

# Criminal Justice and Courts Bill

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## MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS REASONS AND AMENDMENTS

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*[The page and line references are to HL Bill 30, the bill as first printed for the Lords.]*

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### MOTION A

#### LORDS AMENDMENT 74

##### Clause 29

**74** Page 29, line 36, at end insert –

“( ) No female, nor any male under the age of fifteen, may be placed in a secure college.”

##### COMMONS REASON

*The Commons disagree to Lords Amendment No. 74 for the following reason –*

**74A** *Because it is not appropriate to prevent the detention in secure colleges of males under the age of 15 and females.*

**A** **Lord Faulks to move, That this House do not insist on its Amendment 74, to which the Commons have disagreed for their Reason 74A.**

**A1** **Lord Ramsbotham to move, as an amendment to motion A, leave out from “House” to end and insert “do insist on its Amendment 74”.**

## MOTION B

LORDS AMENDMENTS 97, 98, 99, 100, 101 and 102

### Clause 64

- 97** Page 64, line 35, leave out “must” and insert “may”
- 98** Page 64, line 37, leave out “not” and insert “decline to”
- 99** Page 65, line 10, leave out “must” and insert “may”
- 100** Page 65, line 13, leave out “must” and insert “may”
- 101** Page 65, line 33, leave out “must” and insert “may”
- 102** Page 65, line 40, leave out “must” and insert “may”

### COMMONS REASON

*The Commons disagree to Lords Amendments Nos. 97, 98, 99, 100, 101 and 102 for the following reason –*

- 102A** *Because it is appropriate to impose duties, rather than to confer discretions, on the High Court and the Upper Tribunal in connection with judicial review proceedings in which it is highly likely that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred.*

**B** **Lord Faulks to move, That this House do not insist on its Amendments 97, 98, 99, 100, 101 and 102, to which the Commons have disagreed for their Reason 102A.**

**B1** **Lord Pannick to move, as an amendment to motion B, at end insert “, but do propose the following amendment in lieu of those Amendments –”**

**102B** Page 65, line 46, at end insert –

- “( ) The duties of the court or tribunal under section 31(2A), (3B) and (3C) of the Senior Courts Act 1981, or section 16(3B), (3C) and (3D) of the Tribunals, Courts and Enforcement Act 2007, are subject to the discretion of the court or tribunal to act otherwise where it considers it in the public interest to do so in all the circumstances of the case.”

## MOTION C

LORDS AMENDMENTS 103, 104, 105 and 106

### Clause 65

- 103** Page 66, line 10, after “paragraph” insert “or, notwithstanding a failure to do so, the court in its discretion considers that it is nevertheless appropriate to grant the applicant leave to make the application for judicial review”
- 104** Page 66, line 32, after “paragraph” insert “or, notwithstanding a failure to do so, the

tribunal in its discretion considers that it is nevertheless appropriate to grant the applicant permission or leave to apply for relief”

#### COMMONS REASON

*The Commons disagree to Lords Amendments Nos. 103, 104, 105 and 106 for the reason set out at No. 106A.*

#### Clause 66

**105** Page 67, line 1, leave out “must” and insert “may”

**106** Page 67, line 7, leave out “must” and insert “may”

#### COMMONS REASON

*The Commons disagree to Lords Amendments Nos. 103, 104, 105 and 106 for the following reason –*

**106A** *Because it is appropriate to impose duties, rather than confer discretions, on the High Court, the Upper Tribunal and the Court of Appeal in connection with information about the financing of applications for judicial review.*

**C** **Lord Faulks to move, That this House do not insist on its Amendments 103, 104, 105 and 106, to which the Commons have disagreed for their Reason 106A, but do propose the following amendments in lieu of those Amendments –**

#### Clause 65

**106B** Page 66, line 21, at end insert –

“(3AA) Rules of court under subsection (3)(b) that specify information identifying those who are, or are likely to be, sources of financial support must provide that only a person whose financial support (whether direct or indirect) exceeds, or is likely to exceed, a level set out in the rules has to be identified. This subsection does not apply to rules that specify information described in subsection (3A)(b).”

**106C** Page 66, line 43, at end insert –

“(3AA) Tribunal Procedure Rules under subsection (3)(b) that specify information identifying those who are, or are likely to be, sources of financial support must provide that only a person whose financial support (whether direct or indirect) exceeds, or is likely to exceed, a level set out in the rules has to be identified. This subsection does not apply to rules that specify information described in subsection (3A)(b).”

**C1** **Lord Pannick to move, as an amendment to motion C, leave out from “House” to end and insert “do insist on its Amendments 103, 104, 105 and 106”.**

## MOTION D

### LORDS AMENDMENT 107

#### Clause 67

**107** Page 67, line 25, leave out subsections (2) to (6) and insert –

“( ) The High Court and the Court of Appeal shall have a discretion whether to order an intervener to pay the costs of a relevant party to the proceedings, and shall have a discretion whether to order a relevant party to the proceedings to pay the intervener’s costs.”

#### COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

*The Commons disagree to Lords Amendment No. 107 and propose Amendments Nos. 107A, 107B, 107C, 107D and 107E in lieu.*

**107A** Page 67, line 22, leave out subsection (1) and insert –

“(1) This section applies where –  
 (a) a person is granted permission to file evidence or make representations in judicial review proceedings, and  
 (b) at that time, the person is not a relevant party to the proceedings.

(1A) That person is referred to in this section as an “intervener”.”

**107B** Page 67, line 30, leave out subsection (4) and insert –

“(4) On an application to the High Court or the Court of Appeal by a relevant party to the proceedings, if the court is satisfied that a condition described in subsection (4A) is met in a stage of the proceedings that the court deals with, the court must order the intervener to pay any costs specified in the application that the court considers have been incurred by the relevant party as a result of the intervener’s involvement in that stage of the proceedings.

(4A) Those conditions are that –  
 (a) the intervener has acted, in substance, as the sole or principal applicant, defendant, appellant or respondent;  
 (b) the intervener’s evidence and representations, taken as a whole, have not been of significant assistance to the court;  
 (c) a significant part of the intervener’s evidence and representations relates to matters that it is not necessary for the court to consider in order to resolve the issues that are the subject of the stage in the proceedings;  
 (d) the intervener has behaved unreasonably.”

**107C** Page 67, line 44, at end insert –

“and the proceedings described in paragraphs (a) to (d) are “stages” of judicial review proceedings.”

**107D** Page 68, line 3, leave out from beginning to “directly” in line 6 and insert –

“(a) a person who is or has been an applicant or defendant in the proceedings described in subsection (7)(a), (b) or (c);

- (b) a person who is or has been an appellant or respondent in the proceedings described in subsection (7)(d);
- (c) any other person who is or has been”

**107E** Page 68, line 8, at end insert –

“( ) If a person who is an intervener in judicial review proceedings becomes a relevant party to the proceedings, the person is to be treated for the purposes of subsections (2) and (4) as having been a relevant party, rather than an intervener, at all times when involved in the proceedings.”

**D** Lord Faulks to move, **That this House do not insist on its Amendment 107 and do agree with the Commons in their Amendments 107A, 107B, 107C, 107D and 107E in lieu thereof.**

**D1** Lord Pannick to move, as an amendment to motion D, leave out from “House” to end and insert “do insist on its Amendment 107 to which the Commons have disagreed and do disagree with the Commons in their Amendments 107A, 107B, 107C, 107D and 107E in lieu thereof”.

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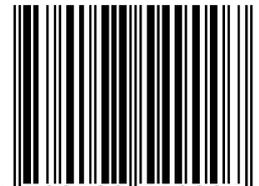
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