

Armed Forces (Parliamentary Approval for Participation in Armed Conflict) Bill

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TO

Require parliamentary approval for the participation of Her Majesty's armed forces in armed conflict and for a declaration of war; and for connected purposes.

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:—

Prior approval

1 Prior approval: application

- (1) When subsection (2) applies, it shall be unlawful for Her Majesty's armed forces to participate in armed conflict unless each House of Parliament has approved such participation by means of a resolution in accordance with the provisions of section 3(1). 5
- (2) This subsection applies when—
- (a) the Prime Minister proposes that Her Majesty's armed forces should participate in armed conflict, and
 - (b) section 4(1) does not apply or the provisions of section 6 are not relevant. 10

2 Report relating to proposed participation

When section 1(2) applies, the Prime Minister shall lay before each House of Parliament a report setting out—

- (a) the reasons for the proposed participation; 15
- (b) the legal authority for the proposed participation; and
- (c) such information as he considers it appropriate to make public about—
 - (i) the expected geographical extent of the participation,
 - (ii) the expected duration of the participation, and
 - (iii) the particular bodies of Her Majesty's armed forces that are expected to participate. 20

3 Resolutions to approve proposed participation

- (1) A resolution of either House of Parliament under this section shall be expressed in the form of approval of a report laid before each House of Parliament under section 2.
- (2) A motion for a resolution under this section in the House of Commons shall be made by the Prime Minister. 5

*Retrospective approval***4 Participation in armed conflict in circumstances of urgency, etc.**

- (1) This subsection applies when—
- (a) participation by Her Majesty’s armed forces in an armed conflict has begun before the commencement of this Act, or 10
- (b) the Prime Minister has decided that participation by Her Majesty’s armed forces in an armed conflict is a matter of urgency and should begin before the steps required under sections 2 and 3 could be taken and has announced that decision in public in such manner as he thinks fit. 15
- (2) If, when the Prime Minister makes an announcement in accordance with subsection (1)(b), Parliament stands prorogued to a day after the end of the period of five days beginning with the date on which the decision is made, Her Majesty shall by proclamation under the Meeting of Parliament Act 1797 (c. 127) require Parliament to meet on a specified day within that period. 20
- (3) If, when the Prime Minister makes an announcement in accordance with subsection (1)(b), the House of Commons stands adjourned to a day after the end of the period of five days beginning with the date on which the decision is made, the Speaker shall arrange for the House to meet on a day during that period. 25
- (4) If, when the Prime Minister makes an announcement in accordance with subsection (1)(b), the House of Lords stands adjourned to a day after the end of the period of five days beginning with the date on which the decision is made, the Lord Chancellor shall arrange for the House to meet on a day during that period. 30
- (5) In subsections (3) and (4), a reference to the Speaker or the Lord Chancellor includes a reference to a person authorised by Standing Orders of the House of Commons or of the House of Lords to act in place of the Speaker or of the Lord Chancellor in respect of the recall of the House during adjournment. 35
- (6) When subsection (1) applies in the case of participation in a particular armed conflict, the Prime Minister shall, as soon as is reasonably practicable after making the announcement, lay before each House of Parliament a report setting out—
- (a) the reasons for that participation; 40
- (b) the legal authority for that participation; and
- (c) such information as he considers it appropriate to make public about—
- (i) the expected geographical extent of that participation,
- (ii) the expected duration of that participation, and

- (iii) the particular bodies of Her Majesty's armed forces that are participating or are expected to participate.

5 Resolutions to approve participation retrospectively

- (1) When section 4(1) applies and the Prime Minister has laid a report before each House of Parliament under subsection (6) of that section, he shall as soon as is reasonably practicable thereafter make a motion for a resolution in the House of Commons under this section. 5
- (2) When section 4(1) applies and the Prime Minister has laid a report before each House of Parliament under subsection (6) of that section, a Minister of the Crown shall as soon as is reasonably practicable thereafter make a motion for a resolution in the House of Lords under this section. 10
- (3) A resolution of either House of Parliament under this section shall be expressed in the form of approval of a report laid before each House of Parliament under section 4(6).

6 Provisions in case where resolution not come to

15

- (1) When—
- (a) a report has been laid before each House of Parliament under section 4(6), and
- (b) either House of Parliament has not come to a resolution in accordance with the provisions of section 5 within a period of ten days beginning with the day on which the report is laid before each House of Parliament under section 4(6),
- the continued participation of Her Majesty's armed forces in the armed conflict to which the report relates shall cease to be lawful at the end of a period of thirty days unless the condition in subsection (2) or subsection (3) applies. 25
- (2) The condition in this subsection is that the continued participation of Her Majesty's armed forces for a period longer than the period of thirty days specified in subsection (1) is, in the opinion of the Prime Minister, necessary as a precursor to the withdrawal of those armed forces from participation in the armed conflict. 30
- (3) This subsection applies when—
- (a) a report has been laid before each House of Parliament under section 4(6),
- (b) either House of Parliament has not come to a resolution in accordance with the provisions of section 5(3) within a period of ten days beginning with the day on which the report specified in paragraph (a) was laid before each House of Parliament, 35
- (c) the Prime Minister, within a period of twenty days beginning with the day on which the report specified in paragraph (a) was laid before each House of Parliament, has laid before each House of Parliament a further report, and 40
- (d) each House of Parliament, within a period of ten days beginning with the day on which the further report under paragraph (c) is laid before each House of Parliament, has come to a resolution under subsection (5). 45
- (4) A further report under subsection (3)(c) shall set out—

- (a) the reasons for the continued participation;
 - (b) the legal authority for that participation; and
 - (c) such information as he considers it appropriate to make public about—
 - (i) the expected geographical extent of that participation,
 - (ii) the expected duration of that participation, and
 - (iii) the particular bodies of Her Majesty’s armed forces that are participating or are expected to participate.
- (5) A resolution of either House of Parliament under this subsection shall be expressed in the form of approval of a report laid before each House of Parliament under subsection (3)(d). 10
- (6) A motion for a resolution under subsection (5) in the House of Commons shall be made by the Prime Minister.

Declaration of war

7 Declaration of war

- No declaration of war shall be made by or on behalf of the United Kingdom unless— 15
- (a) the proposal to declare war is contained in a report which has been laid before each House of Parliament under section 2, 4(6) or 6(3)(c), and
 - (b) each House of Parliament has come to a resolution in relation to that report in accordance with the provisions of section 3(1), 5(3) or 6(3)(d). 20

Miscellaneous and final provisions

8 Action in defence of members of the armed forces

- (1) Nothing in this Act shall prevent or make illegal the taking of action by members of Her Majesty’s armed forces where both the condition in subsection (2) and the condition in subsection (3) are met. 25
- (2) The condition in this subsection is that the action is taken—
 - (a) following a lawful command, or
 - (b) in accordance with lawful rules of engagement.
- (3) The condition in this subsection is that the action is taken in the immediate defence of members of Her Majesty’s armed forces. 30

9 Prime Minister unable to act

Where the Prime Minister is unable to act under this Act for any reason his functions may be undertaken by the Secretary of State.

10 Interpretation

- (1) In this Act— 35
 - “the Additional Protocols of 1977” means—
 - (a) the Protocol, additional to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of International Armed Conflicts (Protocol I) done on 10 June 1977,

the text of which is set out in the Schedule 5 to the Geneva Conventions Act 1957 (c. 52), and

- (b) the Protocol, additional to the Geneva Conventions of 12 August 1949, relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) done on 10 June 1977, the text of which is set out in Schedule 6 to the Geneva Conventions Act 1957 (c. 52);

“armed conflict” means any use of force which gives rise, or may give rise, to a situation of armed conflict to which the Geneva Conventions of 1949 or the Additional Protocols of 1977 apply;

“the Geneva Conventions of 1949” has the same meaning as “the scheduled conventions” in section 7(1) of the Geneva Conventions Act 1957;

“Her Majesty’s armed forces” means—

- (a) regular services, or
(b) the reserve forces;

“regular services” means the Royal Navy, the Royal Marines, the regular army or the regular air force;

“the reserve forces” has the same meaning as in section 1(2) of the Reserve Forces Act 1996 (c. 14) (power to maintain the reserve forces).

- (2) In calculating any period of days for the purposes of this Act, no regard shall be had to any day during a period which—
- (a) begins with the day of the dissolution of Parliament, and
(b) ends with the day of the first meeting of Parliament thereafter.

11 Short title and commencement

- (1) This Act may be cited as the Armed Forces (Parliamentary Approval for Participation in Armed Conflict) Act 2005.
- (2) This Act shall come into force at the end a period of two months beginning with the day on which this Act is passed.

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To require parliamentary approval for the participation of Her Majesty's armed forces in armed conflict and for a declaration of war; and for connected purposes.

*Presented by Clare Short
supported by
Dr Tony Wright, Mr William Hague,
Sir Menzies Campbell, Mr Kenneth Clarke,
Mr Alex Salmond, Mr Douglas Hogg,
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