

Corporate Manslaughter and Corporate Homicide Bill

COMMONS INSISTENCE, NON-INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

[The page and line references are to HL Bill 19, the bill as first printed for the Lords.]

Clause 2

LORDS AMENDMENT NO. 2

- 2** Page 2, line 29, at end insert—
“(d) a duty owed to anyone held in custody.”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendments Nos. 2, 3, 5, 6 and 10 but propose Amendment 10A in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 2 for the following Reason—

- 2A** *Because it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendment 10A in lieu but propose Amendments 10C and 10D in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 2 for the following Reason—

- 2B** *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10C and 10D in lieu but propose Amendments 10F, 10G, 10H and 10I in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 2 for the following Reason –

- 2C** *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10F, 10G, 10H and 10I in lieu but propose Amendments 10K, 10L, 10M and 10N in lieu.

LORDS INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Lords insist on their amendments 2, 3, 5, 6 and 10, disagree with the Commons in their Amendments 10K, 10L, 10M and 10N in lieu but propose Amendments 10P and 10Q in lieu.

COMMONS INSISTENCE, NON-INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10K, 10L, 10M and 10N in lieu, disagree with the Lords in their Amendments Nos. 10P and 10Q but propose Amendments 10R, 10S, 10T, 10U, 10V, 10W, 10X, 10Y, 10Z and 10AA in lieu.

LORDS AMENDMENT NO. 3

- 3** Page 3, line 12, at end insert –
 ““custody” includes being held in prison, secure mental healthcare facilities, secure children’s homes, secure training centres, immigration removal centres, court cells and police cells, and being subject to supervision by court, prisoner and detainee escort services;”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendments Nos. 2, 3, 5, 6 and 10 but propose Amendment 10A in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 3 for the following Reason –

- 3A** *Because it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendment 10A in lieu but propose Amendments 10C and 10D in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 3 for the following Reason –

- 3B** *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10C and 10D in lieu but propose Amendments 10F, 10G, 10H and 10I in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 3 for the following Reason –

- 3C** *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10F, 10G, 10H and 10I in lieu but propose Amendments 10K, 10L, 10M and 10N in lieu.

LORDS INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Lords insist on their amendments 2, 3, 5, 6 and 10, disagree with the Commons in their Amendments 10K, 10L, 10M and 10N in lieu but propose Amendments 10P and 10Q in lieu.

COMMONS INSISTENCE, NON-INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10K, 10L, 10M and 10N in lieu, disagree with the Lords in their Amendments Nos. 10P and 10Q but propose Amendments 10R, 10S, 10T, 10U, 10V, 10W, 10X, 10Y, 10Z and 10AA in lieu.

Clause 3

LORDS AMENDMENT NO. 5

- 5** Page 3, line 37, leave out “or (b)” and insert “, (b) or (d)”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendments Nos. 2, 3, 5, 6 and 10 but propose Amendment 10A in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 5 for the following Reason –

- 5A** *Because it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendment 10A in lieu but propose Amendments 10C and 10D in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 5 for the following Reason –

- 5B** *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10C and 10D in lieu but propose Amendments 10F, 10G, 10H and 10I in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 5 for the following Reason –

- 5C** *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10F, 10G, 10H and 10I in lieu but propose Amendments 10K, 10L, 10M and 10N in lieu.

LORDS INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Lords insist on their amendments 2, 3, 5, 6 and 10, disagree with the Commons in their Amendments 10K, 10L, 10M and 10N in lieu but propose Amendments 10P and 10Q in lieu.

COMMONS INSISTENCE, NON-INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3,

5, 6 and 10, do not insist on their Amendments 10K, 10L, 10M and 10N in lieu, disagree with the Lords in their Amendments Nos. 10P and 10Q but propose Amendments 10R, 10S, 10T, 10U, 10V, 10W, 10X, 10Y, 10Z and 10AA in lieu.

LORDS AMENDMENT NO. 6

- 6 Page 3, line 40, leave out “or (b)” and insert “, (b) or (d)”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendments Nos. 2, 3, 5, 6 and 10 but propose Amendment 10A in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 6 for the following Reason –

- 6A *Because it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendment 10A in lieu but propose Amendments 10C and 10D in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 6 for the following Reason –

- 6B *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10C and 10D in lieu but propose Amendments 10F, 10G, 10H and 10I in lieu.

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 6 for the following Reason –

- 6C *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10F, 10G, 10H and 10I in lieu but propose Amendments 10K, 10L, 10M and 10N in lieu.

LORDS INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Lords insist on their amendments 2, 3, 5, 6 and 10, disagree with the Commons in their Amendments 10K, 10L, 10M and 10N in lieu but propose Amendments 10P and 10Q in lieu.

COMMONS INSISTENCE, NON-INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10K, 10L, 10M and 10N in lieu, disagree with the Lords in their Amendments Nos. 10P and 10Q but propose Amendments 10R, 10S, 10T, 10U, 10V, 10W, 10X, 10Y, 10Z and 10AA in lieu.

Clause 5

LORDS AMENDMENT NO. 10

- 10** Page 5, line 8, leave out “or (b)” and insert “, (b) or (d)”

COMMONS DISAGREEMENT AND AMENDMENT IN LIEU

The Commons disagree to Lords Amendments Nos. 2, 3, 5, 6 and 10 but propose Amendment 10A in lieu –

- 10A** Page 2, line 43, at end insert –

“(5A) The Secretary of State may by order make amendments to this section to the effect that a duty of care owed by an organisation under the law of negligence to a person who –

- (a) is in any specified form of custody or detention, or is otherwise on premises of a specified description or on premises in specified circumstances, and
- (b) is by reason of that fact a person for whose safety the organisation is responsible,

is a “relevant duty of care”.

(5B) An order under subsection (5A) –

- (a) may amend this Act so as to specify exceptions with respect to the application of any provision contained in this section as a result of such an order;
- (b) may make any amendment to this Act that is incidental or supplemental to, or consequential on, an amendment made by such an order.

(5C) An order under subsection (5A) is subject to affirmative resolution procedure.”

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 10 and disagree with the Commons in their Amendment 10A in lieu for the following Reason –

- 10B** *Because it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendment 10A in lieu but propose Amendments 10C and 10D in lieu –

10C Page 2, line 31, leave out “subsection (1)” and insert “this Act”

10D Page 13, line 3, at end insert the following new Clause: –

“Power to extend meaning of “relevant duty of care”

- (1) The Secretary of State may by order make amendments to this Act to the effect that a duty of care owed by an organisation under the law of negligence to a person who –
 - (a) is in any specified form of custody or detention, or is otherwise on premises of a specified description or on premises in specified circumstances, and
 - (b) is by reason of that fact a person for whose safety the organisation is responsible,is a “relevant duty of care”.
- (2) An order under this section –
 - (a) may amend this Act so as to specify exceptions, or to restrict or disapply exceptions, as regards the application of any provision contained in this Act as a result of such an order;
 - (b) may make any amendment to this Act that is incidental or supplemental to, or consequential on, an amendment made by such an order.
- (3) An order under this section is subject to affirmative resolution procedure.”

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 10 and disagree with the Commons in their Amendments 10C and 10D in lieu for the following Reason –

10E *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10C and 10D in lieu but propose Amendments 10F, 10G, 10H and 10I in lieu –

10F Page 2, line 31, leave out “subsection (1)” and insert “this Act”

10G Page 3, leave out line 25

10H Page 13, line 3, at end insert the following new Clause: –

“Power to extend meaning of “relevant duty of care”

- (1) The Secretary of State may by order make amendments to this Act to the effect that a duty of care owed by an organisation under the law of negligence to a person who—
- (a) is in any specified form of custody or detention, or is otherwise on premises of a specified description or on premises in specified circumstances, and
 - (b) is by reason of that fact a person for whose safety the organisation is responsible,
- is a “relevant duty of care”.
- (2) An order under this section—
- (a) may amend this Act so as to restrict or disapply exceptions as regards the application of any provision contained in this Act as a result of such an order;
 - (b) may make any amendment to this Act that is incidental or supplemental to, or consequential on, an amendment made by such an order.
- (3) An order under this section is subject to affirmative resolution procedure.”

10I As an amendment to the Clause inserted into the Bill after Clause 19 by Lords Amendment No. 33:—

Line 30, at end insert—

““premises” includes land, buildings and moveable structures;”

LORDS INSISTENCE AND REASON

The Lords insist on their Amendment 10 and disagree with the Commons in their Amendments 10F to 10I in lieu for the following Reason—

10J *Because the Lords remain of the view that it is appropriate that a relevant duty of care should be owed to anyone held in custody*

COMMONS INSISTENCE, NON-INSISTENCE AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10F, 10G, 10H and 10I in lieu but propose Amendments 10K, 10L, 10M and 10N in lieu—

10K Page 2, line 31, leave out “subsection (1)” and insert “this Act”

10L Page 3, leave out line 25

10M Page 13, line 3, at end insert the following new Clause:—

“Power to extend meaning of “relevant duty of care”

- (1) The Secretary of State may by order make amendments to this Act to the effect that a “relevant duty of care” includes a duty of care owed by an organisation under the law of negligence to a person of a specified description who—
- (a) is in custody or detention, or otherwise is required by virtue of a statutory provision to remain or reside on particular premises, or is subject to some other form of restriction of his liberty, and

(b) is by reason of that fact a person for whose safety the organisation is responsible.

(2) An order under this section—

(a) may amend this Act so as to restrict or disapply exceptions as regards the application of any provision contained in this Act as a result of such an order;

(b) may make any amendment to this Act that is incidental or supplemental to, or consequential on, an amendment made by such an order.

(3) An order under this section is subject to affirmative resolution procedure.”

10N As an amendment to the Clause inserted into the Bill after Clause 19 by Lords Amendment No. 33:—

Line 30, at end insert—

““premises includes land, buildings and moveable structures;”

LORDS INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Lords insist on their amendments 2, 3, 5, 6 and 10, disagree with the Commons in their Amendments 10K, 10L, 10M and 10N in lieu but propose Amendments 10P and 10Q in lieu—

10P Page 13, line 19, at beginning insert “Subject to subsection (1A),”

10Q Page 13, line 20, at end insert—

“(1A) The following provisions of this Act come into force on 1 January 2009—

(a) section 2(1)(d);

(b) sections 3(2), 3(3) and 5(3) so far as they relate to section 2(1)(d).”

COMMONS INSISTENCE, NON-INSISTENCE, DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons insist on their disagreement with the Lords in their Amendments Nos. 2, 3, 5, 6 and 10, do not insist on their Amendments 10K, 10L, 10M and 10N in lieu, disagree with the Lords in their Amendments Nos. 10P and 10Q but propose Amendments 10R, 10S, 10T, 10U, 10V, 10W, 10X, 10Y, 10Z and 10AA in lieu—

10R Page 2, line 29, at end insert—

“(d) a duty owed to a person who, by reason of being a person within subsection (1A), is someone for whose safety the organisation is responsible.

(1A) A person is within this subsection if—

(a) he is detained at a custodial institution or in a custody area at a court or police station;

(b) he is detained at a removal centre or short-term holding facility;

(c) he is being transported in a vehicle, or being held in any premises, in pursuance of prison escort arrangements or immigration escort arrangements;

(d) he is living in secure accommodation in which he has been placed;

(e) he is a detained patient.”

10S Page 3, line 12, at end insert—

“custodial institution” means a prison, a young offender institution, a secure training centre, a young offenders institution, a young offenders centre, a juvenile justice centre or a remand centre;

“detained patient” means –

- (a) a person who is detained in any premises under –
 - (i) Part 2 or 3 of the Mental Health Act 1983 (c. 20) (“the 1983 Act”), or
 - (ii) Part 2 or 3 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) (“the 1986 Order”);
- (b) a person who (otherwise than by reason of being detained as mentioned in paragraph (a)) is deemed to be in legal custody by –
 - (i) section 137 of the 1983 Act,
 - (ii) Article 131 of the 1986 Order, or
 - (iii) article 11 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078);
- (c) a person who is detained in any premises, or is otherwise in custody, under the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) or Part 6 of the Criminal Procedure (Scotland) Act 1995 (c. 46) or who is detained in a hospital under section 200 of that Act of 1995;

“immigration escort arrangements” means arrangements made under section 156 of the Immigration and Asylum Act 1999 (c. 33);”

10T Page 3, leave out line 25

10U Page 3, line 25, at end insert –

“prison escort arrangements” means arrangements made under section 80 of the Criminal Justice Act 1991 (c.53) or under section 102 or 118 of the Criminal Justice and Public Order Act 1994 (c. 33);

“removal centre” and “short-term holding facility” have the meaning given by section 147 of the Immigration and Asylum Act 1999 (c. 33);

“secure accommodation” means accommodation, not consisting of or forming part of a custodial institution, provided for the purpose of restricting the liberty of persons under the age of 18.”

10V Page 3, line 37, leave out “or (b)” and insert “, (b) or (d)”

10W Page 5, line 8, leave out “or (b)” and insert “, (b) or (d)”

10X Page 6, line 43, leave out “or (b)” and insert “, (b) or (d)”

10Y Page 13, line 3, at end insert the following new Clause: –

“Power to extend section 2(1A)

- (1) The Secretary of State may by order amend section 2(1A) to make it include any category of person (not already included) who –
 - (a) is required by virtue of a statutory provision to remain or reside on particular premises, or
 - (b) is otherwise subject to a restriction of his liberty.

(2) An order under this section may make any amendment to this Act that is incidental or supplemental to, or consequential on, an amendment made by virtue of subsection (1).

(3) An order under this section is subject to affirmative resolution procedure.”

10Z Page 13, line 20, at end insert –

“() An order bringing into force paragraph (d) of section 2(1) is subject to affirmative resolution procedure.”

10AA As an amendment to the Clause inserted into the Bill after Clause 19 by Lords Amendment No. 33: –

Line 30, at end insert –

““premises includes land, buildings and moveable structures;”