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Report Stage: Friday 25 June 2021

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## Armed Forces Bill, As Amended (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 Any withdrawn amendments are listed at the end of the document.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.

★ New Amendments.

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

New amendments: 1 and 2

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Stephen Morgan  
Stephanie Peacock

NC1

☆ 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.

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Stephen Morgan  
Stephanie Peacock

NC2

☆ 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.

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Stephen Morgan  
Stephanie Peacock

NC3

☆ To move the following Clause—

#### **“Armed Forces Federation**

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

#### **“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.

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Stephen Morgan  
Stephanie Peacock

1

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

- “(4A) (a) guidance under subsection (3)(a) must provide for charges of murder, manslaughter, domestic violence, child abuse and rape to require specific consent by the Attorney General to be tried in court martial when the offences are alleged to have been committed in the United Kingdom, and
- (b) if the Attorney General has not granted such consent, guidance under (3)(a) shall provide that charges as set out in section 4A(a) to be tried in civilian court only.”

**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 unless the Attorney General has specifically consented for such crimes to be tried under courts martial.

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Stephen Morgan  
Stephanie Peacock

2

★ Clause 8, page 18, line 28, at end insert—

**“343AG Section 343AF: report**

- (1) 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, and thereafter must make a report at least once in every calendar year.
- (2) The report in subsection (1) shall set out how the powers in section 343F (Sections 343AA to 343AD: power to add bodies and functions) will work in practice.
- (3) Any report published under subsection (1) after the initial report made 3 months after this Act is passed must include—
  - (a) a statement detailing how the powers granted through section 343F (Sections 343AA to 343AD: power to add bodies and functions) have been used since the last report was issued,
  - (b) a review of the relevance of the listed bodies and functions in section 343F (Sections 343AA to 343AD: power to add bodies and functions) in relation to the Armed Forces Covenant Annual Report under section 343A of AFA 2006, and
  - (c) the outcome of a consultation conducted by the Secretary of State with the Armed Forces Covenant Reference Group on the bodies and functions listed in section 343F (Sections 343AA to 343AD: power to add bodies and functions) in regard to their appropriateness and relevance as part of the Armed Forces Covenant Annual Report.”

**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.

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## 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.
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