sentence”

Member’s explanatory statement

This amends the table in proposed new section 177J of the Armed Forces Act 2006 to refer to a new sentence introduced by the Counter-Terrorism and Sentencing Act 2021 and to reflect changes to release points made by the Terrorist Offenders (Restriction of Early Release) Act 2020 and the Police, Crime, Sentencing and Courts Bill.

Secretary Ben Wallace

29

Clause 14, page 30, line 8, at end insert—

“(5A)In the case of a sentence specified in entry 2, 4 or 6 of column 2 in the table which is within section 247A(2A) of the Criminal Justice Act 2003, the corresponding entry in column 3 of the table is to be read with the omission of “two-thirds of”.”

Member’s explanatory statement

This modifies the table in proposed new section 177J of the Armed Forces Act 2006 to reflect changes to release points made by the Counter-Terrorism and Sentencing Act 2021.

Secretary Ben Wallace

30

Clause 14, page 30, line 22, leave out “paragraph” and insert “entry”

Member’s explanatory statement

This makes a minor verbal adjustment for purposes of consistency.

Jamie Stone

NC1

Ben Lake

Gavin Robinson

Sammy Wilson

To move the following Clause—

“Waived fees for indefinite leave to remain for serving or discharged member of the UK armed forces

(1) The Immigration Act 2014 is amended as follows.

(2) In section 68, after (11) insert—

“(12) No fees may be charged in respect of a serving or previously serving member of the UK armed forces, or their family members, applying for indefinite leave to remain under Appendix Armed Forces of the Immigration Rules.””

Member’s explanatory statement

This new clause would amend the Immigration Act 2014 to waive the fee for indefinite leave to remain applications for any current or previously serving Members of the UK Armed forces, and their families.

Stephen Morgan

NC2

Stephanie Peacock

To move the following Clause—

“Duty of care to service personnel

(1) The Secretary of State must 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 section 1(6) of the Overseas Operations (Service Personnel and Veterans Act 2021.

(2) The Secretary of State must lay a copy of the duty of care standard under subsection (1) before Parliament within six months of the date on which this Act is passed.

(3) The Secretary of State must thereafter in each calendar year—

(a) prepare a duty of care update, and

- (b) include the duty of care update in the Armed Forces Covenant annual report when it is laid before Parliament.
- (4) The duty of care update is a review about the continuous process 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; and
 - (d) such other related fields as the Secretary of State may determine.
- (5) In preparing a duty of care update 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 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 or their legal representation when in the process of investigation or litigation for an accusation of misconduct: and
 - (d) meeting national standards of care and safeguarding for families of service personnel, where relevant.
- (6) In subsection (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 paragraph (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 of this section may be used to alter the principle of combat immunity.”

Member’s explanatory statement

This new clause will require the Secretary of State to 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.

Stephen Morgan
Stephanie Peacock

NC3

To move the following Clause—

“Report on personnel numbers in the armed forces

- (1) Within 3 months beginning with the day on which this Act is passed, the Secretary of State must lay a report before each House of Parliament which details how personnel numbers in the Royal Navy, the Army and the Royal Air Force will change in the each of the next five years, from the year ending 31 March 2022 to the year ending 31 March 2026.
- (2) The report under subsection (1) must identify the effect of any reduction in the numbers of personnel on—
 - (a) the United Kingdom’s NATO obligations and commitments,
 - (b) the United Kingdom’s relationship and commitments to allies, including the United States of America,
 - (c) the defence of British Overseas Territories, including as the Falklands Islands,
 - (d) the defence of the United Kingdom against current and emerging threats,
 - (e) the United Kingdom’s offensive operations against hostile states and actors,
 - (f) the United Kingdom’s peacekeeping operations overseas, and
 - (g) the strategic objectives outlined in the Integrated Review, Defence Command Paper, and in the Defence and Security Industrial Strategy.
- (3) Where the Secretary of State considers that publication of any information listed in subsection (2) would be contrary to the interests of national security, those details may be excluded from publication and instead must be included in a confidential annex to the report provided to the Chair of the Defence Select Committee in the House of Commons on the same day that the rest of the report is laid before each House of Parliament.
- (4) The Secretary of State must arrange for a motion to be moved in the House of Commons in relation to the findings and conclusions of the report under subsection (1) within five sitting days after the date on which the report under subsection (1) is laid before Parliament.
- (5) If the motion under subsection (5) is not passed, the Secretary of State may not propose a maximum number of personnel in any House of Commons Votes (A) for the Royal Navy, the Army and the Royal Air Force that is lower than that passed for the previous financial year.”

Member’s explanatory statement

This new clause would require the Government to publish a report on changes to personnel numbers across all services and to detail the impact of reductions on operational capabilities.

Stephen Morgan
Stephanie Peacock
Dan Carden
Carol Monaghan
Martin Docherty-Hughes

NC4

To move the following Clause—

“Report on dismissals and forced resignations for reasons of sexual orientation or gender identity

- (1) The Secretary of State must lay before Parliament a report on the number of people who have been dismissed or forced to resign from the Armed Forces due to their sexual orientation or gender identity.
- (2) The report under subsection (1) must include cases where—
 - (a) there is formal documentation citing sexuality as the reason for their dismissal; or
 - (b) there is evidence of sexuality or gender identity being a reason for their dismissal, though another reason is cited in formal documentation.
- (3) The report under subsection (1) must include recommendations of the sort of compensation which may be appropriate, including but not limited to—
 - (a) the restoration of ranks;
 - (b) pensions; and
 - (c) other forms of financial compensation.
- (4) The report must include a review of the cases of those service personnel who as a result of their sexuality have criminal convictions for sex offences and/or who are on the Sex Offenders Register.
- (5) The report must include discharges and forced resignations back to at least 1955.
- (6) The first report under subsection (1) must be laid no later than 6 months after the day on which this Act is passed.
- (7) The Secretary of State may make further reports under subsection (1) from time to time.
- (8) In this section, “sexuality or gender identity” includes perceived or self-identified sexuality or gender identity.”

Member’s explanatory statement

This new clause requires the Government to conduct a comprehensive review of the number of people who were dismissed or forced to resign from the Armed Forces due to their sexuality and to make recommendations on appropriate forms of compensation.

Dan Carden

NC6

To move the following Clause—

“Duty of care for alcohol, drugs and gambling disorders

- (1) The Armed Forces Act 2006 is amended as follows.
- (2) After section 20(2)(d) insert—
 - “(e) the person is dependent on, or has a propensity to misuse, alcohol or drugs.”
- (3) After section 20(3) insert—

“(3A) The Secretary of State has a duty of care to offer a specific pathway for support and treatment for current and previously serving service personnel who experience—

 - (a) a propensity to misuse, alcohol and drugs,
 - (b) alcohol or drug dependency, and
 - (c) gambling disorder.

“(3B) The Secretary of State must include in the annual Armed Forces Covenant report—

 - (a) the number of people accessing treatment and support as set out in section (1), and
 - (b) the current provisions for rehabilitation facilities for Armed Forces personnel who are experiencing a propensity to misuse or have a dependency on alcohol, drugs and gambling.””

Stephen Morgan
Stephanie Peacock
Carol Monaghan
Martin Docherty-Hughes

NC7

To move the following Clause—

“Indefinite leave to remain payments by Commonwealth and Gurkha members of armed forces

- (1) The Immigration Act 2014 is amended as follows.
- (2) In section 68 (10), after “regulations” insert “must make exceptions in respect of any person with citizenship of a Commonwealth country (other than the United Kingdom) who has served at least four years in the UK armed forces, or in respect of any person who has served at least four years in the Brigade of Gurkhas, such exceptions to include capping the fee for any such person applying for indefinite leave to remain at no more than the actual administrative cost of processing that application, and”

Member’s explanatory statement

This new clause will ensure that Commonwealth and Gurkha veterans applying for Indefinite Leave to Remain following four years of service will only pay the unit cost of an application.

Stephen Morgan
Stephanie Peacock
Carol Monaghan
Martin Docherty-Hughes

NC8

To move the following Clause—

“Armed Forces Federation

- (1) The Armed Forces Act 2006 is amended as follows.
- (2) After section 333, insert—

“333A Armed Forces Federation

- (1) There shall be an Armed Forces Federation for the United Kingdom for the purpose of representing members of the Armed Forces in the United Kingdom in all matters affecting their welfare, remuneration and efficiency, except for—
 - (a) questions of promotion affecting individuals, and
 - (b) (subject to subsection (2)) questions of discipline affecting individuals.
- (2) The Armed Forces Federation may represent a member of the Armed Forces at any proceedings or on an appeal from any such proceedings.
- (3) The Armed Forces Federation shall act through local and central representative bodies.
- (4) This section applies to reservists of the Armed Forces as it applies to members of the Armed Forces, and references to the Armed Forces shall be construed accordingly.

333B Regulations for the Armed Forces Federation

- (1) The Secretary of State may by regulations—
 - (a) prescribe the constitution and proceedings of the Armed Forces Federation, or
 - (b) authorise the Federation to make rules concerning such matters relating to their constitution and proceedings as may be specified in the regulations.
- (2) Without prejudice to the generality of subsection (1), regulations under this section may make provision—
 - (a) with respect to the membership of the Federation;
 - (b) with respect to the raising of funds by the Federation by voluntary subscription and the use and management of funds derived from such subscriptions;
 - (c) with respect to the manner in which representations may be made by committees or bodies of the Federation to officers of the Armed Forces and the Secretary of State; and
 - (d) for the payment by the Secretary of State of expenses incurred in connection with the Federation and for the use by the

Federation of premises provided by local Armed Forces bodies for Armed Forces purposes.

- (3) Regulations under this section may contain such supplementary and transitional provisions as appear to the Secretary of State to be appropriate, including provisions adapting references in any enactment (including this Act) to committees or other bodies of the Federation.
- (4) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) This section applies to reservists of the Armed Forces as it applies to members of the Armed Forces.””

Member’s explanatory statement

This new clause would create a representative body for the Armed Forces, akin to the Police Federation, which would represent their members in matters such as welfare, pay and efficiency.

Kevan Jones

NC9

To move the following Clause—

“Investigation of allegations related to overseas operations

- (1) In deciding whether to commence criminal proceedings for allegations against a member of Her Majesty’s Forces arising out of overseas operations, the relevant prosecutor must take into account whether the investigation has been timely and comprehensively conducted.
- (2) Where an investigator of allegations arising out of overseas operations is satisfied that there is sufficient evidence of criminal conduct to continue the investigation, the investigator must within 21 days refer the investigation to the Service Prosecuting Authority with any initial findings and accompanying case papers.
- (3) An investigation may not proceed after the period of 6 months beginning with the day on which the allegation was first reported without the reference required in subsection (2).
- (4) On receiving a referral under subsection (2), the Service Prosecuting Authority must either—
 - (a) order the investigation to cease if it considers it unlikely that charges will be brought, or
 - (b) give appropriate advice and directions to the investigator about avenues of inquiry to pursue and not pursue, including—
 - (i) possible defendants to consider,
 - (ii) possible explanations to consider for the circumstances giving rise to the investigation, and
 - (iii) overseas inquiries and seeking the help of overseas jurisdictions.
- (5) Where the investigation proceeds, the Service Prosecuting Authority must monitor and review its progress at intervals of three months and must on each review make a decision in the terms set out in subsection (4).

- (6) On the conclusion of the investigation, the investigator must send a final report with accompanying case papers to the Service Prosecuting Authority for the consideration of criminal proceedings.
- (7) After receipt of the final report, the facts and circumstances of the allegations may not be further investigated or reinvestigated without the direction of the Director of Service Prosecutions acting on the ground that there is new compelling evidence or information which might—
 - (a) materially affect the previous decision, and
 - (b) lead to a charge being made.
- (8) The Judge Advocate General may give Practice Directions as he or she deems appropriate for the investigation of allegations arising out of overseas operations.
- (9) For the purposes of this section—

“case papers” includes summaries of interviews or other accounts given by the suspect, previous convictions and disciplinary record, available witness statements, scenes of crime photographs, CCTV recordings, medical and forensic science reports;

“investigator” means a member of the service police or a civil police force.”

Secretary Ben Wallace

31

Schedule 3, page 40, line 27, at end insert—

“(c) in paragraph (b)(i) for “340D(6)” substitute “340D(6)(a)”.”

Member’s explanatory statement

This amendment is consequential on Amendment 18.

Secretary Ben Wallace

32

Schedule 3, page 40, line 35, at end insert—

“(c) in paragraph (b)(i) for “340D(6)” substitute “340D(6)(a)”.”

Member’s explanatory statement

This amendment is consequential on Amendment 18.

Secretary Ben Wallace

33

Schedule 3, page 41, line 8, at end insert—

“(c) in paragraph (b)(i) for “340D(6)” substitute “340D(6)(a)”.”

Member’s explanatory statement

This amendment is consequential on Amendment 18.

Secretary Ben Wallace

34

Schedule 3, page 41, line 8, at end insert—

“Working Time Regulations 1998

3A In regulation 38 of the Working Time Regulations 1998 (S.I. 1998/1833) (armed forces)—

(a) in paragraph (2), for sub-paragraph (a) substitute—

“(a) that person (“the complainant”) has made a service complaint in respect of the same matter, and”;

(b) for paragraph (3) substitute—

“(3) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of paragraph (2)(b) as withdrawn if—

(a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person’s or panel’s decision expires,

(b) there are grounds (of which the complainant is aware) on which the complainant is entitled to bring such an appeal, and

(c) either—

(i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6)(a) of the Armed Forces Act 2006 (review of decision that appeal brought out of time cannot proceed), or

(ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person’s or panel’s decision cannot be proceeded with.”;

(c) in paragraph (4), for “service redress procedures” substitute “procedures set out in service complaints regulations”;

(d) for paragraph (5) substitute—

“(5) In this regulation—

“service complaint” means a complaint under section 340A of the Armed Forces Act 2006;

“service complaints regulations” means regulations made under section 340B(1) of that Act.””

Member’s explanatory statement

This amendment makes amendments of subordinate legislation that are consequential on clause 10.

Secretary Ben Wallace

35

Schedule 3, page 41, line 8, at end insert—

“Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000

3B In regulation 13 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (S.I. 2000/1551) (armed forces)—

(a) in paragraph (3), for sub-paragraph (a) substitute—

“(a) that person (“the complainant”) has made a service complaint in respect of the same matter, and”;

(b) for paragraph (4) substitute—

“(4) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of paragraph (3)(b) as withdrawn if—

(a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person’s or panel’s decision expires,

(b) there are grounds (of which the complainant is aware) on which the complainant is entitled to bring such an appeal, and

(c) either—

(i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6)(a) of the Armed Forces Act 2006 (review of decision that appeal brought out of time cannot proceed), or

(ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person’s or panel’s decision cannot be proceeded with.”;

(c) in paragraph (5), for “service redress procedures” substitute “procedures set out in service complaints regulations”;

(d) for paragraph (6) substitute—

“(6) In this regulation—

“service complaint” means a complaint under section 340A of the Armed Forces Act 2006;

“service complaints regulations” means regulations made under section 340B(1) of that Act.””

Member’s explanatory statement

This amendment makes amendments of subordinate legislation that are consequential on clause 10.

Secretary Ben Wallace

36

Schedule 3, page 41, line 8, at end insert—

“Part-time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000

3C In regulation 13 of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations (Northern Ireland) 2000 (S.R. (N.I.) 2000 No. 219) (armed forces)—

(a) in paragraph (3), for sub-paragraph (a) substitute—

“(a) that person (“the complainant”) has made a service complaint in respect of the same matter, and”;

(b) for paragraph (4) substitute—

“(4) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of paragraph (3)(b) as withdrawn if—

(a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person’s or panel’s decision expires,

(b) there are grounds (of which the complainant is aware) on which the complainant is entitled to bring such an appeal, and

(c) either—

(i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6)(a) of the Armed Forces Act 2006 (review of decision that appeal brought out of time cannot proceed), or

(ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person’s or panel’s decision cannot be proceeded with.”;

(c) in paragraph (5), for “service redress procedures” substitute “procedures set out in service complaints regulations”;

(d) for paragraph (6) substitute—

“(6) In this regulation—

“service complaint” means a complaint under section 340A of the Armed Forces Act 2006;

“service complaints regulations” means regulations made under section 340B(1) of that Act.””

Member’s explanatory statement

This amendment makes amendments of subordinate legislation that are consequential on clause 10.

Secretary Ben Wallace

37

Schedule 3, page 42, line 13, at end insert—

“(c) in paragraph (b)(i) for “340D(6)” substitute “340D(6)(a)”.”

Member’s explanatory statement

This amendment is consequential on Amendment 18.

Secretary Ben Wallace

38

Schedule 3, page 42, line 13, at end insert—

“Working Time Regulations (Northern Ireland) 2016

4 In regulation 49 of the Working Time Regulations (Northern Ireland) 2016 (S.R. (N.I.) 2016 No. 49) (armed forces)—

(a) in paragraph (2), for sub-paragraph (a) substitute—

“(a) that person (“the complainant”) has made a service complaint in respect of the same matter, and”;

(b) for paragraph (3) substitute—

“(3) Where the service complaint is dealt with by a person or panel appointed by the Defence Council by virtue of section 340C(1)(a) of the Armed Forces Act 2006, it is to be treated for the purposes of paragraph (2)(b) as withdrawn if—

(a) the period allowed in accordance with service complaints regulations for bringing an appeal against the person’s or panel’s decision expires,

(b) there are grounds (of which the complainant is aware) on which the complainant is entitled to bring such an appeal, and

(c) either—

(i) the complainant does not apply to the Service Complaints Ombudsman for a review by virtue of section 340D(6)(a) of the Armed Forces Act 2006 (review of decision that appeal brought out of time cannot proceed), or

(ii) the complainant does apply for such a review and the Ombudsman decides that an appeal against the person’s or panel’s decision cannot be proceeded with.”;

(c) in paragraph (4), for “service redress procedures” substitute “procedures set out in service complaints regulations”;

(d) for paragraph (5) substitute—

“(5) In this regulation—

“service complaint” means a complaint under section 340A of the Armed Forces Act 2006;

“service complaints regulations” means regulations made under section 340B(1) of that Act.””

Member's explanatory statement

This amendment makes amendments of subordinate legislation that are consequential on clause 10.

Order of the House

[8 February 2021]

That the following provisions shall apply to the Armed Forces Bill:

Select Committee

1. The Bill shall be committed to a Select Committee.
2. The Select Committee shall report the Bill to the House on or before 29 April 2021.

Committee of the whole House, Consideration and Third Reading

3. On report from the Select Committee, the Bill shall be re-committed to a Committee of the whole House.
4. Proceedings in Committee of the whole House on recommittal, any proceedings on Consideration and proceedings on Third Reading shall be taken in one day in accordance with the following provisions of this Order.
5. Proceedings in Committee of the whole House and any proceedings on Consideration 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 in Committee of the whole House are commenced.
6. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.

Programming committee

7. Standing Order No. 83B (Programming committees) shall not apply to proceedings in Committee of the whole House, to any proceedings on Consideration or to proceedings on Third Reading.

Other proceedings

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

Withdrawn Amendments

The following amendments were withdrawn on 15 June 2021:

5 and NC5
