

---

Report Stage: Tuesday 25 January 2022

---

## Judicial Review and Courts Bill, As Amended (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 Any withdrawn amendments are listed at the end of the document.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.

This document should be read alongside the Speaker's provisional selection and grouping, which sets out the order in which the amendments will be debated.

---

*NEW CLAUSES AND NEW SCHEDULES RELATING TO JUDICIAL REVIEW, NEW CLAUSES AND NEW SCHEDULES RELATING TO CORONERS, AMENDMENTS OF PART 1 AND AMENDMENTS OF CHAPTER 4 OF PART 2*

---

Keir Starmer  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Claudia Webbe

NC4

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.”.

**Member's explanatory statement**

This new clause would ensure that bereaved people (such as family members) are entitled to publicly funded legal representation in inquests where public bodies (such as the police or a hospital trust) are legally represented.

---

Keir Starmer  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Claudia Webbe

NC5

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."."

**Member's explanatory statement**

This new clause would remove the means test for legal aid applications for legal help for bereaved people at inquests.

---

Keir Starmer  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Claudia Webbe

NC6

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.”.

**Member’s explanatory statement**

This new clause would bring the Legal, Aid, Sentencing and Punishment of Offenders Act 2012 into line with the definition of family used in the Coroners and Justice Act 2009.

---

Sir John Hayes  
Tom Hunt  
Scott Benton

NC8

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;
- (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  
Scott Benton

NC9

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.”

---

Keir Starmer  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker  
Angela Crawley

Caroline Lucas  
Owen Thompson

Anne McLaughlin  
Stuart C McDonald

23

Page 1, line 3, leave out Clause 1

**Member’s explanatory statement**

This amendment would remove Clause 1 of the Bill continuing the status quo removing the provision to make quashing orders suspended and prospective-only.

---

Wera Hobhouse 1  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan  
 Andy Slaughter

Tim Farron  
 Sarah Green  
 Joanna Cherry

Munira Wilson  
 Mr Alistair Carmichael  
 Caroline Lucas

Clause 1, page 1, line 8, leave out from “order” to end of line 9

**Member’s explanatory statement**

This amendment would remove the provision for making quashing orders prospective-only.

---

Keir Starmer 24  
 Steve Reed  
 Andy Slaughter  
 Alex Cunningham  
 Sir Alan Campbell  
 Janet Daby  
 Paula Barker

Clause 1, page 1, line 9, at end insert—

“(1A) Provision under subsection (1) may only be made if the court is satisfied that it is in the interest of justice to do so.”

**Member’s explanatory statement**

The insertion of this subsection would limit the use of any new remedies issued under clause one to where in the court’s view it is in the interests of justice.

---

Keir Starmer 31  
 Steve Reed  
 Andy Slaughter  
 Alex Cunningham  
 Sir Alan Campbell  
 Janet Daby  
 Paula Barker

Clause 1, page 1, leave out lines 10 and 11

**Member’s explanatory statement**

This amendment removes the ability to make a suspended or prospective-only quashing order subject to conditions.

---

Wera Hobhouse 2  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan  
 Joanna Cherry

Tim Farron  
 Sarah Green  
 Caroline Lucas

Munira Wilson  
 Mr Alistair Carmichael  
 Andy Slaughter

Clause 1, page 1, leave out lines 15 to 18

**Member's explanatory statement**

This amendment is consequential on Amendment 1, which removes the provision for making quashing orders prospective-only.

---

Wera Hobhouse 3  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan  
 Andy Slaughter

Tim Farron  
 Sarah Green  
 Joanna Cherry

Munira Wilson  
 Mr Alistair Carmichael  
 Caroline Lucas

Clause 1, page 2, line 2, leave out "or (4)"

**Member's explanatory statement**

This amendment is consequential on Amendment 1, which removes the provision for making quashing orders prospective-only.

---

Keir Starmer 26  
 Steve Reed  
 Andy Slaughter  
 Alex Cunningham  
 Sir Alan Campbell  
 Janet Daby  
 Paula Barker

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), subsections (3) or (4) do 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) Subsections (3) or (4) does not prevent a court or tribunal awarding damages, restitution or other compensation for loss.”

**Member's explanatory statement**

This amendment would protect collateral challenges by ensuring that if a prospective only or suspended quashing order is made, the illegality of the delegated legislation can be relied on as a defence in criminal proceedings.

---

Keir Starmer 27  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Clause 1, page 2, line 12, leave out "must" and insert "may"

**Member's explanatory statement**

This amendment would make clear that the factors which the court considers before making a modified quashing order are a matter for the court's discretion.

---

Keir Starmer 33  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Clause 1, page 2, leave out lines 14 and 15

**Member's explanatory statement**

This amendment removes one of the factors to be considered by the courts when deciding whether to award a suspended quashing order or quashing order with limited or no retrospective effect. This is intended to rebalance the factors to be given consideration so as not to disadvantage the claimant unfairly.

---

Keir Starmer 34  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

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"

**Member's explanatory statement**

This amendment would make it clear that the provision of a timely remedy to the claimant is a factor to be given consideration by the courts when deciding whether to award a suspended quashing order or quashing order with limited or no retrospective effect.

---

Keir Starmer 35  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Clause 1, page 2, line 19, at end insert “which are to be identified by the defendant”

**Member’s explanatory statement**

This amendment would require the defendant to identify what the interests and expectations of persons who have relied on the impugned act are and to explain these to the court.

---

Keir Starmer 28  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Clause 1, page 2, line 21, leave out “or proposed to be taken”

**Member’s explanatory statement**

This amendment would remove the requirement to take account of actions which the public body proposes or intends to take but has not yet taken.

---

Joanna Cherry 37

Clause 1, page 2, leave out line 23 and insert—

- “(f) the Convention rights of any person who would be affected by the decision to exercise or fail to exercise the power;
- (g) the right to an effective remedy for a violation of a Convention right under Article 13 of the European Convention on Human Rights; and
- (h) any other matter that appears to the court to be relevant.”

**Member’s explanatory statement**

This amendment would ensure that the courts would take into account the ECHR rights of those affected, including the right to an effective remedy, before exercising the new power to suspend a quashing order or give it prospective-only effects.

---

Keir Starmer  
 Steve Reed  
 Andy Slaughter  
 Alex Cunningham  
 Sir Alan Campbell  
 Janet Daby  
 Paula Barker

29

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.”

**Member’s explanatory statement**

This amendment clarifies that the principle of good administration includes the need for administration to be lawful.

---

Keir Starmer  
 Steve Reed  
 Andy Slaughter  
 Alex Cunningham  
 Sir Alan Campbell  
 Janet Daby  
 Paula Barker

25

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.”

**Member’s explanatory statement**

This amendment would remove the presumption and make it a precondition of the court’s exercise of the new remedial powers that they should offer an effective remedy to the claimant and any other person materially affected by the impugned act.

---

Wera Hobhouse  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan

Tim Farron  
 Sarah Green  
 Caroline Lucas

Munira Wilson  
 Mr Alistair Carmichael

4

Clause 1, page 2, leave out lines 24 to 32

**Member’s explanatory statement**

This amendment would protect the discretion of the court by removing the presumption in favour of issuing suspended, prospective-only quashing orders.

---

Anne McLaughlin 38  
Angela Crawley  
Owen Thompson  
Stuart C McDonald

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”

**Member’s explanatory statement**

This amendment would remove the requirement for a court to issue a suspended or prospective quashing order when the provisions of section 1(9)(b) apply.

---

Keir Starmer 32  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Clause 1, page 2, leave out lines 31 and 32

**Member’s explanatory statement**

This amendment removes the extra weight which would otherwise be given to subsection 8(e) by the courts when applying the test created in subsection 9(b) to establish whether the statutory presumption is applicable.

---

Keir Starmer 30  
Steve Reed  
Andy Slaughter  
Alex Cunningham  
Sir Alan Campbell  
Janet Daby  
Paula Barker

Clause 1, page 3, line 13, at end insert—

“(5) After section 31A of the Senior Courts Act 1981 insert—

**“31B Constitutional importance of judicial review**

It is recognised that judicial review is of fundamental constitutional importance to the rule of law, the accountability of public bodies and the government in particular, access to justice and the protection of human rights and that limitations on access to judicial review should only be imposed where strictly necessary and proportionate.””

**Member's explanatory statement**

This amendment would highlight the importance of judicial review in the UK's constitutional principles.

---

Wera Hobhouse 5  
 Ed Davey  
 Daisy Cooper  
 Wendy Chamberlain  
 Layla Moran  
 Jamie Stone  
 Sarah Olney  
 Christine Jardine  
 Helen Morgan  
 Joanna Cherry

Tim Farron  
 Sarah Green  
 Andy Slaughter

Munira Wilson  
 Mr Alistair Carmichael  
 Caroline Lucas

Page 3, line 14, leave out Clause 2

**Member's explanatory statement**

This amendment would preserve the ability of claimants to seek judicial review of a decision by the Upper Tribunal to refuse permission to appeal a decision of the First-tier Tribunal (also known as "Cart judicial review").

---

Secretary Dominic Raab 6

Clause 2, page 3, line 36, after "in" insert "such a procedurally defective way as amounts to a"

**Member's explanatory statement**

This amendment clarifies that the ability preserved by clause 2 to challenge the Upper Tribunal's permission-to-appeal decisions for breach of natural justice relates only to procedural defects.

---

Anne McLaughlin 42  
 Angela Crawley  
 Owen Thompson  
 Stuart C McDonald  
 Joanna Cherry

Clause 2, page 4, line 16, leave out from "Ireland" to the end of line 17

**Member's explanatory statement**

This amendment is consequential on Amendment 43.

---

Anne McLaughlin  
 Angela Crawley  
 Owen Thompson  
 Stuart C McDonald  
 Joanna Cherry

43

Clause 2, page 4, line 19, at end insert—

“(8) This section does not extend to Scotland.”

**Member’s explanatory statement**

This amendment would ensure that the exclusion of review of Upper Tribunal’s permission-to-appeal decisions did not extend to Scotland.

---

*REMAINING PROCEEDINGS ON CONSIDERATION*

---

Secretary Dominic Raab

NC1

To move the following Clause—

**“Maximum term of imprisonment on summary conviction for either-way offence**

- (1) In section 224 of the Sentencing Code (general limit on magistrates’ court’s power to impose custodial sentence)—
  - (a) in subsection (1), for the words after paragraph (b) substitute “for a term exceeding the applicable limit in respect of any one offence”;
  - (b) after subsection (1) insert—
 

“(1A)The applicable limit is—

    - (a) 6 months in the case of a summary offence, or
    - (b) 12 months in the case of an offence triable either way.”;
    - (c) in subsection (2), for the words from “more than” to the end substitute “a term exceeding the applicable limit”.
- (2) In Part 8 of Schedule 23 to the Sentencing Act 2020 (powers to amend the Sentencing Code in relation to custodial sentences), before paragraph 15 insert—

*“General limit on magistrates’ court’s power to impose custodial sentence*

- 14A (1) The Secretary of State may by regulations amend section 224(1A)(b) (general limit on custodial sentence for either-way offence in magistrates’ court)—
- (a) if for the time being it refers to 12 months, to substitute a reference to 6 months for the reference to 12 months, or
  - (b) if for the time being it refers to 6 months, to substitute a reference to 12 months for the reference to 6 months.

- (2) An amendment under sub-paragraph (1) has effect only in relation to an offence for which a person is convicted on or after the day on which the amendment comes into force.
- (3) Regulations under sub-paragraph (1) are subject to the negative resolution procedure.
  - (3) In Schedule 1 to the Interpretation Act 1978, after the entry requiring the definitions relating to offences to be construed without regard to section 22 of the Magistrates' Courts Act 1980 insert—

"In relation to a term of imprisonment in respect of an offence triable either way under the law of England and Wales, "general limit in a magistrates' court" means the limit laid down by section 224(1A)(b) of the Sentencing Code (as it has effect from time to time)."
  - (4) In section 32(1) of the Magistrates' Courts Act 1980 (maximum penalty on summary conviction for certain either-way offences), for "12 months" substitute "the general limit in a magistrates' court".
  - (5) In section 282(3) of the Criminal Justice Act 2003 (maximum custodial term on summary conviction for certain either-way offences)—
    - (a) omit "maximum";
    - (b) for "12 months" substitute "a term not exceeding the general limit in a magistrates' court".
  - (6) Subsection (7) applies to relevant legislation—
    - (a) which provides for a maximum term of imprisonment of 12 months on summary conviction for an offence triable either way, and
    - (b) in relation to which section 282(3) of the Criminal Justice Act 2003 does not apply.
  - (7) Relevant legislation to which this subsection applies is to be read as providing for a term of imprisonment not exceeding the general limit in a magistrates' court (in place of the term referred to in subsection (6)(a)).
  - (8) Subsection (9) applies to relevant primary legislation that confers a power (in whatever terms) to make subordinate legislation providing for a maximum term of imprisonment, on summary conviction for an offence triable either way, of—
    - (a) 6 months, in the case of an enactment contained in an Act passed on or before 20 November 2003, or
    - (b) 12 months, in the case of any other relevant primary legislation.
  - (9) Relevant primary legislation to which this subsection applies is to be read as conferring a power to provide for a term of imprisonment not exceeding the general limit in a magistrates' court (in place of the term referred to in subsection (8)(a) or (b)).
  - (10) The Secretary of State may by regulations—
    - (a) amend relevant legislation in relation to which section 282(3) of the Criminal Justice Act 2003 applies, to spell out the effect of that provision (as amended by subsection (5));
    - (b) amend relevant legislation to which subsection (7) applies, to spell out the effect of that subsection;
    - (c) amend relevant primary legislation to which subsection (9) applies, to spell out the effect of that subsection;

- (d) amend relevant legislation in consequence of an amendment under any of the preceding paragraphs.

(11) In this section—

“relevant legislation” means an enactment contained in—

- (a) an Act passed before or in the same Session as this Act,
- (b) an Act or Measure of Senedd Cymru enacted before the passing of this Act,
- (c) subordinate legislation made before the passing of this Act, or
- (d) retained direct EU legislation, not falling within the preceding paragraphs, made before the passing of this Act;

“relevant primary legislation” means an enactment falling within paragraph (a) or (b) of the definition of “relevant legislation”;

“subordinate legislation” means subordinate legislation within the meaning of the Interpretation Act 1978 (see section 21(1) of that Act) or any equivalent instrument made or to be made under an Act or Measure of Senedd Cymru.”

#### **Member’s explanatory statement**

This new clause enables the maximum custodial term that a magistrates’ court may impose for an either-way offence to be reduced to 6 months, and subsequently restored to 12 months, by regulations.

---

Keir Starmer  
Steve Reed  
Alex Cunningham  
Andy Slaughter  
Sir Alan Campbell  
Janet Daby  
Paula Barker

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."

**Member's explanatory statement**

This new clause clarifies the nature of online procedural assistance.

---

Keir Starmer  
Steve Reed  
Alex Cunningham  
Andy Slaughter  
Sir Alan Campbell  
Janet Daby  
Paula Barker

NC3

To move the following Clause—

**"Review of the single justice procedure**

- (1) Within two months beginning with the day on which this Act is passed, the Secretary of State must commission a review of 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) the suitability of the use of the single justice procedure for Covid-19 offences, and
  - (c) prosecution errors for Covid-19 offences under the single justice procedure and what redress victims of errors have.
- (3) The Secretary of State must lay a copy of the report before Parliament."

---

Anne McLaughlin  
Angela Crawley  
Owen Thompson  
Stuart C McDonald

NC7

To move the following Clause—

**“Compatibility with Article 6 of the European Convention on Human Rights**

- (1) This Act must be construed in accordance with Article 6 of the European Convention on Human Rights.
- (2) If a court or tribunal has found a provision of this Act to be incompatible with Article 6 of the European Convention on Human Rights, it may, on application, make an order to that effect and that provision shall cease to have effect.”

**Member’s explanatory statement**

This new clause would ensure the compatibility of the Act with Article 6 of the ECHR (right to a fair trial).

---

Wera Hobhouse

36

Clause 3, page 4, line 28, at end insert—

- “(1) Before this section may come into force, 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;
  - (b) lay before Parliament the report and findings of this independent review; and
  - (c) provide a response explaining whether and how such issues which have been identified will be mitigated.”

**Member’s explanatory statement**

This amendment would require a review of clause 3 before it can come into force.

---

Keir Starmer  
Steve Reed  
Alex Cunningham  
Andy Slaughter  
Sir Alan Campbell  
Janet Daby  
Paula Barker

20

Clause 3, page 5, line 34, 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.”

**Member’s explanatory statement**

This amendment would require that all accused persons considered for automatic online convictions are subject to a health assessment, and that only those who do not have any vulnerabilities or disabilities are given the option of being convicted online.

---

Keir Starmer  
Steve Reed  
Alex Cunningham  
Andy Slaughter  
Sir Alan Campbell  
Janet Daby  
Paula Barker

21

Clause 3, page 5, leave out lines 35 to 37 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).”

**Member’s explanatory statement**

This amendment would exclude any offences which are recordable from the automatic online conviction option.

---

---

Keir Starmer  
Steve Reed  
Alex Cunningham  
Andy Slaughter  
Sir Alan Campbell  
Janet Daby  
Paula Barker

22

Clause 9, page 26, line 1, leave out subsection (5)

**Member's explanatory statement**

This amendment would remove cases involving children and young people from the provisions of Clause 9.

---

Anne McLaughlin  
Angela Crawley  
Owen Thompson  
Stuart C McDonald  
Joanna Cherry

40

Clause 21, page 39, line 13, leave out "(3) and (4)" and insert "(3), (4) and (4A)"

**Member's explanatory statement**

This amendment is consequential on Amendment 41.

---

Anne McLaughlin  
Angela Crawley  
Owen Thompson  
Stuart C McDonald  
Joanna Cherry

41

Clause 21, page 39, line 30, 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.

---

---

Secretary Dominic Raab

7

Clause 46, page 55, line 27, at end insert—

“(za) section (*Maximum term of imprisonment on summary conviction for either-way offence*)(6) to (11);”

**Member’s explanatory statement**

This amendment provides for the free-standing provision in NC1 to extend only to England and Wales.

---

---

Secretary Dominic Raab

8

Clause 47, page 56, line 2, leave out subsection (1) and insert—

“(1) The following provisions of this Act come into force on the day on which this Act is passed—

- (a) section (*Maximum term of imprisonment on summary conviction for either-way offence*);
- (b) paragraphs 16 to 20 of Schedule 2, and section 17 so far as relating to those paragraphs (but see, in relation to the amendments made by paragraphs 19 and 20 of that Schedule, section 336 of the Criminal Justice Act 2003 and section 417 of the Sentencing Act 2020 respectively);
- (c) this Part.”

**Member’s explanatory statement**

This amendment provides for NC1 to come into force on Royal Assent.

---

---

Secretary Dominic Raab

9

Schedule 2, page 72, line 18, at end insert—

*“Amendments in connection with section (Maximum term of imprisonment on summary conviction for either-way offence)*

16 In section 133 of the Magistrates’ Courts Act 1980 (consecutive terms of imprisonment)—

- (a) in subsection (1), for “6 months” substitute “the longest term that could be imposed in respect of any one of the offences for which a term of imprisonment is being imposed”;

- (b) in subsection (2), for “6 months” substitute “the longest term otherwise permitted by subsection (1) (if less than 12 months)”.
- 17 In section 141(5A) of the Environmental Protection Act 1990 (maximum terms for offences under regulations about waste imports and exports), in paragraph (b), for “twelve months” substitute “the general limit in a magistrates’ court”.
- 18 In section 113(10A) of the Scotland Act 1998 (maximum terms for offences under subordinate legislation under that Act), in paragraph (b), for “twelve months” substitute “the general limit in a magistrates’ court”.
- 19 (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 155(2) (amendment of section 133(1) of the Magistrates’ Courts Act 1980), for ““6 months”” substitute “the words from “the longest” to “being imposed””.
- (3) In section 283 (power to amend powers to make offences punishable with imprisonment)—
- (a) in subsection (1)—
- (i) omit “or (3)”;
- (ii) omit paragraph (b);
- (b) omit subsection (3).
- 20 In Part 5 of Schedule 22 to the Sentencing Act 2020 (prospective amendments of the Sentencing Code in relation to custodial sentences)—
- (a) omit paragraph 24;
- (b) before paragraph 25 insert—
- “24A In section 224(1A)(a) (general limit on custodial sentence for summary offence in magistrates’ court), for “6 months” substitute “12 months”.”

**Member’s explanatory statement**

This amendment inserts technical amendments in connection with NC1.

---

Secretary Dominic Raab

10

Schedule 5, page 83, line 5, at beginning insert “Reconsideration or”

**Member’s explanatory statement**

This amendment is consequential on Amendment 11.

---

Secretary Dominic Raab 11

Schedule 5, page 83, line 6, after “to” insert “reconsider or”

**Member’s explanatory statement**

This amendment allows the terminology of “reconsideration” to be used as an alternative to “review” in employment tribunal procedure.

---

Secretary Dominic Raab 12

Schedule 5, page 85, line 33, at end insert—

“(1A)For the heading substitute “Preliminary hearings”.”

**Member’s explanatory statement**

This amendment is consequential on Amendments 13 and 17.

---

Secretary Dominic Raab 13

Schedule 5, page 85, line 36, leave out “pre-hearing review” and insert “preliminary hearing”

**Member’s explanatory statement**

This amendment and Amendment 17 rename “pre-hearing reviews” as “preliminary hearings” in employment tribunal procedure.

---

Secretary Dominic Raab 14

Schedule 5, page 86, line 2, leave out “pre-hearing review” and insert “hearing”

**Member’s explanatory statement**

This amendment is consequential on Amendments 13 and 17.

---

Secretary Dominic Raab 15

Schedule 5, page 86, line 6, at end insert—

“(ai) for “pre-hearing review” substitute “preliminary hearing”;

**Member’s explanatory statement**

This amendment is consequential on Amendments 13 and 17.

---

Secretary Dominic Raab 16

Schedule 5, page 86, line 14, leave out sub-paragraph (5) and insert—

“(5) For subsection (2A) substitute—

“(2A) Procedure Rules may not enable a power of striking out to be exercised in a preliminary hearing on a ground which does not apply outside a preliminary hearing.””

**Member’s explanatory statement**

This amendment is consequential on Amendments 13 and 17.

---

Secretary Dominic Raab 17

Schedule 5, page 86, line 22, leave out ““pre-hearing review” means a review of” and insert ““preliminary hearing” means a hearing in”

**Member’s explanatory statement**

See the explanatory statement for Amendment 13.

---

Secretary Dominic Raab 18

Schedule 5, page 87, line 10, at end insert—

“9A In section 12A(9) (subsequent award of compensation not to necessitate review of financial penalties), in the words before paragraph (a), after “be” insert “reconsidered or”.”

**Member’s explanatory statement**

This amendment is consequential on Amendment 11.

---

Secretary Dominic Raab 19

Schedule 5, page 88, line 20, at end insert—

“(b) in subsection (3), in paragraphs (a) and (b), after “being” insert “reconsidered or”.”

**Member’s explanatory statement**

This amendment is consequential on Amendment 11.

---

## 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.

---

## Judicial Review and Courts Bill: Programme (No. 2)

Secretary Dominic Raab

That the Order of 26 October 2021 (Judicial Review and Courts Bill (Programme)) be varied as follows:

1. Paragraphs (4) and (5) of the Order shall be omitted.
2. Proceedings on Consideration—
  - (a) shall be taken in the order shown in the first column of the following Table, and
  - (b) shall (so far as not previously concluded) be brought to a conclusion at the times specified in the second column of the Table.

Proceedings	Time for conclusion of proceedings
New Clauses and new Schedules relating to judicial review, new Clauses and new Schedules relating to coroners, amendments of Part 1 and amendments of Chapter 4 of Part 2.	4.00 pm at today's sitting.

**Proceedings**

**Time for conclusion of proceedings**

Remaining proceedings on Consideration.

6.00 pm at today's sitting.

3. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption at today's sitting.
-