

VETERANS ADVISORY AND PENSIONS COMMITTEES BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Veterans Advisory and Pensions Committees Bill as brought from the House of Commons on 27 March 2023 (HL Bill 127).

- These Explanatory Notes have been prepared by the Ministry of Defence (MOD) with the consent of Lord Lancaster of Kimbolton, the Peer in charge of the Private Members' Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The Bill contains measures to repeal section 25 of the Social Security Act 1989, and move the powers currently contained there into the Armed Forces Act 2006. The intention is to widen current statutory functions of the Veterans Advisory and Pensions Committees (VAPCs) and bring them more in line with how they have operated in practice in recent years.
- 2 The Bill's powers allow provision to be made for the following:
 - Modernise and bring the VAPC statutory framework into MOD legislation (within Armed Forces Act 2006) as the current enabling power is located within the Social Security Act 1989. This is considered a more suitable home given that their sponsoring Department is the MOD.
 - Enable the VAPCs to carry out additional functions in relation to other aspects of the MOD's Defence Business Services Armed Forces and Veterans services, such as the Veterans Welfare Service, as well as awareness-raising of initiatives such as the Armed Forces Covenant.
 - Enable VAPCs to continue to carry out the functions currently contained in the War Pensions Committees Regulations 2000 in respect of War Pensioners and Armed Forces Compensation Scheme recipients.
 - Widen the cohort of veterans in scope of the VAPCs' statutory functions to include all veterans and their families (rather than just those applying for, or in receipt of, payments from certain MOD compensation schemes).

Policy background

- 3 There are 12 VAPCs across the United Kingdom (nine in England, one in Scotland (previously two but now merged), and one each in Northern Ireland and Wales). They were previously known as the War Pensions Committees. They are an advisory non-departmental public body, sponsored by the MOD, with volunteer members appointed by the Secretary of State on the advice of officials.
- 4 The statutory function of the VAPCs is to engage at a local level with War Pensioners / Armed Forces Compensation Scheme (AFCS) recipients, in particular by raising awareness of the War Pensions and AFCSs – as well as wider Defence Business Services Armed Forces and Veterans welfare services, so far as they relate to War Pensions / AFCS recipients – and making representations and recommendations to Government regarding any issues experienced with those services locally. The War Pension Scheme and the AFCS are MOD schemes which pay compensation to Service personnel who are injured, where that injury is attributable to service in the Armed Forces.
- 5 The VAPCs' statutory functions are set out in the War Pensions Committees Regulations 2000. These are made under sections 25 and 29 of the Social Security Act 1989 and section 175(2) to (5) of the Social Security Contributions and Benefits Act 1992.
- 6 The landscape in which the VAPCs operate has changed considerably over the past ten years, and it has been a long-running feature of the VAPCs that they have taken on a broader (non-statutory) role in raising awareness of other initiatives of potential interest to all veterans and their families, such as the Armed Forces Covenant. Matters set out in section 25 of the 1989

Act do not include functions relating to veterans generally or the Armed Forces Covenant (outside of its application to War Pensioners/AFCS recipients).

- 7 In November 2021 the MOD, working closely with the Office for Veterans' Affairs (OVA) in the Cabinet Office, provided the VAPCs with new (non-statutory) supplementary Terms of Reference for a period of twelve months. These Terms of Reference were intended to set the VAPCs a clearer, more wide-ranging role and to ask them to complete certain local-engagement activities on which they were to report back to Ministers and the MOD/OVA in November 2022. At the end of this period, the intent was that there would be a review and a further decision would be made about:
 - a. whether to widen the statutory functions of the VAPCs to enable the matters in the Terms of Reference to be set out in secondary legislation; and
 - b. whether the current enabling legislation remains fit for purpose for a modern advisory Non-Departmental Public Body.
- 8 During the passage of the Armed Forces Act 2021, Lord Lancaster of Kimbolton tabled an amendment at Lords Committee stage to widen the statutory remit of the VAPCs by amending the Armed Forces Act 2006. Lord Lancaster withdrew his amendment on the understanding that the department would explore what changes could be made in this area. The amendment was subsequently retabled at Lords Report stage and withdrawn following a commitment that MOD would 'explore options' for legislative reform of the VAPCs.
- 9 The policy changes in this Bill will provide for the VAPCs to be given additional functions in respect of War Pensioners, AFCS benefit recipients and former members of the Armed Forces / relevant family members.
- 10 The principal concerns of veterans and their families may evolve over time due to societal changes (economic or political) and due to world events. The enabling power in the bill will allow for the statutory functions of the committees to be amended over time so that the committees can best serve the needs of veterans and reflect the contemporary concerns of the veteran community at any given point in time, without requiring amendment to primary legislation which would inevitably take more time to achieve. This aligns with the Secretary of State for Defence's overall vision to ensure that the highest possible standards of support are provided to veterans.

Legal background

- 10 Section 25 of the 1989 Act originally established the VAPCs and set out the functions which the Secretary of State may give to the VAPCs. These functions are in relation to war pension, war pensioners, AFCS benefits and AFCS benefit recipients.
- 11 The War Pensions Committees Regulations 2000 are the Regulations that govern the statutory basis of the VAPCs. Regulation 8 provides the functions that the committee shall carry out. These functions include that the committee enable and foster local consultation on issues affecting war pensioners, surviving spouses, surviving civil partners or AFCS benefit recipients. Additionally, the committee's function includes that of helping to increase awareness about war pensions and AFCS benefits. The committee is further given functions to support Defence Business Services Armed Forces and Veterans team within MOD by monitoring its welfare service, raising awareness of the service it provides and liaising with other organisations with a view to ensuring that the welfare of war pensioners surviving spouses, surviving civil partners, AFCS benefit recipients, and their dependants are suitably addressed. Furthermore the committee has functions to assist war pensioners, surviving

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spouses, surviving civil partners or AFCS benefit recipients or others claiming war pensions or AFCS benefits with any problem or complaint regarding war pensions, AFCS benefits or welfare services provided by Defence Business Services Armed Forces and Veterans team.

- 12 In particular, VAPCs have been given the functions to: assist any individual claiming or receiving a war pension or AFCS benefit in pursuing any problem or complaint; make representations and recommendations to the Secretary of State about any problem or complaint; report or make recommendations to the Secretary of State on any matter arising in relation to its functions; and receive and disburse funds from charitable or other sources for the sole purpose of provision of social activities for war pensioners, surviving spouses, surviving civil partners and AFCS benefit recipients.

Territorial extent and application

- 13 The Bill extends to England and Wales, Scotland and Northern Ireland.
- 14 Any consequential provision in Clause 2 that amends or repeals an enactment will have the same extent as the enactment amended or repealed.
- 15 See the table in Annex A for a summary of the position regarding territorial extent and application.

Commentary on provisions of Bill

Clause 1: Veterans Advisory and Pensions Committees

- 16 Clause 1 of the Bill creates a new enabling power for the Secretary of State to make regulations establishing Veterans Advisory and Pensions Committees (VAPCs) for specified areas. This enabling power will be inserted into the Armed Forces Act 2006. Additionally, the clause sets out the basis upon which the regulations may make provisions about the membership of VAPCs. The enabling power in this clause allows the regulations to confer functions upon the committees relating to eight different topics. Regulations made under the power would be able to give the VAPCs statutory functions, including additional functions relating to former members of the armed forces and their families, veterans' services, and Armed Forces Covenant matters. The clause further sets out that the regulations made by the Secretary of State can provide for the manner in which the VAPCs are to discharge their functions. The clause provides for the VAPCs to be named according to the regulations. The clause also defines the relevant terms in the Bill.

Clause 2: Consequential Provisions

- 17 Clause 2(1)(a) repeals section 25 of the Social Security Act 1989. Repeal of section 25 of the Social Security Act 1989 will be necessary because the enabling power in section 25 is to be replaced by the new enabling power in Clause 1 of the bill.
- 18 Clause 2(1)(b) to (l) makes consequential amendments to primary legislation concerning section 3 of the War Pensions Act 1921, section 9(1) of the Chronically Sick and Disabled Persons Act 1970, sections 7A(6) and 122C(8) and paragraph 5 Schedule 4 of the Social Security Administration Act 1992, section 137(1) of the Social Security Contributions and Benefits Act 1992, section 2(3) of the Social Security Act 1998, section 72(6) of the Welfare Reform and Pensions Act 1999, section 5 of the Television Licences (Disclosure of Information) Act 2000, section 13 of the Social Security Fraud Act 2001, paragraph 4(5) of Schedule 5 of the Tax Credits Act 2002, section 2(3) of the Digital Switchover (Disclosure of Information) Act

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2007, and paragraph 2(1) of Schedule 3 of the Data Protection Act 2018, to ensure the legislation refers to the correct statute.

- 19 Clause 2(2) confers a power to make consequential amendments to secondary legislation as may be required as a consequence of this Bill.
- 20 Clause 2(3) clarifies that the new regulations will carry the negative parliamentary procedure.

Clause 3: Extent, commencement, transitional provision and short title

- 21 Clause 3(1) confirms that the Bill extends to England and Wales, Scotland and Northern Ireland.
- 22 Clause 3(2) confirms that amendments or repeals made by this Bill in Clause 2 have the same extent as the provision amended, repealed or revoked.
- 23 Clause 3(3) provides when and how the provisions of the Act are to come into force, namely the power for Clause 1 and Clause 2(1) of the Act to be brought into force by commencement regulations.
- 24 Clause 3(4) provides when and how provisions of the Act are to come into force, namely the power for clause 2(2) and (3) to be brought into force on Royal Assent.
- 25 Clause 3(5) contains a transitional and savings provision to save any relevant regulations as required. The power to make transitional provision is necessary in case any transitional provisions are required for practical reasons when migrating from the system under the framework of the old regulations to the system under what will be the new regulations.
- 26 Clause 3(6) confirms that the short title of the Bill is the Veterans Advisory and Pensions Committee Act 2023.

Commencement

- 27 Clauses 1 and 2(1) come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- 28 Clauses 2(2), (3), and 3 come into force on the day on which this Act is passed.

Financial implications of the Bill

- 29 There are no known financial implications associated with this measure at present, however cost implications remain under MOD review.

Parliamentary approval for financial costs or for charges imposed

- 30 A money resolution was not required for the Bill as there are no known financial implications associated with it. A ways and means resolution was also not required as the Bill does not authorise new charges on the people – broadly speaking, new taxation or other similar charges.

Compatibility with the European Convention on Human Rights

31 There are no ECHR issues that are raised by this Bill.

Related documents

32 The following documents are relevant to the Bill and can be read at the stated locations:

- VAPC Terms of Reference November 2021
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1044475/VAPC Supplementary Terms of Reference adopted 15 November 2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1044475/VAPC_Supplementary_Terms_of_Reference_adopted_15_November_2021.pdf)
- Social Security Act 1992
<https://www.legislation.gov.uk/ukpga/1992/5/contents/enacted>
- War Pensions Committees Regulations 2000
<https://www.legislation.gov.uk/ukpga/1992/5/contents/enacted>

Annex A – Territorial extent and application in the United Kingdom

33 This Bill extends to England and Wales, Scotland and Northern Ireland. Any interaction with devolved matters as a result of additional categories of people (i.e., veterans and their family members), the services provided by MOD to these people, as well as the additional role of VAPCs in relation to Armed Forces Covenant matters in which the VAPCs are concerned with, would be consequential upon, and supplementary to, the primary purpose, which concerns the Armed Forces. For Scotland and Wales, the Armed Forces is a reserved matter. For Northern Ireland the Armed Forces is an excepted matter. Therefore, the subject matter of the bill does not fall within the legislative competence of the devolved legislatures.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	No	Yes	No	Yes	No
Clause 2	Yes	Yes	No	Yes	No	Yes	No
Clause 3	Yes	Yes	No	Yes	No	Yes	No

Subject matter and legislative competence of devolved legislatures

34 Not applicable as this matter is reserved in relation to Scotland and Wales and is excepted in relation to Northern Ireland.

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