

# Courts and Tribunals (Judiciary and Functions of Staff) Bill [HL]

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

**Clause 3**

BARONESS CHAKRABARTI  
LORD BEECHAM

- 1 Page 3, line 24, leave out subsection (3) and insert—
- “( ) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**After Clause 3**

BARONESS CHAKRABARTI  
LORD BEECHAM

- 2 Insert the following new Clause—
- “Review of the delegation of legal advice and judicial functions to authorised staff**
- (1) Within the period of three years from the coming into force of this Act, the Lord Chancellor must arrange for a review to be undertaken on the impact of the implementation of the provisions contained within section 3 and the Schedule to this Act.
- (2) A report setting out the findings of the review must be laid before both Houses of Parliament.”

**The Schedule**

BARONESS CHAKRABARTI  
LORD BEECHAM

- 3 Page 6, line 36, at end insert—
- “( ) is a qualified solicitor, barrister or chartered legal executive with more than three years’ experience post-qualification, and”

**The Schedule - continued**

4 Page 8, line 31, at end insert—

“( ) is a qualified solicitor, barrister or chartered legal executive with more than three years’ experience post-qualification, and”

LORD KEEN OF ELIE

5 Page 10, line 19, at end insert—

“but does not include a function to which any of the following subsections applies.

- (2) This subsection applies to any function so far as its exercise involves authorising a person’s committal to prison.
- (3) This subsection applies to any function so far as its exercise involves authorising a person’s arrest, but it does not apply to the issue of a warrant (whether or not endorsed for bail) for a person’s arrest in order to secure that the person attends court proceedings relating to an offence of which the person has been accused or convicted in a case in which no objection is made by or on behalf of the person to the issue of the warrant.
- (4) This subsection applies to the function of making an order to recover possession of a building, or part of a building, which is occupied as a dwelling by—
  - (a) the person against whom the order is made, or
  - (b) the person’s spouse, civil partner or dependent child aged under 18,
 but it does not apply to the making of an order in a case in which no objection is made by or on behalf of the person against whom the order is made to the making of the order.
- (5) This subsection applies to the function of granting an injunction under section 37 of the Senior Courts Act 1981.
- (6) This subsection applies to the function of making an order under section 7 of the Civil Procedure Act 1997 (order for preserving evidence etc).”

BARONESS CHAKRABARTI

LORD BEECHAM

6 Page 10, line 28, at end insert “and if they are a qualified solicitor, barrister or chartered legal executive with more than three years’ experience post-qualification”

LORD KEEN OF ELIE

7 Page 11, line 8, at end insert—

**“67BA Exercise of relevant judicial functions: reconsideration of decisions**

- (1) Before making rules of court that provide for the exercise of relevant judicial functions by authorised persons by virtue of section 67B(1), the authority with power to make the rules must take the following steps in relation to each of the functions in question.

**The Schedule - continued**

- (2) The authority must consider whether the rules should include a right for the parties to proceedings in which a decision is made by an authorised person exercising the function to have the decision reconsidered by a judicial office holder.
- (3) If the authority considers that the rules should include such a right, it must include provision to that effect when it makes the rules.
- (4) If the authority does not consider that the rules should include such a right, it must inform the Lord Chancellor of—
  - (a) its decision, and
  - (b) its reasons for reaching that decision.”

BARONESS CHAKRABARTI  
LORD BEECHAM

8 Page 11, line 8, at end insert—

**“67BA Right to judicial reconsideration of decision made by an authorised person**

A party to any decision made by an authorised person in the execution of the person’s duty as an authorised person exercising a relevant judicial function, by virtue of section 67B(1), may apply in writing, within 14 days of the service of the order, to have the decision reconsidered by a judge of the relevant court within 14 days from the date of application.”

LORD KEEN OF ELIE

9 Page 17, line 43, at end insert—

“ Schedule 5 (Tribunal Procedure Rules) is amended as follows.”

10 Page 17, line 44, leave out “In Schedule 5 (Tribunal Procedure Rules),”

BARONESS CHAKRABARTI  
LORD BEECHAM

11 Page 18, line 26, at end insert—

“( ) A party to any decision made by an authorised person in the execution of the person’s duty as an authorised person exercising functions of a tribunal, by virtue of this paragraph, may apply in writing, within 14 days of the service of the order, to have the decision reconsidered by a judge of the relevant tribunal within 14 days from the date of the application.”

LORD KEEN OF ELIE

12 Page 18, line 27, after “paragraph” insert—

““function” does not include—

- (a) any function so far as its exercise involves authorising a person’s committal to prison or arrest;
- (b) any function of granting an injunction;”

**The Schedule - continued**

13 Page 18, line 28, at end insert –

“ After paragraph 28 insert –

*“Delegation of functions to staff: reconsideration of decisions*

- 28A(1) Before making Rules that provide for the exercise of functions of the First-tier Tribunal or Upper Tribunal by authorised persons by virtue of paragraph 3, the Committee must take the following steps in relation to each of the functions in question.
- (2) The Committee must consider whether the Rules should include a right for the parties to proceedings in which a decision is made by an authorised person exercising the function to have the decision reconsidered by a judicial office holder.
  - (3) If the Committee considers that the rules should include such a right, it must include provision to that effect when it makes the Rules.
  - (4) If the Committee does not consider that the rules should include such a right, it must inform the Lord Chancellor of –
    - (a) its decision, and
    - (b) its reasons for reaching that decision.
  - (5) In this paragraph “authorised person” and “judicial office holder” have the same meanings as in Chapter 2A of Part 1 of this Act (see section 29A).”

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*12 October 2018*

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