
Committee Stage: Tuesday 23 November 2021

Judicial Review and Courts Bill (Committee Stage Decisions)

This document sets out the fate of each clause, schedule, amendment and new clause considered at committee stage. A glossary with key terms can be found at the end of this document.

First to Eleventh Sittings

FIRST AND SECOND SITTINGS

James Cartlidge

Agreed to

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.

James Cartlidge

Agreed to

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.

James Cartlidge

Agreed to

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.

The following Witnesses gave oral evidence:

Sir Stephen Laws KCB QC, Senior Research Fellow, Policy Exchange; Professor Jason Varuhas, University of Melbourne; Professor Richard Ekins, University of Oxford

Professor David Feldman, University of Cambridge; Dr Jonathan Morgan, University of Cambridge

André Rebello OBE, Senior Coroner for Liverpool and the Wirral and Honorary Secretary of the Coroners' Society of England and Wales; Richard Leiper QC

Sara Lomri, Deputy Legal Director at the Public Law Project; Ellie Cumbo, Head of Public Law at the Law Society; Louise Whitfield, Head of Casework at Liberty

Louise Finer, Head of Policy at Inquest; Stephanie Needleman, Acting Legal Director at Justice; and Steve Valdez-Symonds, Programme Director for Refugee and Migrant Rights at Amnesty

Dr Joe Tomlinson, Senior Lecturer in Public Law at the University of York; Aidan O'Neill QC; Michael P Clancy OBE, Director of Law Reform at The Law Society of Scotland

THIRD AND FOURTH SITTINGS

Andy Slaughter	Negated on division	12
Clause 1, page 1, line 8, leave out from "order" to the end of line 9		
Andy Slaughter	Withdrawn after debate	13
Clause 1, page 1, line 9, at end insert— “(1A) Provision under subsection (1) may only be made if the court considers that it is in the interest of justice to do so.”		
Andy Slaughter	Not called	14
Clause 1, page 1, line 9, at end insert— “(1A) Provision under subsection (1) may only be made in exceptional circumstances.”		
Andy Slaughter	Not called	35
Clause 1, page 1, leave out lines 10 and 11		

_____	Andy Slaughter	Withdrawn after debate	16
	Clause 1, page 1, line 13, after "subsection (2)" insert "and to subsection (5A)"		
_____	Andy Slaughter	Not called	40
	Clause 1, page 1, leave out lines 15 to 18		
_____	Andy Slaughter	Not called	17
	Clause 1, page 1, line 16, after "subsection (2)" insert "and to subsection (5A)"		
_____	Andy Slaughter	Not called	18
	Clause 1, page 2, line 1, at beginning insert "Subject to subsection (5A),"		
_____	Andy Slaughter	Not called	41
	Clause 1, page 2, line 2, leave out "or (4)"		
_____	Andy Slaughter	Negated on division	15
	Clause 1, page 2, line 4, at end insert—		
	“(5A) Where the impugned act consists in the making or laying of delegated legislation (the impugned legislation), subsection (4) does not prevent any person charged with an offence under or by virtue of any provision of the impugned legislation raising the validity of the impugned legislation as a defence in criminal proceedings.		
	(5B) Subsection (4) does not prevent a court or tribunal awarding damages, restitution or other compensation for loss caused to the claimant by the impugned act before the date on which the quashing takes effect.”		
_____	Andy Slaughter	Not called	19
	Clause 1, page 2, line 12, leave out "must" and insert "may"		
_____	Andy Slaughter	Not called	32
	Clause 1, page 2, line 13, at end insert—		
	“(aa) any detriment to the environment that would result from exercising or failing to exercise the power;		
	(ab) whether exercising or failing to exercise the power would constitute an effective remedy for the claimant;”		

Andy Slaughter	Not called	36
Clause 1, page 2, leave out lines 14 and 15		
Andy Slaughter	Not called	33
Clause 1, page 2, leave out lines 14 to 22		
Andy Slaughter	Not called	37
Clause 1, page 2, line 17, at end insert "including, but not limited to, the interests and expectations of a claimant in receiving a timely remedy"		
Andy Slaughter	Not called	38
Clause 1, page 2, line 19, at end insert "which are to be identified by the defendant"		
Andy Slaughter	Not called	20
Clause 1, page 2, line 21, leave out "or proposed to be taken"		
Andy Slaughter	Not called	21
Clause 1, page 2, line 23, at end insert—		
"(8A) In deciding whether there is a detriment to good administration under subsection (8)(b), a court must have regard to the principle that good administration is administration which is lawful."		
Andy Slaughter	Not called	23
Clause 1, page 2, leave out lines 24 to 32 and insert—		
"(9) Provision may only be made under subsection (1) if and to the extent that the court considers that an order making such provision would, as a matter of substance, offer an effective remedy to the Claimant and any other person materially affected by the impugned act in relation to the relevant defect."		
Andy Slaughter	Not called	24
Clause 1, page 2, leave out lines 24 to 32 and insert—		
"(9) If—		
(a) the court is to make a quashing order, and		
(b) it appears to the court that an order including provision under subsection (1) would, as a matter of substance, offer an effective		

remedy to the Claimant and any other person materially affected by the impugned act in relation to the relevant defect, the court must exercise the powers in that subsection accordingly unless it sees good reason not to do so."

Andy Slaughter	Negatived on division	22
Clause 1, page 2, leave out lines 24 to 32		

Andy Slaughter	Not called	34
Clause 1, page 2, line 27, leave out "adequate redress" and insert "effective remedy to the claimant"		

Anne McLaughlin Angela Crawley	Not called	27
Clause 1, page 2, line 29, leave out from "court" to end of line 30 and insert "may exercise the powers in that subsection accordingly"		

Anne McLaughlin Angela Crawley Andy Slaughter	Not selected	25
Page 1, line 3, leave out Clause 1		
<i>Clause agreed to on division.</i>		

FIFTH AND SIXTH SITTINGS

Andy Slaughter	Withdrawn after debate	43
Clause 2, page 3, line 19, at end insert—		
<p>“(1A) Notwithstanding subsection (1), subsections (2) and (3) shall not apply where the party refused permission (or leave) to appeal by the Upper Tribunal was the appellant before the First-tier Tribunal and—</p> <ul style="list-style-type: none"> (a) that party was without legal representation and the appeal before the First-tier Tribunal was not within legal aid scope; (b) that party was not of full age or capacity; (c) the appeal before the First-tier Tribunal was not an in-country appeal; (d) the appeal before the First-tier Tribunal was subject to any accelerated procedure; 		

- (e) the decision of the First-tier Tribunal was subject to any statutory restriction or direction concerning how that tribunal was to evaluate the credibility of the appellant or the evidence before it; or
- (f) the application to the Upper Tribunal raises a point of law concerning the construction of any statutory provision for interpretation of an international agreement.”

Andy Slaughter

Not called **42**

Clause 2, page 3, leave out lines 34 to 37 and insert—

- “(c) that decision or the decision against which the Upper Tribunal has refused permission (or leave) to appeal is vitiated by any—
 - (i) bad faith, or
 - (ii) fundamental breach of the principles of natural justice.”

Andy Slaughter

Not called **44**

Clause 2, page 4, line 8, at end insert—

““accelerated procedure” means any procedure for which procedure rules permit or require that less time is provided than is the case for another party before the tribunal bringing an appeal under the same statutory right of appeal; and includes an accelerated detained appeal under section 106A(1) of the Nationality, Immigration and Asylum Act 2002;

an appeal is “not an in-country appeal” if the appellant is only permitted to bring or continue the appeal from outside the United Kingdom;

a party is “not of full age or capacity” if that party is—

- (a) a child, or
- (b) requires the assistance of a third party to understand the procedure or decision of, or issues before, the First-tier Tribunal and communicate effectively with that tribunal (whether or not that assistance is provided save to the extent to which the person requires an interpreter and one is provided)

an appeal is “not within legal scope” if representation before the First-tier Tribunal does not fall within civil legal services under section 9 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“interpreter” means a person whose sole function in proceedings before the tribunal is to translate between the English language and another language spoken by the appellant;

“legally represented” means having legal services as defined by section 8 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which services must be provided by a person who is not prohibited from providing them by any statute, court order or decision of any relevant professional standards body;

“relevant professional standards body” means a designated professional body as defined by section 86 of the Immigration and Asylum Act 1999 or such other body in England and Wales as may be designated by the Lord Chancellor, in Scotland as may be designated by the Scottish Ministers or in Northern Ireland as may be designated by the Department of Justice in Northern Ireland;

“an international agreement” includes the 1951 UN Convention relating to the Status of Refugees.”

Anne McLaughlin **Not selected** 26
 Angela Crawley
 Andy Slaughter

Page 3, line 14, leave out Clause 2

Clause agreed to on division.

Alex Cunningham **Withdrawn after debate** 45

Clause 3, page 4, line 29, at beginning insert—

- “(1) Before this section may be commenced, the Secretary of State must—
- (a) commission an independent review of the potential impact, efficacy, and operational issues on defendants and the criminal justice system of the automatic online conviction and penalty for certain summary offences as set out in Clause 3 of this Act;
 - (b) lay before Parliament the report and findings of such independent review; and
 - (c) provide a response explaining whether and how such issues which have been identified would be mitigated”.

Alex Cunningham **Withdrawn after debate** 46

Clause 3, page 4, line 29, at beginning insert—

- “(1) Before this section may be commenced, the Secretary of State must publish—
- (a) an equalities assessment concerning the impact the automatic online conviction and penalty process will have on individuals with protected characteristics, as defined in the Equality Act 2010; and
 - (b) an impact assessment on the effective participation for defendants with vulnerabilities, and must lay such assessment before Parliament.”

Alex Cunningham **Negated on division** 47

Clause 3, page 4, line 29, at beginning insert—

“(1) Before this section may be commenced, the Secretary of State must publish statutory guidance which sets out how prosecutors should provide and explain to defendants any information contained within the required documents in an accessible way.”

Alex Cunningham **Not called** 48

Clause 3, page 5, line 32, at end insert—

“(e) the prosecutor is satisfied that the accused has engaged a legal Representative”.

Alex Cunningham **Not called** 57

Clause 3, page 5, line 32, at end insert—

“(e) the prosecutor is satisfied that the accused does not have any vulnerabilities and disabilities that impede the ability of the accused to understand or effectively participate in proceedings, having undertaken a physical and mental health assessment.”

Alex Cunningham **Negated on division** 49

Clause 3, page 5, leave out lines 33 to 35 and insert—,

“(4) An offence may not be specified in regulations under subsection (3)(a) unless it is—

- (a) a summary offence that is not punishable with imprisonment; and
- (b) a non-recordable offence, which excludes any offence set out in the Schedule to the National Police Records (Recordable Offences) Regulations 2000/1139 (as amended).”

Alex Cunningham **Not called** 50

Clause 3, page 6, line 6, at the end insert—

“(d) a document in clear and accessible language which—

- (i) explains the consequences of agreeing to an automatic online conviction and penalty; and
- (ii) directs the accused to legal advice and information.”

Clause agreed to on division.

<hr style="width: 10%; margin-left: 0;"/> <p>Alex Cunningham</p> <p>Clause 4, page 9, line 34, leave out "16" and insert "18"</p> <p><i>Clause agreed to.</i></p> <p><i>Clause 5 agreed to.</i></p>	<p>Withdrawn after debate</p>	<p>51</p>
<hr style="width: 30%; margin: 20px auto 0 auto;"/>		
<hr style="width: 10%; margin-left: 0;"/> <p>Alex Cunningham</p> <p>Clause 6, page 11, line 10, at end insert—</p> <p style="padding-left: 40px;">“(c) the court has been provided with a physical and mental health assessment of the accused confirming that the written procedure will not impede their ability to understand or effectively participate in proceedings”.</p>	<p>Withdrawn after debate</p>	<p>52</p>
<hr style="width: 10%; margin-left: 0;"/> <p>Alex Cunningham</p> <p>Clause 6, page 11, line 10, at end insert—</p> <p style="padding-left: 40px;">“(2A) Subsection (3) only has effect where a magistrates’ court is satisfied that the accused has engaged a legal representative, who is responsible for responding to the charge and giving any written indication of plea.”</p>	<p>Negatived on division</p>	<p>53</p>
<hr style="width: 10%; margin-left: 0;"/> <p>Alex Cunningham</p> <p>Clause 6, page 11, line 29, after “plea” insert “and consequences of pleading guilty”</p>	<p>Not called</p>	<p>54</p>
<hr style="width: 10%; margin-left: 0;"/> <p>Alex Cunningham</p> <p>Clause 6, page 11, line 36, at end insert—</p> <p style="padding-left: 40px;">“(4A) The prosecutor must obtain proof of receipt by the accused of the information outlined in subsection (3)”.</p>	<p>Not called</p>	<p>55</p>
<hr style="width: 10%; margin-left: 0;"/> <p>Alex Cunningham</p> <p>Clause 6, page 18, line 5, at end insert—</p> <p style="padding-left: 40px;">“(4) The Secretary of State must, before the changes to the written procedure for indicating plea and determining mode of trial are introduced, conduct a pilot in two police force areas to evaluate the impact of the changes on effective participation in the justice process. The evaluation should include—</p>	<p>Not called</p>	<p>56</p>

- (a) the proportion of defendants with disabilities affected by the changes;
- (b) the impact on the effective participation of all defendants including those with disabilities; and
- (c) the effectiveness of reasonable adjustment measures”.

Clause agreed to on division.

James Cartlidge

Agreed to 1

Clause 7, page 18, line 10, leave out lines 10 to 20 and insert—

“(1) This section has effect in the circumstances set out in section 17A(7) (indication of not guilty plea by accused at hearing), 17B(2)(d) (indication of not guilty plea by accused’s representative at hearing) and 22(2B) (scheduled offence found at hearing to be triable either way after indication of not guilty plea).”

Clause agreed to.

SEVENTH AND EIGHTH SITTINGS

Clause 8 agreed to.

James Cartlidge

Agreed to 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.””

- “(b) the accused has given a reason that the court does not consider to be an acceptable reason for their failure to attend”

<hr/> <p>Alex Cunningham</p> <p>Clause 9, page 23, leave out lines 22 and 23 and insert— “(b) the accused has given a reason that the court does not consider to be an acceptable reason for their failure to attend”</p>	<p>Not moved</p>	<p>81</p>
<hr/> <p>Alex Cunningham</p> <p>Clause 9, page 23, leave out lines 27 and 28 and insert— “(b) the accused has given a reason that the court does not consider to be an acceptable reason for their failure to attend”</p>	<p>Not moved</p>	<p>82</p>
<hr/> <p>James Cartlidge</p> <p>Clause 9, page 23, leave out lines 33 and 34</p>	<p>Agreed to</p>	<p>3</p>
<hr/> <p>James Cartlidge</p> <p>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).”</p>	<p>Agreed to</p>	<p>4</p>
<hr/> <p>Alex Cunningham</p> <p>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.”</p>	<p>Withdrawn after debate</p>	<p>58</p>
<hr/> <p>Alex Cunningham</p> <p>Clause 9, page 24, line 21, leave out subsection (4)</p>	<p>Negated on division</p>	<p>84</p>

<hr style="width: 10%; margin-left: 0;"/> <p>Alex Cunningham</p> <p>Clause 9, page 24, leave out lines 36 and 37 and insert— “(e) the accused has given a reason that the court does not consider to be an acceptable reason for their failure to attend”</p>	<p>Not called</p>	<p>83</p>
<hr style="width: 10%; margin-left: 0;"/> <p>Alex Cunningham</p> <p>Clause 9, page 25, line 5, at end insert— “(5) If the court proceeds with the allocation decision procedure in the absence of the accused, the accused must continue to have the opportunity to plead guilty at any time before the start of the summary trial and still receive the full credit had he pleaded guilty at the first stage of the proceedings.”</p> <p><i>Clause agreed to.</i></p> <p><i>Clauses 10 to 12 agreed to.</i></p> <p><i>Clause 13 agreed to on division.</i></p> <p><i>Clauses 14 and 15 agreed to.</i></p> <p><i>Schedule 1 agreed to.</i></p> <p><i>Clauses 16 and 17 agreed to.</i></p>	<p>Withdrawn after debate</p>	<p>85</p>
<hr style="width: 50%; margin: 0 auto;"/>		
<hr style="width: 10%; margin-left: 0;"/> <p>James Cartlidge</p> <p>Schedule 2, page 65, line 26, leave out from “17BA” to end of line 27</p>	<p>Agreed to</p>	<p>5</p>
<hr style="width: 10%; margin-left: 0;"/> <p>James Cartlidge</p> <p>Schedule 2, page 65, line 28, leave out paragraph (d)</p>	<p>Agreed to</p>	<p>6</p>
<hr style="width: 10%; margin-left: 0;"/> <p>James Cartlidge</p> <p>Schedule 2, page 65, line 32, leave out “18(1)” and insert “17BA”</p>	<p>Agreed to</p>	<p>7</p>
<hr style="width: 10%; margin-left: 0;"/> <p>James Cartlidge</p> <p>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”.”</p>	<p>Agreed to</p>	<p>8</p>

James Cartlidge **Agreed to** 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.”

James Cartlidge **Agreed to** 10

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

James Cartlidge **Agreed to** 11

Schedule 2, page 68, line 8, leave out “subsections (2) to (6) of”
Schedule agreed to.

Alex Cunningham **Withdrawn after debate** 86

Clause 18, page 34, line 38, leave out “require online procedural assistance” and insert “are digitally excluded”

Alex Cunningham **Withdrawn after debate** 59

Clause 18, page 35, line 9, after “that” insert—
“(a) a person may choose to participate in a hearing by non-electronic means, and
(b) “

Alex Cunningham **Not called** 90

Clause 18, page 35, line 11, at end insert—
“(7A) Online Procedure Rules must require a person to participate in a hearing by non-electronic means if a physical or mental health assessment of that person confirms that online proceedings will impede their ability to understand or effectively participate in proceedings.”

Clause agreed to.

Schedule 3 agreed to.

Clauses 19 and 20 agreed to.

<hr/> Anne McLaughlin Angela Crawley	Not moved	28
Clause 21, page 37, line 28, leave out "(3)" and "(4)" and insert "(3), (4) and (4A)"		
<hr/> Alex Cunningham	Withdrawn after debate	60
Clause 21, page 37, line 38, at end insert— <ul style="list-style-type: none"> "(c) one person who is an "authorised court and tribunal staff member" as defined by the Courts and Tribunals (Judiciary and Functions of Staff) Act 2018." 		
<hr/> Alex Cunningham	Not called	61
Clause 21, page 38, line 5, leave out "one person who has" and insert "two people who have"		
<hr/> Alex Cunningham	Not called	62
Clause 21, page 38, line 6, at end insert "and; <ul style="list-style-type: none"> (d) one person who has experience representing the views of people who are digitally excluded." 		
<hr/> Alex Cunningham	Not called	91
Clause 21, page 38, line 6, at end insert— <ul style="list-style-type: none"> "(d) one person who has experience in, and knowledge of, accessible service design" 		
<hr/> Anne McLaughlin Angela Crawley	Not called	29
Clause 21, page 38, line 6, at end insert— <ul style="list-style-type: none"> "(4A) The Lord President of the Court of Session is to appoint one person with experience in and knowledge of the Scottish legal system." 		
<hr/> Alex Cunningham	Withdrawn after debate	63
Clause 21, page 38, line 14, at end insert— <ul style="list-style-type: none"> "(6A) Before appointing a person under subsection 3(c) the Lord Chief Justice must— <ul style="list-style-type: none"> (a) consult the Lord Chancellor, and (b) obtain the agreement of the Senior President of Tribunals." 		

Alex Cunningham **Not called** 64

Clause 21, page 38, line 25, at end insert—

“(9A) In making appointments under subsections (3) and (4) above, the Lord Chancellor and the Lord Chief Justice must have due regard to the ethnic and gender balance of the Online Procedure Rules Committee.”

Clause agreed to.

Clause 22 agreed to.

Alex Cunningham **Withdrawn after debate** 92

Clause 23, page 41, line 14, leave out subsection (5) and insert—

“(5) Regulations under this section are subject to affirmative resolution procedure (see section 45(3)).”

Clause agreed to.

Alex Cunningham **Not called** 87

Clause 24, page 41, line 30, leave out “require online procedural assistance” and insert “are digitally excluded”

Alex Cunningham **Not called** 93

Clause 24, page 41, line 38, leave out subsection (7) and insert—

“(7A) A statutory instrument containing Online Procedure Rules is subject to affirmative resolution procedure (see section 45(3)).”

Clause agreed to.

Alex Cunningham **Not called** 65

Clause 25, page 42, line 5, at end insert—

“(1A) The written notice under subsection (1) is subject to the concurrence requirement (see section 30(1)).”

Clause agreed to.

Alex Cunningham **Not called** 68

Clause 26, page 42, line 20, leave out subsection (3) and insert—

“(3) Regulations under this section are subject to the concurrence requirement (see section 30(1)).”

Alex Cunningham **Not called** 94

Clause 26, page 42, line 25, leave out “that amend or repeal any provision of an Act”

Alex Cunningham **Not called** 95

Clause 26, page 42, line 27, leave out subsection (6)

Clause agreed to.

Alex Cunningham **Not called** 88

Clause 27, page 42, line 31, leave out “require online procedural assistance” and insert “are digitally excluded”

Clause agreed to.

Clauses 28 and 29 agreed to.

Schedule 4 agreed to.

Alex Cunningham **Not called** 66
 Clause 30, page 43, line 17, after “regulations” insert “or notices”

Alex Cunningham **Not called** 67
 Clause 30, page 43, line 21, after “regulations” insert “or notices”
Clause agreed to.

Alex Cunningham **Not called** 89
 Clause 31, page 44, leave out lines 11 to 15 and insert—
 ““persons who are digitally excluded” means persons who, for reasons including their inability to access the internet or digital devices, lack of basic digital skills, or problems with confidence and motivation, experience difficulty in engaging with computers or online processes”
Clause agreed to.

NINTH AND TENTH SITTINGS

Andy Slaughter **Negated on division** 69
 Clause 37, page 49, line 33, at end insert—
 “(4) After subsection (2), insert—
 “(2A) The coroner is not to decide that the investigation should be discontinued unless—
 (a) the coroner is satisfied that no outstanding evidence that is relevant to the death is available,
 (b) the coroner has considered whether Article 2 of the European Convention on Human Rights is engaged and is satisfied that it is not,
 (c) there are no ongoing investigations by public bodies into the death,
 (d) the coroner has invited and considered representations from any interested person known to the coroner named at section 47 (2)(a) or (b) of this Act, and
 (e) all interested persons known to the coroner named at section 47 (2)(a) or (b) of this Act consent to discontinuation of the investigation.””

Andy Slaughter **Not called** 70

Clause 37, page 49, line 33, at end insert—

“(4) After subsection (2), insert—

“(2B) If a coroner is satisfied that subsection (1) applies and has complied with the provisions at subsection (2A)(a) to (d), prior to discontinuing the investigation, the coroner must—

- (a) inform each interested person known to the coroner named at section 47(2)(a) or (b) of this Act of the coroner’s intended decision and provide a written explanation as to the reasons for this intended decision,
- (b) explain to each interested person known to the coroner named at section 47(2)(a) or (b) of this Act that the investigation may only be discontinued if all such interested persons consent, and
- (c) invite each interested person known to the coroner named at section 47(2)(a) or (b) of this Act to consent to the discontinuation of the investigation.””

Andy Slaughter **Not called** 71

Clause 37, page 49, line 33, at end insert—

“(4) Omit subsection (4) and insert—

“(4) A senior coroner who discontinues an investigation into a death under this section must—

- (a) as soon as practicable, notify each interested person known to the coroner named at section 47(2)(a) or (b) of this Act of the discontinuation of the investigation and provide a written explanation as to why the investigation was discontinued, and
- (b) if requested to do so in writing by an interested person, give to that person as soon as practicable a written explanation as to why the investigation was discontinued.””

Andy Slaughter **Negated on division** 72

Clause 37, page 49, line 33, at end insert—

“(4) Section 43 of the Coroners and Justice Act 2009 (Coroners regulations) is amended as follows.

(5) In subsection (3) after paragraph (a) insert—

“(aa) provision for the establishment of an appeals process for interested persons who disagree with the decision to discontinue an investigation under the provision in section 4 of this Act.””

Clause agreed to.

Andy Slaughter **Withdrawn after debate** 73

Clause 38, page 50, line 18, after "hearing" insert—

- "(e) the coroner has considered the views of any of the interested persons named at section 47(2)(a) or (b) of this Act who are known to the coroner,
- (f) all of the interested persons named at section 47(2)(a) or (b) of this Act who are known to the coroner consent to a hearing in writing."

Clause agreed to.

Andy Slaughter **Withdrawn after debate** 74

Clause 39, page 51, line 10, at end insert—

"(2B) Coroner rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must not allow the conduct of hearings wholly or partly by sound only."

Andy Slaughter **Withdrawn after debate** 75

Clause 39, page 51, line 10, at end insert—

"(2C) Coroner rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must provide for all interested persons to have to give their agreement to the conduct of hearings wholly or partly by way of electronic transmission of sounds or images."

Andy Slaughter **Not called** 76

Clause 39, page 51, line 10, at end insert—

"(2D) Coroners rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must specify that, other than for any pre-inquest hearing, such a hearing, may only be held if—

- (a) all interested persons known to the coroner named at section 47(2)(a) or (b) of this Act 2009 consent to such a hearing,

- (b) the coroner is satisfied, and continues to be satisfied until the conclusion of any such hearing, that such a hearing is in the interests of justice, considering all the circumstances of the case,
- (c) the coroner has considered the likely complexity of the inquest, and
- (d) the coroner has considered the ability of interested persons known to the coroner to engage effectively with the hearing by way of electronic transmission of sounds or images."

Andy Slaughter

Not called 77

Clause 39, page 51, line 10, at end insert—

"(2E) Coroners rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must require coroners to set out to all interested persons the reasons for why such a hearing, other than for any pre-inquest hearing, is to be held—

- (a) at the conclusion of any pre-inquest hearing where any such hearing is ordered, if applicable, and
- (b) in writing as soon as practicable after a decision has been taken for such a hearing to be held and prior to the commencement of the hearing."

Andy Slaughter

Not called 78

Clause 39, page 51, line 10, at end insert—

"(2F) Coroners rules that provide for the conduct of hearings wholly or partly by way of electronic transmission of sounds or images must provide for such hearings to comply with, and be subject to, Rule 11 of The Coroners (Inquests) Rules 2013 (*Inquest hearings to be held in public*)."

Andy Slaughter

Negated on division 79

Clause 39, page 51, line 10, at end insert—

"(4) Before this Clause may be commenced, the Lord Chancellor must—

- (a) commission an independent review, including a consultation, of the potential impact of the conduct of inquest hearings wholly or partly by way of electronic transmission of sounds or images, considering in particular the impact on the participation of interested persons, and open justice,
- (b) lay before Parliament the report and findings of such independent review, and
- (c) provide a response explaining whether and how such issues which have been identified would be mitigated."

Clause agreed to.

Clause 40 agreed to.

Clause 41 agreed to.

Alex Cunningham

Withdrawn after debate 96

Clause 42, page 52, line 34, at end insert—

“(7) Before introducing the changes outlined in section (1), the Secretary of State must consult with relevant stakeholders on the impact of the proposals.”

Clause agreed to.

Clause 43 agreed to.

Clause 44 agreed to.

Clause 45 agreed to.

Clause 46 agreed to.

ELEVENTH SITTING

Anne McLaughlin
Angela Crawley

Withdrawn after debate 30

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.”

Anne McLaughlin
Angela Crawley

Negatived on division 31

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.”

Clause agreed to.

Clause 48 agreed to.

Alex Cunningham

Not called 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.”

Alex Cunningham

Not called NC2

To move the following Clause—

“Online Procedural Assistance

- (1) Online Procedural Assistance, must be made available and accessible to any party or potential party to proceedings governed by Online Procedure Rules that requires it. In delivering this duty, the Lord Chancellor must have due regard to the intersection of digital exclusion with other factors, such as age, poverty, disability and geography and deliver support services accordingly.
- (2) It must include assistance to enable such a party or potential party to have a reasonable understanding of the nature of the proceedings, the procedure applicable under Online Procedure Rules and of how to access and navigate such procedure. To this effect, it will provide both advice and technical hardware, as appropriate, and will provide assistance to such individuals throughout the course of their proceedings.

- (3) Anyone who requires Online Procedural Assistance must have the option of receiving it either via remote appointments or in-person appointments at a site local to them.
- (4) Online Procedural Assistance must include, for a party or potential party whose first language is not English, assistance, by interpretation or translation as appropriate, in a language that is familiar to the party or potential party.
- (5) The delivery of Online Procedural Assistance must be evaluated at yearly intervals by an independent evaluation team. To assist in these evaluations, data must be routinely collected relating to the protected characteristics of those using the service, outcomes of cases that used Online Procedural Assistance and the frequency and location of the appointments provided. This must also be made publicly available."

Sir John Hayes
Tom Hunt

Withdrawn after debate NC3

To move the following Clause—

"Exclusion of review of the Investigatory Powers Tribunal

- (1) Section 67 of the Regulation of Investigatory Powers Act 2000 is amended as follows.
- (2) Leave out subsection (8) and insert—
 - "(8) Subject to section 67A and subsections (9) and (10), determinations, awards, orders and other decisions of the Tribunal (including decisions as to whether the Tribunal has jurisdiction and purported determinations, awards, orders and other decisions) shall be final and shall not be subject to appeal or be liable to be questioned in any court.
- (9) In particular—
 - (a) the Tribunal is not to be regarded as having exceeded its powers by reason of any error of fact or law made in reaching any decision; and
 - (b) the supervisory jurisdiction of the courts does not extend to, and no application or petition for judicial review may be made or brought in relation to, any decision of the Tribunal.
- (10) Subsections (8) and (9) do not apply so far as the decision involves or gives rise to any question as to whether the Tribunal—
 - (a) has a valid case before it;
 - (b) is or was properly constituted for the purpose of dealing with the case; and
 - (c) is acting or has acted in bad faith, with actual bias or corruption or in some other way that constitutes a fundamental procedural defect.
- (11) No error of fact or law made by the Tribunal in reaching any decision is to be construed as relevant to the question."
- (3) The amendment made by subsection (2) applies to determinations, awards, orders and other decisions of the Tribunal (including purported

determinations, awards, orders and other decisions) made before the day on which this section comes into force.”

Sir John Hayes
Tom Hunt

Not selected NC4

To move the following Clause—

“Exclusion of judicial review of prorogation

- (1) A court or tribunal may not question—
 - (a) the scope or exercise of Her Majesty’s prerogative power to prorogue Parliament;
 - (b) any decision or purported decision relating to that power; or
 - (c) any ministerial advice or action relating to that power.
- (2) For the purposes of Article 9 of the Bill of Rights 1689, a prorogation or purported prorogation of Parliament is a proceeding in Parliament.
- (3) Nothing in this section amends any statutory limitation on Her Majesty’s power to prorogue Parliament or affects any statutory power or duty to recall Parliament if prorogued.”

Sir John Hayes
Tom Hunt

Withdrawn after debate NC5

To move the following Clause—

“Evidence in judicial review proceedings

- (1) Unless there are compelling reasons to the contrary, no court shall—
 - (a) permit oral evidence to be elicited in judicial review proceedings; or
 - (b) order public bodies or any person exercising or entitled to exercise public authority to disclose evidence in anticipation of or in the course of judicial review proceedings,
- (2) In relation to any judicial review proceedings, or in anticipation of any judicial review proceedings, in which a public body or a person exercising or entitled to exercise public authority argues, or indicates its intention to argue, that—
 - (a) the proceedings concern a matter that is non-justiciable, or
 - (b) that an enactment excludes or limits judicial review,
 no evidential duty arises on that body or person until a court determines that the matter is justiciable and that no enactment excludes or limits judicial review.
- (3) In subsection (2), “evidential duty” means any principle of law or rule of court touching the identification of relevant facts or reasoning underlying the measure or other matter in respect of which judicial

review is sought, or any order of the court to adduce oral or other evidence.

- (4) Nothing in subsection (2) or (3) affects an evidential duty that may arise in relation to judicial review proceedings other than in relation to a measure or other matter that is argued to be non-justiciable or to be excluded from judicial review by legislation.”

Sir John Hayes
Tom Hunt

Not selected NC6

To move the following Clause—

“Exercise of powers and duties

After section 12 of the Interpretation Act 1978, insert—

“12A Exercise of powers and duties

- (1) Where the provision of any enactment confers a power or imposes a duty on any Minister of the Crown it is implied, unless the contrary intention appears, that the Carltona principle applies.
- (2) Where the provision of any enactment confers a power or imposes a duty on a Minister of the Crown it is implied, unless the contrary intention appears, that the power may be exercised or the duty carried out on the Minister’s behalf by any person for whose actions the Minister, pursuant to his office, takes responsibility.
- (3) Where the provision of any enactment confers a power or imposes a duty on a Minister of the Crown it is implied, unless the contrary intention appears, that the Minister is not required personally to exercise the power or carry out the duty.
- (4) Where the provision of any enactment provides (in whatever terms) that the instrument by which any power or duty is to be exercised or carried out by a Minister of the Crown may be signed by a specified office holder, that enactment is to be construed, unless express provision is made to the contrary, as authorising that office holder to exercise or carry out that power or duty without consulting that Minister in relation to that particular case.
- (5) In this section a “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.
- (6) This section applies to enactments contained in Acts and subordinate legislation whenever passed or made (and also to any Northern Ireland legislation (within the meaning of section 24)) whenever passed or made.””

Sir John Hayes
Tom Hunt

Not selected NC7

To move the following Clause—

“Parliamentary sovereignty and the rule of law

After section 1 of the Constitutional Reform Act 2005, insert—

“1A Parliamentary sovereignty and the rule of law

- (1) Nothing in this Act limits in any way the doctrine of parliamentary sovereignty.
- (2) The principle of the rule of law to which section 1 refers does not—
 - (a) allow the construction of an Act in any way that departs from the actual intention of the enacting Parliament; or
 - (b) support any exercise of any jurisdiction for the purpose of qualifying or questioning the exercise of parliamentary sovereignty in the enactment of any Act.
- (3) Section 1 is to be read subject to this section.””

Sir John Hayes
Tom Hunt

Not selected NC8

To move the following Clause—

“Non-justiciability of parliamentary accountability

- (1) No court or tribunal shall hold an act, or a failure to act, unlawful on the grounds that it is incompatible with, or limits, or otherwise interferes with, parliamentary accountability.
- (2) No court or tribunal shall have jurisdiction to consider—
 - (a) whether either House of Parliament or any committee of either House has given adequate or appropriate consideration to any matter,
 - (b) the grounds or premises on which either House or any such committee has made any decision, or
 - (c) whether any information or opinion provided to either House or any such committee for the purposes of its consideration of any matter was truthful, accurate or complete, or in the case of an opinion, reasonable, soundly based or sincere.
- (3) Nothing in subsection (2) changes or limits the criminal law.
- (4) This section is without prejudice to the generality of Article IX of the Bill of Rights 1689.”

Sir John Hayes
Tom Hunt

Not selected NC9

To move the following Clause—

“Non-justiciability of the political constitution

- (1) No court has jurisdiction to decide—
 - (a) whether a constitutional convention exists;
 - (b) what conduct a constitutional convention requires or forbids; or
 - (c) whether any person has complied with, or failed to comply with, a constitutional convention.
- (2) No court may question whether a Minister of the Crown has complied with the Ministerial Code or whether the Prime Minister has upheld or enforced the Code.
- (3) Nothing in this section prohibits a court from considering or recognising a constitutional convention if necessary in order to determine a question of law.
- (4) The question whether a person’s actions were or would be in accordance with or compatible with a constitutional convention is not a question of law.”

Andy Slaughter

Negatived on division NC10

To move the following Clause—

“Publicly funded legal representation for bereaved people at inquests

- (1) Section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (2) In subsection (1), after “(4)” insert “or (7).”
- (3) After subsection (6), insert—
 - “(7) This subsection is satisfied where—
 - (a) The services consist of advocacy at an inquest where the individual is an Interested Person pursuant to section 47(2)(a), (b), or (m) of the Coroners and Justice Act 2009 because of their relationship to the deceased; and
 - (b) One or more public authorities are Interested Persons in relation to the inquest pursuant to section 47(2) of the Coroners and Justice Act 2009 or are likely to be designated as such.
- (8) For the purposes of this section “public authority” has the meaning given by section 6(3) of the Human Rights Act 1998.””

Andy Slaughter

Not called NC11

To move the following Clause—

“Removal of the means test for legal help prior to inquest hearing

- (1) Schedule 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (2) In paragraph 41, after sub-paragraph (3), insert—
“(4) For the purposes of this paragraph, the “Financial resources” provisions at section 21 (and in The Civil Legal Aid (Financial Resources and Payment for Services) Regulations 2013 do not apply.””

Andy Slaughter

Not called NC12

To move the following Clause—

“Eligibility for bereaved people to access legal aid under existing provisions

- (1) Section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (2) In subsection (4)(a), after “family”, insert—
“or where the individual is an Interested Person pursuant to section 47(2)(m) of the Coroners and Justice Act 2009 because of their relationship with the deceased.”
- (3) In subsection (6), after paragraph (c), insert—
“(d) or they fall within any of the groups named at section 47 (2)(a), (b) or (m) of the Coroners and Justice Act 2009.”
- (4) Schedule 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (5) In paragraph 41, after sub-paragraph (3)(c), insert—
“(d) or they fall within any of the groups named at section 47 (2)(a), (b) or (m) of the Coroners and Justice Act 2009.””

Bill, as amended, to be reported.

Glossary

Added: New Clause agreed without a vote and added to the Bill.

Agreed to: agreed without a vote.

Agreed to on division: agreed following a vote.

Negated: rejected without a vote.

Negated on division: rejected following a vote.

Not called: debated in a group of amendments, but not put to a decision.

Not moved: not debated or put to a decision.

Question proposed: debate underway but not concluded.

Withdrawn after debate: moved and debated but then withdrawn, so not put to a decision.

Not selected: not chosen for debate by the Chair.
