

Armed Forces Deployment (Royal Prerogative) Bill [HL]

EXPLANATORY NOTES

It is expected that Explanatory notes to the Bill, prepared by Baroness Falkner of Margravine, the Member in charge of the Bill, will be published separately as HL Bill 17 – EN.

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Make provision about the approval required for deployment of Her Majesty's Armed Forces by the Prime Minister in the event of conflict overseas.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Pre-deployment approval

- (1) The approval of the House of Commons shall be obtained for a conflict decision following the passage of this Act.
- (2) A conflict decision is a decision of Her Majesty's Government to authorise the use of force by UK forces if the use of force — 5
 - (a) would be outside the United Kingdom, and
 - (b) would be regulated by the law of armed conflict.
- (3) Approval for a conflict decision has been given if the decision is covered by an approval given in the way set out in section 2.
- (4) In this Act "UK forces" means forces from regular forces or the reserve forces as defined in section 374 of the Armed Forces Act 2006 (definitions applying for purposes of whole Act). 10

2 Process for approvals

- (1) It is for the Prime Minister to start the process in relation to a proposed approval under this Act. 15
- (2) The Prime Minister does that by laying before the House of Commons a report setting out — 20
 - (a) the terms of the proposed approval, and
 - (b) the information about objectives, locations and legal matters that the Prime Minister thinks appropriate in the circumstances.
- (3) The House of Commons gives the approval by resolving to approve the terms set out in the Prime Minister's report.

- (4) The House of Commons may send a message to the House of Lords asking for its opinion on whether the House should resolve to approve those terms.
- (5) If a message is sent, no approval will be given less than one sitting day after the day on which the House of Lords receives the message.
- (6) “Sitting day” means a day on which the House of Lords sits. 5

3 Exceptions to requirement for approval: emergencies and security issues

- (1) Approval is not required for a conflict decision if the emergency condition or security condition in this section is met.
- (2) The emergency condition is that—
- (a) the conflict decision is necessary for dealing with an emergency, and 10
 - (b) for that reason, there is not sufficient time for an approval covering the decision to be given before the decision is made.
- (3) The security condition is that—
- (a) the public disclosure of information about the conflict decision could prejudice one or both of the matters mentioned in subsection (4), and 15
 - (b) for that reason, it is not appropriate for an approval covering the decision to be sought before the decision is made.
- (4) The matters are—
- (a) the effectiveness of activities which result from the decision or with which the decision is otherwise connected; 20
 - (b) the security or safety of—
 - (i) members of UK forces,
 - (ii) members of other forces directly or indirectly assisting UK forces, or
 - (iii) other persons directly or indirectly assisting UK forces or other forces within sub-paragraph (ii). 25
- (5) It is for the Prime Minister to determine if the emergency condition or the security condition is met.
- (6) In coming to a determination, the Prime Minister should, if feasible, consult the chair of any committee the Prime Minister thinks appropriate. 30
- (7) Subsections (8) to (11) apply if the Prime Minister determines that the emergency condition or the security condition is met.
- (8) The Prime Minister should, as soon as feasible, inform the chair of any committee the Prime Minister thinks appropriate.
- (9) The Prime Minister should lay before the House of Commons a report— 35
- (a) giving reasons why the Prime Minister made the determination about the emergency condition or the security condition, and
 - (b) setting out, in relation to the conflict decision in question, the information about objectives, locations and legal matters that the Prime Minister thinks appropriate in the circumstances. 40
- (10) The report should be laid within 30 days after the day on which the conflict decision is made.

- (11) But, in a case involving the security condition, the report does not have to be laid so long as the Prime Minister is satisfied –
- (a) that the circumstances set out in subsection (3)(a) continue to exist or that the laying of the report could prejudice national security or the United Kingdom’s international relations, and
 - (b) that for that reason, it is not appropriate to lay the report.

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4 Exceptions to requirement for approval: special forces

- (1) Approval is not required for a conflict decision if the decision covers one or both of the following only –
- (a) members of special forces,
 - (b) other members of UK forces for the purpose only of their directly or indirectly assisting activities of special forces.
- (2) “Special forces” means any forces the maintenance of whose capabilities is the responsibility of the Director of Special Forces or which are for the time being subject to the operational command of that Director.

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5 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) The provisions of this Act shall come into force on the day on which it is passed.
- (3) This Act may be cited as the Armed Forces Deployment (Royal Prerogative) Act 2014.

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Baroness Falkner of Margravine

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