

Criminal Justice and Courts Bill

CORRECTED

MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS AMENDMENTS

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

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 DISAGREEMENT AND 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.*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment No. 74 for the following reason –

74B *Because the Lords remain of the view that it would be inappropriate to detain females, and males under the age of fifteen, in a secure college.*

COMMONS INSISTENCE AND AMENDMENT IN LIEU

The Commons insist on their disagreement to Lords Amendment No. 74 but propose Amendment 74C in lieu –

74C Page 72, line 18, at end insert –

- “(6) Subsection (7) applies to an order under this section the effect of which is to bring into force the Secretary of State’s power to provide secure colleges for the detention of any or all of the following –
- (a) persons who are male and aged under 15;
 - (b) persons who are female.
- (7) A statutory instrument containing the order may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) The reference in subsection (6) to the Secretary of State’s power to provide secure colleges is to the power under section 43(1)(c) of the Prison Act 1952 (as inserted by section 29 of this Act).”

A **Lord Faulks to move, That this House do not insist on its Amendment 74 and do agree with the Commons in their Amendment 74C.**

MOTION B

LORDS AMENDMENTS 97 to 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 DISAGREEMENT AND 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.*

LORDS NON-INSISTENCE AND AMENDMENT IN LIEU

The Lords do not insist on their Amendments Nos. 97, 98, 99, 100, 101 and 102, but propose Amendment No. 102B 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.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment No. 102B, but propose Amendments Nos. 102C, 102D, 102E, 102F, 102G, 102H, 102I, 102J, 102K, 102L and 102M in lieu –

- 102C** Page 65, line 3, at end insert –
- “(2B) The court may disregard the requirements in subsection (2A)(a) and (b) if it considers that it is appropriate to do so for reasons of exceptional public interest.
- (2C) If the court grants relief or makes an award in reliance on subsection (2B), the court must certify that the condition in subsection (2B) is satisfied.””
- 102D** Page 65, line 13, at end insert –
- “(3D) The court may disregard the requirement in subsection (3C) if it considers that it is appropriate to do so for reasons of exceptional public interest.
- (3E) If the court grants leave in reliance on subsection (3D), the court must certify that the condition in subsection (3D) is satisfied.””
- 102E** Page 65, line 21, for “section 31(2A)” substitute “subsections (2A) and (2B) of section 31”
- 102F** Page 65, line 22, for “applies” substitute “apply”
- 102G** Page 65, line 23, for “it applies” substitute “they apply”
- 102H** Page 65, line 25, at end insert –
- “(5B) If the tribunal grants relief in reliance on section 31(2B) of the Senior Courts Act 1981 as applied by subsection (5A), the tribunal must certify that the condition in section 31(2B) as so applied is satisfied.””
- 102I** Page 65, line 40, at end insert –
- “(3E) The tribunal may disregard the requirement in subsection (3D) if it considers that it is appropriate to do so for reasons of exceptional public interest.
- (3F) If the tribunal grants permission in reliance on subsection (3E), the tribunal must certify that the condition in subsection (3E) is satisfied.””
- 102J** Page 65, line 42, for “section 31(2A)” substitute “subsections (2A) and (2B) of section 31”
- 102K** Page 65, line 43, for “applies” substitute “apply”
- 102L** Page 65, line 44, for “it applies” substitute “they apply”
- 102M** Page 65, line 46, at end insert –

“(6B) If the tribunal makes an award in reliance on section 31(2B) of the Senior Courts Act 1981 as applied by subsection (6A), the tribunal must certify that the condition in section 31(2B) as so applied is satisfied.””

B Lord Faulks to move, That this House do not insist on its Amendment 102B and do agree with the Commons in their Amendments 102C to 102M.

MOTION C

LORDS AMENDMENTS 103 to 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 DISAGREEMENT AND 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 DISAGREEMENT AND 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.*

LORDS INSISTENCE AND REASON

The Lords insist on their Amendments Nos. 103, 104, 105 and 106 for the following reason –

- 106D** *Because the High Court, the Upper Tribunal and the Court of Appeal should have a reasonable degree of discretion in connection with information about the financing of applications for judicial review.*

COMMONS INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement to Lords Amendments Nos. 103, 104, 105 and 106, but propose Amendments 106E and 106F in lieu of those Amendments –

106E 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).”

106F 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).”

C Lord Faulks to move, That this House do not insist on its Amendments 103 to 106 and do agree with the Commons in their Amendments 106E and 106F.

