

Armed Forces Commissioner Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 1

BARONESS SMITH OF NEWNHAM

- 1** Clause 1, page 1, line 10, after “law” insert “, individuals engaged in the recruitment process for the armed forces (as defined by section *(Use of the Commissioner)*),”

LORD COAKER

- 2** Clause 1, page 1, line 12, leave out “340IA(8)” and insert “340IA(3A)”

Member's explanatory statement

This amendment is consequential on my amendments of clause 4.

BARONESS GOLDIE
THE EARL OF MINTO

- 3** Clause 1, page 1, line 15, at end insert —

“(aa) to investigate concerns raised by a whistleblower in relation to the welfare of persons subject to service law and relevant family members, and”

Member's explanatory statement

This amendment would introduce a whistleblowing function into the functions of the Commissioner.

BARONESS SMITH OF NEWNHAM

4 Clause 1, page 2, line 2, at end insert —

“(5A) The Commissioner must —

- (a) uphold and give due regard to the principles and commitments of the Armed Forces Covenant when carrying out its functions;
- (b) monitor and report on compliance with the principles and commitments of the Armed Forces Covenant in all areas of its responsibility.”

Member's explanatory statement

This amendment would require the Commissioner to uphold and abide by the principles of the Armed Forces Covenant when carrying out its functions.

BARONESS GOLDIE
THE EARL OF MINTO

5 Clause 1, page 2, line 4, at end insert —

“(7) For the purposes of this section a person (“P”) is a “whistleblower” if —

- (a) P is subject to service law or is a relevant family member,
- (b) P raises a concern that is about another person subject to service law,
- (c) the concern raised by P relates to general service welfare matters (as defined by section 340IA(2)), and
- (d) the concern raised by P does not relate to the conditions of service of persons subject to service law.”

Member's explanatory statement

This amendment defines whistleblowers for the purposes of the other amendment in Baroness Goldie’s name to Clause 1.

After Clause 1

BARONESS SMITH OF NEWNHAM
BARONESS BENNETT OF MANOR CASTLE

6 After Clause 1, insert the following new Clause —

“Use of the Commissioner

- (1) An individual engaging in any element of the recruitment process, but not before attendance at an assessment centre, must have access to the Commissioner for its intended purposes.
- (2) Subsection (1) includes individuals which have —
 - (a) engaged in the medical process;
 - (b) engaged in any physical or cognitive assessment;
 - (c) fulfilled an overnight stay requirement;

(d) engaged in training.”

Member's explanatory statement

This amendment would allow individuals who have engaged in the armed forces recruitment process including and following attendance at an assessment centre to have access to the functions of the Armed Forces Commissioner.

Clause 4

LORD COAKER

7 Clause 4, page 3, line 3, at end insert —

“(3A) “Relevant family members” means such descriptions of persons connected with a person subject to service law as may be specified.”

Member's explanatory statement

This amendment and my other amendments of clause 4 provide for regulations which specify the meaning of “relevant family members” for the purposes of the Commissioner’s work to be subject to the affirmative Parliamentary procedure.

BARONESS BENNETT OF MANOR CASTLE

8★ Clause 4, page 3, line 28, at end insert —

“(7A) The Commissioner must where relevant, with particular reference to service people and relevant family members under the age of 18, consult with the Children’s Commissioner and other relevant departments, bodies and individuals with particular responsibility for child welfare.”

LORD COAKER

9 Clause 4, page 3, leave out lines 31 to 33

Member's explanatory statement

See the explanatory statement to my amendment of clause 4, page 3, line 3.

BARONESS GOLDIE
THE EARL OF MINTO

10 Clause 4, page 4, line 38, at end insert —

“(7A) Nothing in this section negates the authority of the Commanding Officer of service premises in relation to access to such service premises.”

Member's explanatory statement

This amendment seeks to ensure that the Commanding Officers of service premises retain ultimate authority relating to access to those premises.

LORD COAKER

- 11 Clause 4, page 6, line 5, leave out “340IA(4)(e)” and insert “340IA(3A) or (4)(e)”

Member's explanatory statement

See the explanatory statement to my amendment of clause 4, page 3, line 3.

After Clause 4

BARONESS SMITH OF NEWNHAM

- 12 After Clause 4, insert the following new Clause—

“Relevant family members

- (1) A person is a “relevant family member” for the purposes of section 365AA and section 340IA of the Armed Forces Act 2006 where, in relation to a person subject to service law (A), the person is any of the following—
 - (a) A’s spouse or civil partner;
 - (b) a child of A or of A’s spouse or civil partner;
 - (c) a person whose child is A;
 - (d) a brother or sister, or step-brother or step-sister of A;
 - (e) a relative of A or of A’s spouse or civil partner where the relative is one of the following—
 - (i) a member of A’s household,
 - (ii) wholly or mainly financially dependent on A or A’s spouse or civil partner, or
 - (iii) someone for whom A or A’s spouse or civil partner has assumed regular and substantial caring responsibilities;
 - (f) where A is deceased, anyone who was a relevant family member of A under paragraphs (a) to (e) immediately before A’s death.
- (2) In this section—

“child” means a person (C) who meets one or more of the following conditions in relation to another person (P)—

 - (a) P is the parent or step-parent of C;
 - (b) P has or had parental responsibility for C within the meaning of section 3 of the Children Act 1989;
 - (c) C, while under the age of 18 years, is or was—
 - (i) wholly or mainly financially dependent on P, or
 - (ii) someone for whom P has or had assumed regular and substantial caring responsibilities;

“relative”, in relation to A or A’s spouse or civil partner, means any of the following—

 - (a) a parent or step-parent of A’s spouse or civil partner;
 - (b) a grandparent, step-grandparent, great grand-parent, step-great-grandparent, grandchild, step-grandchild,

- great-grandchild or step-great-grandchild of A or of A's spouse or civil partner;
 - (c) the brother or sister, or step-brother or step-sister of A's spouse or civil partner;
 - (d) the uncle, great-uncle, aunt, great-aunt, niece, great-niece, nephew, great-nephew, or first cousin (including by marriage or civil partnership) of A or of A's spouse or civil partner.
- (3) For the purposes of this section, references to A's spouse or civil partner includes —
- (a) a person whose relationship with A is akin to a relationship between spouses or civil partners;
 - (b) a former spouse or civil partner of a person whose relationship with A was formerly akin to a relationship between spouses or civil partners.
- (4) For the purposes of paragraph (1)(e), references to a person being a member of A's household includes references to a person who would be living in the same household as A but for the fact that A is temporarily living at another address for service reasons."

Member's explanatory statement

This amendment specifies those persons who are relevant family members of persons subject to service law for the purposes of section 365AA and section 340IA of the Armed Forces Act 2006.

Schedule 1

LORD BEAMISH

13 Schedule 1, page 8, line 16, at end insert —

- "3A (1) The Secretary of State must not make a recommendation to His Majesty under paragraph 3 unless the recommendation has been laid before and approved by the relevant Parliamentary Committee in both Houses.
- (2) References in this paragraph to the relevant Parliamentary Committees are references to —
- (a) both the Defence Committee in the House of Commons and the Committee charged with this responsibility in the House of Lords, or
 - (b) the Joint Committee of both Houses which —
 - (i) is charged with responsibility by those Houses for the purposes of this paragraph, and
 - (ii) has notified the Secretary of State that it is a relevant Parliamentary Committee for those purposes."

Member's explanatory statement

This amendment would mean the Secretary of State could not recommend a candidate to be appointed Armed Forces Commissioner to His Majesty until relevant select committees in both Houses of Parliament have approved that candidate.

LORD BEAMISH

- 14 Schedule 1, page 10, line 32, leave out “may” and insert “must”

Member's explanatory statement

This amendment would require the Secretary of State to provide financial assistance to the Commissioner.

Schedule 2

LORD COAKER

- 15 Schedule 2, page 14, line 27, at end insert—

“21A In section 340N—

- (a) in subsection (1)—
 - (i) in the words before paragraph (a), after “the communication” insert “(“P”);
 - (ii) in each of paragraphs (a) and (b), for “his or her” substitute “P’s”;
 - (iii) in paragraph (b), for “the person” substitute “P”;
 - (iv) in the words after paragraph (b), for “officer” substitute “person”;
- (b) in subsection (2)—
 - (i) for “officer”, in each place, substitute “person”;
 - (ii) for “by the person” substitute “by P”;
- (c) in subsection (3)—
 - (i) in the words before paragraph (a), for “officer” substitute “person”;
 - (ii) in each of paragraphs (a), (b) and (c), for “the person” substitute “P”.”

Member's explanatory statement

This amendment makes provision that is consequential on clause 3.

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