

Legal Aid, Sentencing and Punishment of Offenders Bill

COMMONS DISAGREEMENTS, REASONS AND AMENDMENT IN LIEU

[The page and line references are to HL Bill 109, the bill as first printed for the Lords.]

Clause 1

- 1** Page 1, line 5, leave out from “secure” to end of line 6 and insert “(within the resources made available and in accordance with this Part) that individuals have access to legal services that effectively meet their needs”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to Lords Amendment No. 1 for the following Reason –

- 1A** *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this reason may be deemed sufficient.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendment 1, but do propose Amendment 1B in lieu.

- 1B** Page 1, line 5, leave out subsection (1) and insert –
- “(1) The Lord Chancellor shall exercise his powers under this Part with a view to securing that individuals have access to legal services that effectively meet their needs, subject to the resources which the Lord Chancellor decides, in his discretion, to make available, and subject to the provisions of this Part.”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to Lords Amendment No. 1B for the following Reason –

- 1C** *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this reason may be deemed sufficient.*

2 Page 1, line 6, at end insert—

“() In exercising the duty under subsection (1), the Lord Chancellor must ensure that victims of domestic violence are able to access civil legal services in accordance with the financial eligibility criteria in section 20 (financial resources).”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to Lords Amendment No. 2 for the following Reason –

2A *Because it would alter the financial arrangements made by the Commons, and the Commons do not offer any further Reason, trusting that this reason may be deemed sufficient.*

Schedule 1

196 Page 122, line 10, at end insert—

“() For the avoidance of doubt, no time limit shall operate in relation to any evidence supporting an application for civil legal services under paragraphs 10 and 11.”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to Lords Amendment No. 196 for the following Reason –

196A *Because it is not appropriate to prevent a time limit being imposed in respect of evidence supporting an application for civil legal aid under paragraph 10 or 11 of Part 1 of Schedule 1.*

LORDS NON-INSISTENCE AND AMENDMENTS IN LIEU

The Lords do not insist on their Amendments 2 and 196, but do propose Amendments 2B and 196B in lieu.

2B Page 121, line 31, at end insert—

“Domestic violence

- (1) For the purposes of this paragraph, evidence that abuse has occurred may consist of one or more of the following (without limitation)—
 - (a) a relevant court conviction or police caution;
 - (b) a relevant court order (including without notice, ex parte, interim or final orders), including a non-molestation undertaking or order, occupation order, forced marriage protection order or other protective injunction;
 - (c) evidence of a relevant criminal proceedings for an offence concerning domestic violence or police report confirming attendance at an incident resulting from domestic violence;
 - (d) evidence that a victim has been referred to a multi-agency risk assessment conference, as a high risk victim of domestic violence, and a plan has been put in place to protect that victim from violence by the other party;

- (e) a finding of fact in the family courts of domestic violence by the other party giving rise to the risk of harm to the victim;
 - (f) a letter from the General Medical Council registered general practitioner or other medical professional confirming that he or she has examined the applicant and is satisfied that the applicant had injuries or a condition consistent with those of a victim of domestic violence;
 - (g) an undertaking given to a court by the alleged perpetrator of the abuse that he or she will not approach the applicant in respect of allegations of domestic violence;
 - (h) a letter from a social services department confirming its involvement in providing services to the applicant in respect of allegations of domestic violence;
 - (i) a letter of support or a report from a domestic violence support organisation; or
 - (j) other well-founded evidence of abuse that is either –
 - (i) certified by a court; or
 - (ii) of a type prescribed in regulations.
- (2) For the avoidance of doubt, no evidence shall be deemed inadmissible on the basis of expiration where the general limitation period under the civil standard has not elapsed.”

196B Page 121, line 47, at end insert –

“(2) For the avoidance of doubt, no evidence supporting an application for civil legal services under this paragraph shall be deemed inadmissible on the basis of expiration where the general limitation period under the civil standard has not elapsed.”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to Lords Amendments Nos. 2B and 196B for the following Reason –

196C *Because it is appropriate for provision about evidence of abuse for the purposes of an application for civil legal services described in paragraph 10 or 11 of Part 1 of Schedule 1 to be made by regulations.*

Before Clause 43

31 Insert the following new Clause –

“Exception in respiratory (industrial disease or illness) cases

The changes made by sections 43, 45 and 46 of this Act do not apply in relation to proceedings which include a claim for damages for respiratory disease or illness (whether or not resulting in death) arising from industrial exposure to harmful substance.”

COMMONS DISAGREEMENT AND REASON

The Commons disagree to Lords Amendment No. 31 for the following Reason –

- 31A** *Because it is not appropriate to make an exception from clauses 43, 45 and 46 for proceedings which include a claim for damages for respiratory disease or illness arising from industrial exposure to harmful substances.*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 31 for the following Reason –

- 31B** Because it is appropriate to make an exception from clauses 43, 45 and 46 for proceedings which include a claim for damages for respiratory disease or illness arising from industrial exposure to harmful substances.

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendment No. 31, but propose Amendment 31C in lieu –

- 31C** Page 32, line 36, at end insert the following new Clause: –

“Sections 43 and 45 and diffuse mesothelioma proceedings

- (1) Sections 43 and 45 may not be brought into force in relation to proceedings relating to a claim for damages in respect of diffuse mesothelioma until the Lord Chancellor has –
 - (a) carried out a review of the likely effect of those sections in relation to such proceedings, and
 - (b) published a report of the conclusions of the review.
- (2) In this section “diffuse mesothelioma” has the same meaning as in the Pneumoconiosis etc (Workers’ Compensation) Act 1979.”