
Committee Stage: Wednesday 10 November 2021

Judicial Review and Courts Bill (Amendment Paper)

This document lists all amendments tabled to the Judicial Review and Courts 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 Any withdrawn amendments are listed at the end of the document.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.

James Cartlidge

2

Clause 9, page 22, line 34, at end insert—

“(1A) In section 17B (power to proceed with indication of plea hearing in absence of disorderly but represented accused)—

- (a) for the heading substitute “Power to proceed if accused does not appear to give indication as to plea”;
- (b) for subsection (1) substitute—

“(1A) This section has effect where—

- (a) a hearing is held for the purposes of section 17A,
- (b) the accused does not appear at the hearing,
- (c) any of the conditions in subsections (1B) to (1E) is met, and
- (d) the court is satisfied that it is not contrary to the interests of justice to proceed in the absence of the accused.

(1B) This condition is that a legal representative of the accused is present at the hearing and signifies the accused’s consent to the court’s proceeding in the accused’s absence.

(1C) This condition is that—

- (a) a legal representative of the accused is present at the hearing, and
- (b) the court does not consider that there is an acceptable reason for the accused’s failure to attend.

(1D) This condition is that—

- (a) it is proved to the satisfaction of the court, on oath or in such manner as may be prescribed, that notice of the hearing was served on the accused within what appears to the court to be a reasonable time before its date, and

- (b) the court does not consider that there is an acceptable reason for the accused's failure to attend.

(1E) This condition is that—

- (a) the accused has appeared on a previous occasion to answer the charge, and
- (b) the court does not consider that there is an acceptable reason for the accused's failure to attend.

(1F) This section also has effect where—

- (a) a hearing is held for the purposes of section 17A,
- (b) the accused appears at the hearing,
- (c) the court considers that by reason of the accused's disorderly conduct before the court it is not practicable for the hearing to be conducted in the accused's presence, and
- (d) the court is satisfied that it is not contrary to the interests of justice to proceed in the absence of the accused.”;
- (c) in subsection (2), for the words before paragraph (a) substitute “If a legal representative of the accused is present at the hearing—”;
- (d) after subsection (4) insert—

“(5) If no legal representative of the accused is present at the hearing—

- (a) the court is to proceed in accordance with section 18(1), and
- (b) the accused is to be taken for the purposes of section 20 to have indicated that the accused would (if the offence were to proceed to trial) plead not guilty.””

Member's explanatory statement

This amendment allows a magistrates' court to proceed if an accused person does not appear at the “plea before venue” hearing in a wider range of circumstances (equivalent to those provided for in relation to allocation hearings by clause 9(3)).

James Cartlidge

3

Clause 9, page 23, leave out lines 33 and 34

Member's explanatory statement

This amendment allows a magistrates' court to carry on with an allocation hearing in the absence of the accused if the accused disrupts the hearing, even if the accused is not legally represented.

James Cartlidge

4

Clause 9, page 23, line 41, at end insert—

“(1G) This section also has effect where a magistrates' court determines that section 17B(5) applies and proceeds straight away to a hearing in accordance with section 18(1).”

Member's explanatory statement

This amendment allows a magistrates' court to move straight to the allocation stage if (under the provision inserted by Amendment 2) it decides at the plea-before-venue stage to proceed in the absence of the accused or a representative, without fresh consideration of the merits of proceeding in the absence of the accused.

Alex Cunningham

58

Clause 9, page 23, line 41, at end insert—

“(1G) In a case within subsection (1A)—

- (a) the accused may, at any time before the taking of a plea in the summary trial, apply to the court for the question of the mode of trial to be reopened;
- (b) the court may, if it considers it in the interests of justice to do so, accede to the application and arrange a hearing under paragraph (c);
- (c) if a hearing takes place under this paragraph and the accused appears at it, the court is not to proceed to summary trial by virtue of subsection (1A), but is to proceed in accordance with subsections (2) to (9) of section 20 above.”

Member's explanatory statement

This amendment would allow defendants to reopen the allocation process and elect for jury trial up to the point of taking a plea in a summary trial if the court considers it in the interest of justice to do so.

James Cartlidge

5

Schedule 2, page 65, line 26, leave out from “17BA” to end of line 27

Member's explanatory statement

See the explanatory statement for Amendment 1.

James Cartlidge

6

Schedule 2, page 65, line 28, leave out paragraph (d)

Member's explanatory statement

See the explanatory statement for Amendment 1.

James Cartlidge

7

Schedule 2, page 65, line 32, leave out "18(1)" and insert "17BA"

Member's explanatory statement

See the explanatory statement for Amendment 1.

James Cartlidge

8

Schedule 2, page 65, line 32, at end insert—

"(b) in subsection (3), for "and section 18(1) below" substitute ", section 18(1) and section 20"."

Member's explanatory statement

This amendment makes a clarification of section 17B(3) of the Magistrates' Court Act 1980 for consistency with the amendments to that section proposed in Amendment 2.

James Cartlidge

9

Schedule 2, page 66, line 22, at end insert "; or

(c) section 17B has effect and no legal representative of the accused is present at the hearing referred to in that section."

Member's explanatory statement

This amendment is consequential on Amendment 2.

James Cartlidge

10

Schedule 2, page 68, line 7, after "accused" insert ", or a legal representative of the accused,"

Member's explanatory statement

See the explanatory statement for Amendment 1.

James Cartlidge

11

Schedule 2, page 68, line 8, leave out "subsections (2) to (6) of"

Member's explanatory statement

See the explanatory statement for Amendment 1.

Anne McLaughlin 28
Angela Crawley

Clause 21, page 37, line 28, leave out “(3)” and “(4)” and insert “(3), (4) and (4A)”

Member’s explanatory statement

This amendment is consequential to Amendment 29.

Anne McLaughlin 29
Angela Crawley

Clause 21, page 38, line 6, at end insert—

“(4A) The Lord President of the Court of Session is to appoint one person with experience in and knowledge of the Scottish legal system.”

Member’s explanatory statement

This amendment would require the Online Procedure Committee to include a person with experience in and knowledge of the Scottish legal system, appointed by the Lord President of the Court of Session.

Anne McLaughlin 30
Angela Crawley

Clause 47, page 54, line 34, at end insert—

“(7) Notwithstanding the provisions above, this Act shall not come into force until the Lord Chancellor has laid before Parliament a written statement confirming that no provision in this Act contravenes Article 6 or Article 13 of the European Convention on Human Rights.

(8) The statement under subsection (7) must be laid before Parliament within three months of this Act being passed.”

Member’s explanatory statement

This amendment would prevent any Act resulting from this Bill from coming into force until the Lord Chancellor confirms, via a written statement to Parliament, that none of its provisions contravene ECHR Article 6 (right to fair trial) or ECHR Article 13 (right to effective remedy).

Anne McLaughlin 31
Angela Crawley

Clause 47, page 54, line 34, at end insert—

“(7) Notwithstanding the provisions above, nothing in this Act relating to Scotland shall come into force without a consenting resolution being passed by the Scottish Parliament.”

Member's explanatory statement

This amendment would require the consent of the Scottish Parliament to be given to any provisions in the Bill that relate to Scotland for those provisions to come into force.

Alex Cunningham

NC1

To move the following Clause—

“Review of the Single Justice Procedure

- (1) Before the Commencement of this Act, the Secretary of State must commission a review and publish a report on the effectiveness of the Single Justice Procedure.
- (2) A review under subsection (1) must consider—
 - (a) the transparency of the Single Justice Procedure in line with the principle of open justice,
 - (b) prosecution errors under the Single Justice Procedure and what redress victims of errors have,
 - (c) the suitability of the use of the Single Justice Procedure for Covid-19 offences,
 - (d) the proportion of defendants who do not respond to a Single Justice Procedure Notice and the reasons why defendants do not respond,
 - (e) the suitability of the Single Justice Procedure for people living with disabilities or neurodivergent conditions,
 - (f) the possible introduction of training for prosecutorial bodies who use the Single Justice Procedure on identifying and supporting individuals with vulnerabilities or disabilities.
- (3) The Secretary of State must lay a copy of the report before Parliament.”

Order of the House

[26 October 2021]

That the following provisions shall apply to the Judicial Review and Courts 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 Tuesday 23 November 2021.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and Third Reading

4. 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 those proceedings 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 Third Reading.

Other proceedings

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

Order of the Committee**[2 November 2021]**

That—

1. the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 2 November) meet—
 - (a) at 2.00 pm on Tuesday 2 November;
 - (b) at 11.30 am and 2.00 pm on Thursday 4 November;
 - (c) at 9.25 am and 2.00 pm on Tuesday 9 November;
 - (d) at 9.25 am and 2.00 pm on Tuesday 16 November;
 - (e) at 11.30 am and 2.00 pm on Thursday 18 November;
 - (f) at 2.00 pm on Tuesday 23 November;
2. the Committee shall hear oral evidence in accordance with the following Table:

| Date | Time | Witness |
|--------------------|------------------------------|---|
| Tuesday 2 November | Until no later than 10.25 am | Sir Stephen Laws, KCB, QC; Professor Jason Varuhas, University of Melbourne; Professor Richard Ekins, University of Oxford |
| Tuesday 2 November | Until no later than 11.25 am | Professor David Feldman, University of Cambridge; Dr Jonathan Morgan, University of Cambridge |
| Tuesday 2 November | Until no later than 2.45 pm | Richard Leiper QC; André Rebello OBE, Senior Coroner for Liverpool and the Wirral and Hon Secretary of the Coroners' Society of England and Wales |
| Tuesday 2 November | Until no later than 3.30 pm | Public Law Project; Law Society; Liberty |

| Date | Time | Witness |
|--------------------|--------------------------------|---|
| Tuesday 2 November | Until no later than 4.30 pm | Inquest; Justice; Amnesty |
| Tuesday 2 November | Until no later than 5.00 pm | Dr Joe Tomlinson, University of York; The Law Society of Scotland; Aidan O'Neill QC |

3. proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 15; Schedule 1; Clauses 16 and 17; Schedule 2; Clause 18; Schedule 3; Clauses 19 to 29; Schedule 4; Clauses 30 to 32; Schedule 5; Clauses 33 to 48; 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 Tuesday 23 November.

Notices Withdrawn

The following notices were withdrawn on 2 November 2021:

39 (duplicate of 12)
