

Troops and veterans one step closer to stronger legal protection

Stronger legal protections for service personnel and veterans facing the threat of repeated investigations and potential prosecution will be one step closer as the Overseas Operations Bill is debated in Parliament today (Wednesday 23 September).

The Bill delivers on the Government's manifesto commitment to tackle vexatious claims and end the cycle of reinvestigations against our brave Armed Forces. The legislation will introduce a range of measures to reduce uncertainty arising from historical allegations and create a better legal framework to deal with claims from future overseas conflicts.

Defence Secretary Ben Wallace said:

This Government made a promise to the nation to protect service personnel and veterans from vexatious claims and endless investigations. We have not shied away from the challenge and today are one step closer to fulfilling that commitment.

We all remember Phil Shiner, and the scores of allegations that have amounted to nothing over the years.

Our Armed Forces risk their lives to protect us and it is vital we continue to progress this legislation, providing certainty for the troops who find themselves on the front line in the future.

The Overseas Operations Bill was introduced in March after operations in Iraq and Afghanistan gave rise to an unprecedented number of legal claims. The Iraq war in particular saw a claims industry spring up where unscrupulous lawyers promised individuals they would be financially rewarded if they made allegations of wrongdoing against service personnel.

This contributed to nearly 1000 compensation claims against the MoD for unlawful detention, injury and death, as well as 1400 judicial review claims seeking investigations and compensation for human rights violations. While legitimate claims were rightly investigated, and always will be, this series of drawn-out investigations and litigation has cast a shadow over the lives of innocent personnel and veterans living with such uncertainty.

Around 70% of allegations received by the independent Iraq Historic Allegations Team were dismissed as there was no case to answer.

Minister for Defence People and Veterans Johnny Mercer said:

This legislation is not about providing an amnesty or putting troops above the law but protecting them from lawyers intent on rewriting history to line their own pockets.

It will put an end to lawfare and make sure personnel and veterans are not repeatedly and indefinitely called upon to give evidence about events that happened years ago.

Today we are one step closer to making the UK the best place in the world to be a veteran.

The Bill reduces the uncertainty faced by service personnel and veterans in relation to allegations arising from historical overseas operations by introducing a statutory presumption against prosecution. This means it will be exceptional for them to be prosecuted five years or more after an incident. When coming to a prosecution decision, the independent prosecutor must weigh up the adverse impact of overseas operations on service personnel and – where there has been a previous investigation and no compelling new evidence – the public interest in cases coming to a timely conclusion. If their decision is to go forward to prosecution, they will have to seek the consent of the Attorney General to do so.

The Bill also delivers a significant amendment to the Human Rights Act (HRA) in law, by helping to put an end to the industrial scale of litigation by limiting the time in which claims for human rights violations can be brought.

Legislation will restrict the court's discretion to allow claims to be brought after the normal time limits and make sure civil claims for personal injury and death and claims for HRA violations are brought within six years. Approximately half of the claims by Iraqi nationals were brought more than six years after the alleged incident and would have been caught by these longstops.

Crucially, these changes will not prevent personnel and veterans bringing claims against the MoD. The vast majority of these claims are already brought within six years and the time limit for certain conditions, such as PTSD, will start from the date of knowledge of the condition.

Finally, the Bill will ensure that all future governments are compelled to consider derogating from the European Convention on Human Rights in relation to significant overseas military operations. All overseas operations will continue to be governed by international humanitarian law, including the Geneva Conventions.

The Government will introduce separate legislation to address the legacy of

the past in Northern Ireland in a way that focuses on reconciliation, delivers for victims, and ends the cycle of reinvestigations into the Troubles in NI that has failed victims and veterans alike. We remain committed to moving this forward as quickly as possible.

Notes to editors:

1) The measures in the Overseas Operations (Service Personnel and Veterans) Bill will help to reduce the uncertainty faced by service personnel and veterans, in relation to overseas operations, by introducing the following measures:

- We are introducing a statutory presumption against prosecution of current or former service personnel for alleged offences committed on operations outside the UK more than five years ago. The statutory presumption raises the threshold to be applied by prosecutors when deciding whether a service person or veteran should be prosecuted in such cases, so that it will be “exceptional” to prosecute. When making a decision, the prosecutor must give particular weight to the public interest in finality where there has been a previous investigation and no compelling new evidence has become available. There is also a requirement for the prosecutor to obtain the consent of the Attorney General before a prosecution can proceed.
- We are restricting the court’s discretion to extend the normal time limit (of three years) for bringing civil claims for personal injury and/or death in relation to military operations outside the UK. We are introducing a limitation longstop of six years. We are also setting out further factors for consideration by the court (which reflect the unique context of overseas operations) when deciding whether to extend the primary limitation period of three years.
- We are also restricting the court’s discretion to extend the normal time limit (of one year) for bringing HRA claims in relation to military operations outside the UK. We are introducing a limitation longstop of six years. We are also setting out factors for consideration by the court (which reflect the unique context of overseas operations) when deciding whether to extend the primary limitation period of one year.
- We are placing a duty for future governments to consider derogating from the European Convention on Human Rights (ECHR) in relation to significant overseas operations. This provision will introduce a requirement for the Secretary of State for Defence to consider, and to keep under review, whether it is appropriate to derogate in light of the situation at the time.

2) Of the 1,130 compensation claims brought by Iraqi nationals (under both tort law and the Human Rights Act), at least 583 were brought more than six

years after the alleged incident and would have been caught by the longstops. The limitation longstops will provide a clear time period during which claims can be brought and should ensure claims are brought promptly. This will enable them to be assessed in a fair and proportionate manner, and make sure lessons are learned and applied.

3) An analysis of available figures indicates around 94% of claims brought by current and former service personnel in relation to incidents in Iraq and Afghanistan were brought within six years.

4) While the legislation will provide further protections for UK forces, the military will continue to operate to strict high standards, complying with both UK and international law, including the Geneva Conventions. Any allegations of wrongdoing will continue to be investigated and, where appropriate prosecuted. Armed Forces personnel who break the law can still be held to account.