

Victims and Prisoners Bill

AMENDMENTS TO BE MOVED ON REPORT

[Supplementary to the Revised Second Marshalled List]

Clause 41

LORD BELLAMY

Clause 41, page 39, line 12, leave out from second “the” to end of line 13 and insert “High Court.”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 41, page 39, line 32, at end insert –

- “(5) In section 32ZZA (imprisonment or detention for public protection: powers in relation to release of recalled prisoners) (inserted by section 48 of this Act), after subsection (3) insert –
- “(3A) The Secretary of State must not be satisfied as mentioned in subsection (3) unless the Secretary of State considers that there is no more than a minimal risk that, were the prisoner no longer confined, the prisoner would commit a further offence the commission of which would cause serious harm (and section 28ZA(4) applies for the purposes of that assessment).”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 48, page 52, line 27, inserting new section 32ZZA of the Crime (Sentences) Act 1997.

Clause 42

LORD BELLAMY

Clause 42, page 41, line 6, leave out from second “the” to end of line 7 and insert “High Court.”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

Clause 44

LORD BELLAMY

Clause 44, page 44, line 34, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 44, page 44, line 35, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 44, page 45, line 4, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment provides for the High Court to determine all prisoner release cases referred by the Secretary of State under section 32ZAA of the Crime (Sentences) Act 1997 inserted by Clause 44.

LORD BELLAMY

Clause 44, page 45, line 8, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 44, page 45, line 11, at end insert –

- “(2A) The requirement for the Secretary of State to give effect to the Parole Board’s direction to release the prisoner is suspended –
- (a) during such period, beginning with the day on which the direction is given, as the Secretary of State reasonably requires to determine whether to direct the Parole Board to refer the prisoner’s case to the High Court under this section, and

- (b) if the Secretary of State gives such a direction, pending determination of the reference under section 32ZAC(1).”

Member's explanatory statement

This amendment suspends requirements to release a prisoner while the Secretary of State is considering whether to refer the prisoner's case to the High Court and until any such reference is determined.

LORD BELLAMY

Clause 44, page 45, leave out lines 12 to 18

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 44, page 45, leave out lines 23 to 25

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 11.

LORD BELLAMY

Clause 44, page 46, line 40, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 44, page 46, line 41, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 44, page 47, leave out lines 12 and 13

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 44, page 47, line 16, leave out “Upper Tribunal or”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

LORD BELLAMY

Clause 44, page 47, line 17, at end insert –

“(b) in subsection (3), after “subject to” insert “ –

(a) section 32ZAA(2A) (suspension of duty to release prisoner pending referral to High Court or decision whether to refer), and

(b)””

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 11.

Clause 45

LORD BELLAMY

Clause 45, page 47, line 20, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 47, line 21, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 47, line 28, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment provides for the High Court to determine all prisoner release cases referred by the Secretary of State under section 256AZBA of the Criminal Justice Act 2003 inserted by Clause 45.

LORD BELLAMY

Clause 45, page 47, line 31, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 47, line 34, at end insert –

- “(2A) The requirement for the Secretary of State to give effect to the Board’s direction to release the prisoner is suspended –
- (a) during such period, beginning with the day on which the direction is given, as the Secretary of State reasonably requires to determine whether to direct the Board to refer the prisoner’s case to the High Court under this section, and
 - (b) if the Secretary of State gives such a direction, pending determination of the reference under section 256AZBC(1).”

Member's explanatory statement

This amendment suspends requirements to release a prisoner while the Secretary of State is considering whether to refer the prisoner’s case to the High Court and until any such reference is determined.

LORD BELLAMY

Clause 45, page 47, line 35, leave out from beginning to end of line 3 on page 48

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 48, leave out lines 8 to 10

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 34.

LORD BELLAMY

Clause 45, page 49, line 21, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 49, line 22, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 49, leave out lines 34 and 35

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 49, line 36, leave out “relevant court” and insert “High Court”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 49, line 42, leave out “Upper Tribunal or”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

LORD BELLAMY

Clause 45, page 50, line 2, at end insert –

“(b) in subsection (3), after “subject to” insert “–

(a) section 256AZBA(2A) (suspension of duty to release prisoner pending referral to High Court or decision whether to refer), and

(b)””

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 34.

Clause 46

LORD BELLAMY

Clause 46, page 50, line 7, leave out subsection (2) and insert –

“(2) In subsection (3), before paragraph (b) (and the “or” before it) insert –

“(ab) in accordance with subsection (3A),”.

Member's explanatory statement

This amendment is consequential on the amendments of section 31 of the Crime (Sentences) Act 1997 made by my amendment of Clause 48, page 50, line 31.

LORD BELLAMY

Clause 46, page 50, line 11, leave out “After subsection (3)” and insert “Before subsection (4)”

Member's explanatory statement

This amendment is consequential on the amendments of section 31 of the Crime (Sentences) Act 1997 made by my amendment of Clause 48, page 50, line 31.

LORD BELLAMY

Clause 46, page 50, line 12, leave out “Upper Tribunal or”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 44, page 45, line 4.

Clause 47

LORD BELLAMY

Clause 47, page 50, line 23, leave out “Upper Tribunal or”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 45, page 47, line 28.

Clause 48

LORD BELLAMY

Clause 48, page 50, line 31, leave out from beginning to “is” and insert “Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (life sentences)”

Member's explanatory statement

This amendment clarifies that the amendments made by Clause 48 all relate to Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (life sentences).

LORD BELLAMY

Clause 48, page 50, line 31, at end insert –

“(1A) In section 31 (duration and conditions of licences) –

- (a) in subsection (3), after paragraph (a) (but before the “or”) insert –
 - “(aa) in accordance with subsection (3ZA),”;
- (b) after subsection (3) insert –
 - “(3ZA) The Secretary of State may include a condition in a life prisoner's licence on release under section 32ZZA.””

Member's explanatory statement

This amendment is consequential on my amendment of Clause 48, page 52, line 27, inserting new section 32ZZA of the Crime (Sentences) Act 1997 and enables the Secretary of State to impose a condition in a prisoner's licence on release under that new section.

LORD BELLAMY

Clause 48, page 52, line 13, after “(5)” insert “ –

- (i) for the definition of “preventive sentence” substitute –
 - ““preventive sentence” means –
 - (a) a sentence of imprisonment or detention in a young offender institution for public protection under section 225 of the Criminal Justice Act 2003 (including one passed as a result of section 219 of the Armed Forces Act 2006), or
 - (b) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 (including one passed as a result of section 221 of the Armed Forces Act 2006);”;

Member's explanatory statement

This amendment amends the definition of “preventive sentence” in section 31A(5) of the Crime (Sentences) Act 1997 to clarify the effect of previous amendments.

LORD BELLAMY

Clause 48, page 52, line 27, at end insert –

- “(b) after subsection (5A) insert –
 - “(5B) Subsection (5C) applies where the Secretary of State releases, under subsection (5) above, a prisoner to whom section 31A (termination of licences of preventive sentence prisoners) applies.
 - (5C) The Secretary of State may determine that, for the purposes of paragraph (c) of section 31A(4H) (automatic licence termination), the prisoner's licence is to be treated as having remained in force as if it had not been revoked under this section.

- (5D) The Secretary of State may only make a determination under subsection (5C) if the Secretary of State considers that it is in the interests of justice to do so.
- (5E) Where the Secretary of State makes a determination under subsection (5C), the Secretary of State must notify the prisoner.””

Member's explanatory statement

This amendment enables the Secretary of State, when the Parole Board directs the re-release of a preventive sentence prisoner who is recalled to prison, to disregard the revocation of the prisoner's licence for the purposes of automatic licence termination under amendments made by Clause 48(2).

LORD BELLAMY

Clause 48, page 52, line 27, at end insert –

“(4) After section 32 insert –

“32ZZA Imprisonment or detention for public protection: powers in relation to release of recalled prisoners

- (1) This section applies where a prisoner to whom section 31A (termination of licences of preventive sentence prisoners) applies –
 - (a) has been released on licence under this Chapter, and
 - (b) is recalled to prison under section 32.
- (2) The Secretary of State may, at any time after the prisoner is returned to prison, release the prisoner again on licence under this Chapter.
- (3) The Secretary of State must not release the prisoner under subsection (2) unless satisfied that it is no longer necessary for the protection of the public that the prisoner should remain in prison.
- (4) Where the prisoner is released under subsection (2), the Secretary of State may determine that, for the purposes of paragraph (c) of section 31A(4H) (automatic licence termination), the prisoner's licence is to be treated as having remained in force as if it had not been revoked under section 32.
- (5) The Secretary of State may only make a determination under subsection (4) if the Secretary of State considers that it is in the interests of justice to do so.
- (6) Where the Secretary of State makes a determination under subsection (4), the Secretary of State must notify the prisoner.
- (7) In this section, “preventive sentence” means –
 - (a) a sentence of imprisonment or detention in a young offender institution for public protection under section 225 of the Criminal Justice Act 2003 (including one passed as a result of section 219 of the Armed Forces Act 2006), or

- (b) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 (including one passed as a result of section 221 of the Armed Forces Act 2006).”

Member's explanatory statement

This amendment enables the Secretary of State to re-release a preventive sentence prisoner who is recalled to prison and to disregard the revocation of the prisoner's licence for the purposes of automatic licence termination under amendments made by Clause 48(2).

After Clause 48

LORD BELLAMY

After Clause 48, insert the following new Clause –

“Imprisonment or detention for public protection: annual report

- (1) The Secretary of State must, as soon as is reasonably practicable after the end of each reporting period –
 - (a) prepare and publish a report about the steps taken by the Secretary of State in the reporting period to support the rehabilitation of preventive sentence prisoners and their progress towards release from prison or licence termination, and
 - (b) lay the report before Parliament.
- (2) For these purposes, in relation to a preventive sentence prisoner –
 - (a) “release from prison” means the prisoner's release on licence under section 28(5) or 32(5) of the 1997 Act or unconditional release under either of those sections as modified by section 31A(4G) of that Act;
 - (b) “licence termination” means an order, under section 31A(2) or (4H) of the 1997 Act, that the licence on which the prisoner was released from prison is to cease to have effect.
- (3) The report must in particular contain details of the steps taken in relation to the following –
 - (a) preventive sentence prisoners who are female;
 - (b) preventive sentence prisoners who at any time in the reporting period were serving a sentence mentioned in paragraph (b) of the definition of preventive sentence (detention for public protection for serious offences committed by those under 18).
- (4) The report must also contain details of the persons the Secretary of State has consulted in the reporting period in relation to the matters mentioned in subsection (1)(a).
- (5) In this section –
 - “the 1997 Act” means the Crime (Sentences) Act 1997;
 - “life sentence” has the meaning given by section 34(2) of the 1997 Act;
 - “preventive sentence” means –

- (a) a sentence of imprisonment or detention in a young offender institution for public protection under section 225 of the Criminal Justice Act 2003 (including one passed as a result of section 219 of the Armed Forces Act 2006), or
 - (b) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 (including one passed as a result of section 221 of the Armed Forces Act 2006);
- “preventive sentence prisoner”, in relation to a reporting period, means a prisoner who—
- (a) was serving one or more preventive sentences at any time in the period, and
 - (b) was not serving any other life sentence at any time in the period;
- “reporting period” means—
- (a) the period beginning with the day on which this section comes into force and ending with the 31 March following that day, and
 - (b) each successive period of 12 months.”

Member's explanatory statement

This new clause requires the Secretary of State to prepare, publish and lay before Parliament annual reports about the steps taken to support the rehabilitation of preventive sentence prisoners and their progress towards release from prison or licence termination.

Clause 53

LORD BELLAMY

Clause 53, page 54, line 14, leave out from beginning to “, for” in line 15 and insert—

- “(1) Section 239 of the Criminal Justice Act 2003 (the Parole Board) is amended as follows.
- (2) In subsection (5)”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 53, page 54, line 21.

LORD BELLAMY

Clause 53, page 54, line 21, at end insert—

- “(2) After subsection (5C) insert—
- “(5D) Rules under subsection (5) may also make provision for functions of the Board (including judicial functions) to be exercised by employees of the Board, other than any function so far as its exercise involves—
- (a) making a public protection decision in relation to a prisoner within the meaning of section 237A(2) of this Act or section 28ZA(2) of the 1997 Act;

- (b) giving a direction for the release of a prisoner on licence under this Chapter or under Chapter 2 of Part 2 of the 1997 Act;
- (c) making a decision or giving a direction under subsection (4) or (4F) of section 31A of the 1997 Act (imprisonment or detention for public protection: termination of licences);
- (d) reconsidering a decision or setting aside a decision or direction under provision made by virtue of subsection (5A).””

Member's explanatory statement

This amendment allows for Parole Board Rules to provide for functions of the Board (including judicial functions) to be exercised by employees of the Board, subject to exceptions.

Clause 54

LORD BELLAMY

Clause 54, page 54, line 23, leave out subsections (1) and (2) and insert –

“(1) Paragraph 2 of Schedule 19 to the Criminal Justice Act 2003 (membership of the Parole Board) is amended as follows.”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 54, page 55, line 1.

LORD BELLAMY

Clause 54, page 54, line 28, leave out paragraph (a)

Member's explanatory statement

This amendment is consequential on my amendment of Clause 54, page 55, line 1.

LORD BELLAMY

Clause 54, page 55, line 1, leave out from beginning to end of line 25 on page 56

Member's explanatory statement

This amendment leaves out provisions relating to the appointment, resignation, dismissal and functions of the chair and vice-chair of the Parole Board.

After Clause 54

LORD JACKSON OF PETERBOROUGH

After Clause 54, insert the following new Clause –

“Parole Board proceedings: enabling public scrutiny

- (1) The Secretary of State has a statutory duty to improve the openness and transparency of the work of the Parole Board and to facilitate a greater public understanding of its statutory framework, procedures and proceedings.
- (2) The Secretary of State must exercise their powers under section 239(5) of the Criminal Justice Act 2003, to require that Parole Board hearings should normally be open to the public unless there are exceptional circumstances for not doing so, as outlined in subsection (5).
- (3) The Secretary of State has the power to formally direct the Chair of the Parole Board to make arrangements for all Parole Board hearings to be heard in public, as set out in Parole Board (Amendment) Rules 2022 (SI 2022/717).
- (4) The Chair of the Parole Board may exercise their right to decline this request and direction from the Secretary of State and must outline their reasons for so doing in writing to the Secretary of State, within 28 days of a written direction being lodged with the Parole Board.
- (5) Such reasons in respect of subsection (4) must be evidence-based and include –
 - (a) where the Chair of the Parole Board believes that such a request and direction would, on the balance of probability and based on evidential information, indicate that the integrity of evidence presented to the Parole Board may be compromised and prevent a true and accurate assessment of the prisoner’s risk being provided by witnesses;
 - (b) that the presence of strong and valid objections from participants, including victims, their families or legal representatives, could jeopardise the cooperation of witnesses, should the hearing be in public; or
 - (c) that to hold a meeting in public might create an unacceptable risk of mental or physical harm to any of the participants.
- (6) The Secretary of State must formally consider any representations from the Chair of the Parole Board in a timely manner and if they choose to disregard the advice of the Chair of the Parole Board, they must outline their reasons within 28 days of receipt of such advice, taking into account all available evidence, including that provided by law enforcement, victims, their families or legal and other representatives.
- (7) The Secretary of State must, in exercising their powers, balance the need for openness, transparency and maintaining public faith in the efficacy of the criminal justice system with a commitment to the operational independence of the Parole Board and its members’ deliberations, and with an obligation to reduce recidivism and support rehabilitation and the prisoner’s ability to resettle in the community upon release from a custodial sentence.

- (8) This section applies only to offences as relevant to public protection decisions and outlined in Schedule 18B Parts 1 and 2 of the Criminal Justice Act 2003.
- (9) The Secretary of State must, within six months of the passing of this Act, and annually thereafter, publish an assessment of the efficacy of the policy of open Parole Board hearings and its impact upon openness, accountability, transparency and public support and whether it meets the interests of the justice test.”

Member's explanatory statement

This amendment seeks to consolidate the statutory instrument laid before Parliament on 30 June 2022 (SI 2022/717) to improve openness, accountability and transparency and public trust in the Parole Board by giving the Secretary of State powers to direct the Board to work to a presumption that such meetings should be routinely open to the public, with exceptions; whilst also safeguarding the Board's independence and the requirement to ensure rehabilitation and resettlement of those prisoners likely to be released from a custodial sentence.

Clause 55

LORD BELLAMY

Clause 55, page 56, line 34, leave out “written”

Member's explanatory statement

This amendment is consequential on new subsection (3A) of section 27A of the Marriage Act 1949, inserted by my amendment of Clause 55, page 57, line 19.

LORD BELLAMY

Clause 55, page 56, line 36, leave out “written”

Member's explanatory statement

This amendment is consequential on new subsection (3A) of section 27A of the Marriage Act 1949, inserted by my amendment of Clause 55, page 57, line 19.

LORD BELLAMY

Clause 55, page 57, line 19, at end insert –

- “(1A) In section 27ZA of the Marriage Act 1949 (circumstances in which a notice of marriage is not to be recorded in the marriage register), in paragraph (a), at the appropriate place insert –
- “section 27A(3A);”.
- (1B) In section 27A of the Marriage Act 1949 (additional information required in certain cases) –
- (a) in subsection (3) (case where marriage intended to be solemnized at detained person's residence) –
- (i) omit the “and” at the end of paragraph (a);

- (ii) at the end of paragraph (b) insert “; and
 - (c) stating whether the person is serving a life sentence and, if so, whether the person is subject to a whole life order.”;
- (b) after subsection (3) insert –
 - “(3A) Where the relevant person is a detained person who is serving a life sentence and is subject to a whole life order, each notice of marriage required by section 27 of this Act must also be accompanied by a statement made by the Secretary of State not more than twenty-one days before the date on which notice of the marriage is given under section 27 stating that the relevant person has the permission required by section 2A(2).”;
 - (c) in subsection (6), for “or (as the case may be) (3)” substitute “, (3) or (3A)”;
 - (d) in subsection (7), before the definition of “medical statement” insert –
 - ““life sentence” and “whole life order” have the meanings given by section 2A(5) of this Act and section 2A(6) (persons treated as being subject to a whole life order) applies for the purposes of this section; and”

Member's explanatory statement

This amendment makes provision about notices of marriage in consequence of Clause 55 (whole life prisoners prohibited from forming a marriage).

Clause 56

LORD BELLAMY

Clause 56, page 57, line 25, leave out “as follows” and insert “in accordance with subsections (2) to (4)”

Member's explanatory statement

This amendment is consequential on my amendment of Clause 56, page 58, line 20.

LORD BELLAMY

Clause 56, page 57, line 35, leave out “written”

Member's explanatory statement

This amendment is consequential on new subsection (5A) of section 19 of the Civil Partnership Act 2004, inserted by my amendment of Clause 56, page 58, line 20.

LORD BELLAMY

Clause 56, page 57, line 38, leave out “written”

Member's explanatory statement

This amendment is consequential on new subsection (5A) of section 19 of the Civil Partnership Act 2004, inserted by my amendment of Clause 56, page 58, line 20.

LORD BELLAMY

Clause 56, page 58, line 20, at end insert –

- “(5) In section 9F of the Civil Partnership Act 2004 (recording of information in the register: compliance with requirements), at the appropriate place insert –
- “section 19(5A);”.
- (6) Section 19 of the Civil Partnership Act 2004 (detained persons) is amended in accordance with subsections (7) to (9).
- (7) In subsection (4) (supporting statement) –
- (a) omit the “and” at the end of paragraph (a);
 - (b) after paragraph (b) insert “, and
 - (c) states whether the person is serving a life sentence and, if so, whether the person is subject to a whole life order.”
- (8) After subsection (5) insert –
- “(5A) Where the detained person is serving a life sentence and is subject to a whole life order, each notice of proposed civil partnership must also be accompanied by a statement made by the Secretary of State not more than 21 days before the day on which the notice is recorded stating that the detained person has the permission required by section 3(1A).
- (5B) The fact that the registration authority to whom a notice of proposed civil partnership is given has received a statement under subsection (5A) must be recorded in the register.”
- (9) After subsection (7) insert –
- “(7A) “Life sentence” and “whole life order” have the meanings given by section 3(3) of this Act and section 3(4) (persons treated as being subject to a whole life order) applies for the purposes of this section.””

Member's explanatory statement

This amendment makes provision about notices of proposed civil partnership in consequence of Clause 56 (whole life prisoners prohibited from forming a civil partnership).

Victims and Prisoners Bill

AMENDMENTS
TO BE MOVED
ON REPORT

[Supplementary to the Revised Second Marshalled List]

23 April 2024

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS