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Warfare, Not Lawfare

A New Legal Framework for Military Operations



Alexander Gray

Foreword by the Rt Hon. Sir David Davis KCB MP



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About the author



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Foreword



Democratic nations need their armed forces to act decisively in defence of national security. But in recent years the legal frameworks governing military operations have increasingly failed to reflect the realities of armed conflict.

International humanitarian law applies where normal civil mechanisms have broken down. Armed forces are deployed only when civilian agencies cannot cope—whether at home or overseas. In those circumstances, policing laws are not fit for purpose, and this new Military Operations Bill makes clear that operations should be judged under the law of armed conflict.

Service personnel are asked to make decisions in conditions of danger and uncertainty, often under intense time pressure. If those decisions are later judged against legal standards which do not match up to the operational environment, the result can be years of legal jeopardy for those who acted lawfully and hesitation within the chain of command.

This is a concern not only for the individuals concerned, but for the effectiveness and credibility of the armed forces as a whole. Democracies ask a great deal of the men and women they send into harm's way. They must hold them to the highest standards. But they must also recognise the realities of combat operations and provide clarity, fairness, and confidence in the legal framework under which they operate.

The Military Operations Bill recommended in this paper would ensure this. Its central purpose is to distinguish clearly between genuine wrongdoing, which must always be investigated, and legal processes that risk becoming detached from operational reality. In doing so, it rightly reaffirms the proper place of international humanitarian law as the framework specifically designed for armed conflict.

A serious country owes its armed forces the assurance that the state will recognise that its duty toward them does not end when the operation concludes or the headlines move on.

—The Rt Hon. Sir David Davis KCB MP

Endorsements



"This important draft Bill takes a big step towards resolving the most flagrant injustice of the modern British state: the pursuit of British Army veterans and serving personnel for actions taken, in the line of duty and under orders, in defence of the British people.

Reform UK will institute a total bar on the prosecutions of British Army veterans from the Northern Ireland Troubles.

I welcome the articulation in this Bill of the principle of parliamentary sovereignty. I also strongly endorse the recognition that the interpretation of the law of armed conflict—the customary understanding between nations about acceptable conduct in war, sometimes misleadingly described as 'international law'—rests not with the courts but with the chain of command, and ultimately with the Ministers who send Armed Forces personnel into harm's way.

I should make clear that Reform UK would not need to make use of the formal 'statement of incompatibility' with the European Convention on Human Rights, which the Bill would require, because we will leave the ECHR altogether and repeal the Human Rights Act."

—Danny Kruger MBE MP

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I would also like to thank Sir Michael Craig-Cooper CBE TD DL as well as the team at the Prosperity Institute for their support, in particular Damien Shannon, Fred de Fossard, and Rhys Lavery, whose work, comments, and assistance were invaluable in bringing the paper to completion.

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Executive summary



For two decades, Britain's Armed Forces and veterans have been increasingly entangled in repeated legal claims and investigations regarding operations both overseas and in Northern Ireland. Veterans have faced multiple, and often prolonged inquiries or lawsuits long after the events to which they relate. In many instances, these investigations turned up no new evidence or showed the allegations unfounded. Such meretricious claims took a huge toll on veterans hounded through courts for doing their duty. This has become a major concern across political parties and there is now broad agreement that unfounded or repetitive claims should not be allowed to torment those who served honourably.

This is not only a historical problem. Such investigations and the fear of retrospective legal action are now having direct operational consequences, including the resignation of experienced special forces personnel, increasingly risk-averse behaviour on operations, and difficulty in recruitment.¹ Senior serving and retired military figures have warned publicly that troops now feel they must “consider not only the enemy in front of them but the lawyer behind them”. This undermines initiative, confidence, and effectiveness and poses a risk to operational capability. It is a threat to national security.

The Military Operations Bill we propose is designed to end these injustices and the operational damage they inflict by recalibrating the legal system's handling of allegations and claims of this kind. The central aim is to protect serving and former personnel from protracted or unfair legal action, without weakening accountability for serious wrongdoing. The Bill reasserts international humanitarian law (IHL)—the law of armed conflict—rather than peacetime human rights law as the sole governing framework during active military operations, removing a past source of legal complications and constraints.

It is beyond the scope of this paper to take a position on whether the United Kingdom should remain a signatory to the European Convention on Human Rights (ECHR). Politicians of all parties can reasonably come to different views on that question. It is, however, clear that the European Court of Human Rights (ECtHR) claims that its jurisdiction extends to wherever in the world a signatory state's armed forces exert operational control over combat zones. This has required judges to review decisions taken in the fog of war and determine their compatibility with the ECHR. This is corrosive to the operational efficiency and effectiveness of the Armed Forces.

The Bill we propose is incompatible with the ECHR since its very object is to prevent that instrument from having any supervisory effects over the use of force. Recognising that any given government may nonetheless wish to remain a signatory to the convention, our Bill is constructed in a way which would work regardless of whether or not HM Government decided the UK should remain a signatory.

| 1 Tom Cotterill, “SAS soldiers resign over war crime ‘witch hunts’”, *The Telegraph*, 20 April 2026. ([link](#))

Key provisions of the Bill include:

- **Ministerial authorisation of force:** The Bill allows a senior minister to authorise the use of force in military operations, making lawful under domestic law actions taken under that authorisation and shielding personnel from civil or criminal liability when acting in accordance with IHL. This protection does not apply to breaches (such as war crimes). Courts may not question the authorisation, thus leaving accountability with the chain of command and government rather than with the courts.
- **Curtailing lawfare:** The Bill sets high thresholds and firm time limits for investigation and prosecution, requiring compelling new evidence and senior approval before any case can begin or be reopened. Together, these measures are intended to prevent repeated or prolonged investigation, ensuring allegations are dealt with promptly and decisively rather than resurfacing years later without new evidence.
- **Expert Military Panel:** The Bill requires coroners to consult an Expert Military Panel in combat-related deaths and protects service personnel from self-incrimination, ensuring inquiries are informed by military expertise and remain focused on fact-finding rather than retrospective blame.
- **Support and safeguards for service personnel:** The Bill guarantees full legal aid for serving and former personnel facing proceedings linked to military operations, provides for compensation where investigations are excessively prolonged, and requires cases involving suspension to be resolved swiftly. Together, these measures aim to ensure fair treatment, to prevent open-ended uncertainty, and to reflect the state's duty of care to those who serve.

1. Introduction



Since the Human Rights Act (HRA 1998) was enacted in 1998, **the judiciary has expanded its reach into territory that should remain that of the elected government: the conduct of military operations.** Courts once rightly reluctant to second-guess the realities of the battlefield are now invited to examine, years later and with perfect hindsight, commanders' and soldiers' training, equipment, preparation, and even the conduct of particular campaigns. That shift carries a heavy price—not just in legal fees and administrative burden, but in the damage done to operational confidence, to the fighting ethos, and to the moral contract between the state and those it sends to fight in its name. **When commanders know their judgements may be reconstructed in a civilian courtroom long after the event, the rational response is caution, process, and defensiveness—exactly the mindset least suited to lethal, fast-moving environments.**

Two legal mechanisms have powered this mission creep. The first is the **extraterritorial application of the ECHR to overseas operations**, including conflict far removed from the stable European conditions it was designed to govern. The second is **the transplantation of civilian standards of negligence (built for controlled, homefront settings) into conditions of combat, where decisions are made under pressure of time, imperfect information, and hostile action.** Neither development reflects sound legal method, and both risk distorting the constitutional balance by shifting practical authority over war from the Executive and Parliament to the judiciary. They also create acute uncertainty for the Armed Forces by superimposing human rights duties onto international humanitarian law (the specialist regime for armed conflict), leaving those on operations unclear under which they will be judged.

The predictable consequence has been **a spike in litigation against the Ministry of Defence.** Even when allegations collapse, **the process itself can be punitive:** repeated investigation, years of unresolved legal jeopardy, and a corrosive sense that service is met with suspicion rather than trust.

It is therefore no surprise that leaving or amending the ECHR is increasingly being advocated across the political divide. Though there are other factors at play, the toll the ECHR has taken on our Armed Forces has aroused particularly strong feelings. Leaving it and repealing the HRA 1998 would therefore be a beneficial first step in putting an end to this untenable situation.² But the Bill includes clauses intended to make it effective whether or not the United Kingdom remains a signatory to the convention and repeals the HRA.

In any event, the Government should bring forward a targeted Military Operations Bill to restore the balance in wartime governance. To that end, we have produced a draft Bill alongside this paper, attached at Annex A. This Bill maintains rigorous accountability for wrongdoing without allowing the legal system to morph into a tool of lawfare that incentivises speculative suits, forces

² The Prosperity Institute has previously published papers and draft legislation on this matter. See Suella Braverman and Guy Dampier, *Why and How to Leave the ECHR: Roadmap to Freedom* (London: Prosperity Institute, 2025) ([link](#)); Damien Shannon, *Leaving the European Convention on Human Rights: A Draft Bill* (London: Prosperity Institute, 2026) ([link](#)).

commanders into excessive caution, or effectively transfers warfighting authority from elected leaders to the courts. It reaffirms that while our Armed Forces remain bound by law, the law must respect the realities of combat and the constitutional primacy of government and commanders in directing military operations.

2. Context and background



The vexatious claims problem

Since 2000, Britain's military has become increasingly entangled in legal action. Following the Iraq War, a small number of (now infamous) law firms brought a large volume of dubious claims alleging systemic human rights abuses by British troops. The Government eventually shut down the Iraq Historic Allegations Team and paid damages to serving and former personnel for the stress caused by prolonged and unwarranted investigations. Similar allegations arose in Afghanistan.

The overwhelming majority proved unsubstantiated. The MoD was repeatedly forced onto the defensive, sometimes settling claims to avoid years of costly litigation.³

Given the legacy of Northern Ireland, it is on the home front that these issues have been thorniest. Under the influence of evolving human rights jurisprudence, notably the *McKerr* line of cases, deaths from decades past have been reexamined, often with little or no new evidence.⁴ This has proven deeply controversial: veterans are being selectively pursued through asymmetric legal processes. The Legacy Act 2023 sought to draw a line under this cycle through conditional immunity but has itself been stalled by legal challenge under ECHR obligations. **The cumulative effect has been repeated investigation and reinvestigation which has consumed vast resources, damaged morale, and corroded trust between the state and those who served it.**

The legal tension between human rights law and IHL

Under the HRA 1998, domestic courts are required to apply the ECHR to overseas military operations once Convention jurisdiction is engaged. In *Al-Skeini v United Kingdom*, the ECtHR held that civilians in areas abroad where the UK exercised authority and control fell within the UK's jurisdiction under the Convention.⁵ Subsequently, in *Smith v Ministry of Defence* and related cases, the Supreme Court confirmed that troops deployed overseas likewise fell under the jurisdiction for human rights purposes.⁶ As a result, the MoD was held to owe obligations under Article 2, including the protection of life through equipment, training, and operational planning, and potentially the same duties towards civilians encountered during operations.

These developments meant that even during armed conflict, Britain was required to apply peacetime human rights standards alongside IHL. This generated extensive procedural obligations, notably the requirement under Article 2 to conduct effective and often detailed investigations into any use of lethal force, even where the force in question was lawful under the law of armed conflict. It also enabled claimants to pursue civil proceedings alleging negligence in the planning or conduct of military operations, including challenges to procurement and force protection decisions, such as those arising from the use of Snatch Land Rovers in Iraq.

| 3 Michael Giannangeli, "British taxpayers paying millions a week to MoD", *Daily Express*, 12 January 2014. ([link](#))

| 4 This was a case in which, in 1982, Gervaise McKerr and two other unarmed men were shot dead in their car by police in Northern Ireland. *McKerr v United Kingdom* App no 2883/95 (ECtHR, 4 May 2001). ([link](#))

| 5 *Al-Skeini v United Kingdom* App no. 55721/07 (ECtHR, 7 July 2011). ([link](#))

| 6 *Smith and others (FC) (Appellants) v The Ministry of Defence (Respondent)* [2013] UKSC 41. ([link](#))

This legal framework is ill-suited to the realities of combat. Judicial assessment conducted years after the event, applying standards developed for peacetime policing and governance, led courts to scrutinise, retrospectively, split-second decisions taken in conditions of extreme uncertainty and risk. Nevertheless, as long as the HRA 1998 applies, domestic courts are required to entertain such claims.

Our proposed Military Operations Bill is a direct response to this situation. It expressly reaffirms IHL as the *lex specialis* governing military operations.⁷ In doing so, the Bill restores clarity by ensuring that conduct in armed conflict is regulated according to the legal framework specifically designed for warfare, while preserving criminal liability for serious breaches of IHL.

Wolfson Review

The 2025 Wolfson report took the view that to implement measures such as the Military Operations Bill without constant legal friction, Britain would have to withdraw from the ECHR since any domestic law preventing certain investigations or limiting liability could itself be taken as a violation of the Convention. For instance, families of the deceased could claim Britain was not conducting a proper Article 2 investigation. Leaving the Convention system and repealing the HRA would ensure that this external check was removed.⁸ Even short of this ideal, the Military Operations Bill can state principles such as that “courts shall not entertain proceedings questioning X”.

Political impetus

The protection of troops from vexatious litigation has been a repeated pledge from politicians for some time. There is a recognition that public opinion is sympathetic to veterans in these matters and is disturbed by stories of soldiers facing repeated investigations.⁹

7 *Lex specialis* is derived from the legal maxim *lex specialis derogat legi generali*, which means that more specific rules will prevail over more general rules. The term is frequently used in describing the relationship between international humanitarian law and international human rights law.

8 The Prosperity Institute's work on how to leave the ECHR and repeal the HRA provides the legal mechanism for it in Shannon, *Leaving the European Convention on Human Rights: A Draft Bill*.

9 Connor Ibbetson, “Northern Ireland: Britons want to see immunity for British soldiers, but not loyalists or the IRA”, *YouGov*, 22 June 2021. ([link](#))

3. What the Bill does



Ministerial authorisation of the use of force

The Bill provides for a Minister to issue a written authorisation for the use of military force, defining the scope of the authorisation (including, where relevant, the operation, geography, duration, and personnel covered). Force used under that authorisation and in compliance with IHL is treated as lawful for all purposes. In consequence, **no person incurs criminal or civil liability for authorised uses of force, subject to specified exceptions for serious breaches of IHL.**

Retrospective authorisations

The Bill allows the Minister **to issue a certificate deeming that past uses of force are to be treated as authorised under the Act.** This is specifically to cover historical operations (Iraq, Afghanistan, Northern Ireland) so that ongoing or future legal actions about them can be halted. For example, the Government could retrospectively authorise all forces' actions in Iraq between 2003 and 2009, effectively nullifying pending civil claims or investigations (as long as they do not involve alleged war crimes).

Non-justiciability clause

Clause 4 provides that **no court can question the Minister's decision to authorise an operation.** This avoids legal attacks from pressure groups seeking judicial review. Such challenges, if successful, would invite courts back into military decisions, which the Bill explicitly seeks to avoid. The Bill thereby affirms that **the decision is a matter of high policy and national security**, ineligible for judicial review, returning to the courts' historical view of war prerogatives.

Parliamentary notification

After authorisation is issued, **the Bill requires the Minister to notify Parliament as soon as is compatible with operational security.** If the Commons is unsatisfied, it is open to it to resolve that the authorisation should be withdrawn. The Minister is not legally bound to cancel it but must formally respond. This mechanism is akin to the War Powers debates giving Parliament a say, at least after the fact.

Tight controls on investigations and prosecutions

The Bill sets up a regime to ensure that any criminal examination of military actions is necessary, evidence-based, and timely.

Threshold to investigate

Before police investigate an incident, a senior prosecutor must determine that there is a credible case to answer. They must examine existing material (e.g. after-action reports, any prior investigation, available witness statements). **If they have no more than a single uncorroborated claim and no strong evidence, they should not proceed.** This prevents "fishing expeditions"

and filters out politically motivated, unreliably sourced complaints.

No repeat investigations

The Bill precludes re-opening cases in the absence of new evidence (strictly defined). Even then, that new evidence must be so compelling that it would likely have originally led to a different result and must have been unavailable at the time.

Consent of leadership

For any investigation or prosecution of a “relevant offence on active service”, consent is required from:

- The Attorney General
- The Chief of the Defence Staff
- The Director of Public Prosecutions

Requiring all three ensures **a broad perspective: legal, military, and public interest**. If a case lacks merit or is not in the public interest, any of the three has the power to veto it. This high bar underscores that pursuing a soldier is momentous and should happen only if there is consensus.

Time limits

The Bill mandates that any investigation should take place within a year after the action in question has ended and should last no more than two years. An extension, if absolutely necessary, would need consent from the three officials listed above.

Handling of inquests and inquiries

Public inquiries

The Bill adds to the Inquiries Act 2005 a requirement that any such inquiry into operational military conduct may proceed only with consent from the same three officials referred to above.

Coroners' inquests

The Bill aims to keep inquests fact-focused and informed. **Requiring the coroner to consult an Expert Military Panel (see below) ensures the official record includes the context of the conflict.** If a coroner were to consider a finding that a death was “unlawful killing” (potentially implying blame on a soldier), the Panel’s view on whether the soldier acted as per training and threat perception would be important and should be given weight.

Self-incrimination protection

The Bill extends self-incrimination protections to non-court settings. It prevents lawyers attempting to fish for cases by inducing soldiers to say something that then could be used to prosecute them.

Expert Military Panel

Composition

The expert military panel would be composed of three members: **a Major General (or equivalent) as chair, and two others of Lieutenant Colonel rank or below**, all with significant and relevant

operational experience appointed by the Crown. They are formally independent (though likely serving or recently retired officers).

Function

The Expert Military Panel would stand ready to be consulted by courts, inquests, or even the investigators/prosecutors, on matters of military expertise. For example, if a case deals with a decision to open fire, the panel can brief the court on rules of engagement, threat levels, what a reasonable soldier might have perceived, prevailing operational conditions and so on. The Bill mandates courts to seek their input on “operational military conditions” and legality of force. Judges *must* consider what they say, effectively injecting professional military judgement into the legal fact-finding.

Jurisdiction decentralisation

The Bill ensures that **any civil lawsuits about military operations will be heard in the High Court and suggests that criminal trials in civilian courts should be heard by judges with appropriate experience.** This reduces the risk of stray decisions by local courts unfamiliar with these issues. Concentrating cases in one court system helps consistency throughout the United Kingdom.

Other provisions

Legal aid and support

By removing means-testing, **any accused soldier gets MoD-funded lawyers.** This acknowledges that defending a case (especially a complex war-related one) can be hugely expensive and stressful. The state will bear that cost, as part of its obligation to those who serve.

Compensation scheme

Such a scheme will ensure that someone cleared after years of doubt may be entitled to compensation.

Suspension and career impact

The speedy resolution rule (i.e. six months target for cases involving suspended personnel) is about maintaining fairness and operational effectiveness. It would not be desirable to have skilled soldiers idle for years or leaving the service due to uncertainty. **If the system cannot make a case in half a year, the person goes back to work.**

Overriding other laws

Clause 25 specifies that **the Act will prevail even if inconsistent with other statutes.** It also amends the International Criminal Court Act to ensure that **troops cannot be surrendered to the ICC in relation to a case covered by the Act's protections.** Normally, the ICC intervenes if a state is “unwilling or unable” to prosecute serious crimes. Since this Act does allow prosecution of war crimes, Britain would argue it is handling these properly and the ICC should not have a standing.

Summary

In summary, the Bill provides for government to authorise operations and remain democratically

accountable; for the police and prosecutors to handle wrongdoing swiftly and internally with high oversight; and for courts to convict genuine criminals and to provide expert-informed judgements when needed, but not to second-guess strategic decisions or IHL-compliant actions.

Decisions about war and peace are traditionally executive (Crown) prerogatives, though regrettably, recent practice has been to seek Parliament's assent for major deployments (e.g. the 2013 Syria vote). **The Bill does not infringe on the prerogative as such; it explicitly provides for this. Ministers still decide to deploy force under the prerogative but will now back that decision with an authorisation under this Act to activate the legal protections.** This is a blend of prerogative and statute which demonstrates that upholding the one is consistent with using the other to regulate undesirable consequences.

4. Implications



The Bill carries several implications:

For service personnel

The immediate implication will be **a boost in confidence and morale**. Knowing that the Government will defend their rights—to the point of changing the law to protect them—can reassure troops that they will not be penalised for doing their duty. This could aid retention. Concerns about legal witch-hunts have been cited as disincentives to service.¹⁰ Serving soldiers will still be trained rigorously in IHL and their rules of engagement which will be much clarified.

Human rights and international perception

This Bill would signal **a more assertive national stance in military affairs** and benefit our international standing.

Northern Ireland and reconciliation

Specifically for Northern Ireland, **the Bill would protect former soldiers from future Troubles-related prosecutions and inquests**, thus achieving what was attempted under the Legacy Act 2023.

In summary, the Military Operations Bill would ensure that:

- troops acting in accordance with the law of armed conflict are protected from legal harassment;
- those breaching it still face justice; and
- decisions in war are recognised as the remit of elected governments and military leaders, with courts playing a supporting rather than a supplanting role.

¹⁰ UK Parliament, Defence Select Committee, *Drawing a line: Protecting veterans by a Statute of Limitations*, seventeenth report of session 2017–19, 16 July 2019. ([link](#))

5. Conclusion



The case for reform is both practical and constitutional. Practically, the present system has made possible the prolonged and repetitive processes which punish the innocent as well as the guilty, damaging morale, retention, and operational effectiveness. Constitutionally, it has helped shift the locus of authority over war from elected government and military command towards retrospective judicial reconstruction through the misapplication of peacetime human rights standards to armed conflict.

The Bill responds by re-establishing international humanitarian law as the governing framework for military operations, tightening the conditions under which cases may be initiated or reopened, and ensuring that any necessary scrutiny is underpinned by expert military judgement. It thus protects service personnel who act lawfully but also preserves the capacity to pursue genuine war crimes.

Implemented in a legal environment that prevents external human rights jurisprudence from reintroducing the same pressures by another route, the Bill would mark a decisive restoration of democratic and operational primacy in matters of national defence.

Annex A: The Bill

Military Operations Bill

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A BILL

TO

Make provision about the authorisation and use of force during or in connection with military operations; to make provision about civil and criminal proceedings, inquests and investigations relating to military operations; to make provision about certain inquiries relating to the use of force during military operations; and for connected purposes.

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1: INTRODUCTION

1 Affirmation of the essential principles of the operation of the military

- (1) The purpose of this Act is to reaffirm that—
 - (a) the Minister, the Defence Council and the Chief of Defence Staff are responsible, on behalf of His Majesty, for establishing the rules of engagement to be followed in active operations, and the design, operational effectiveness and objectives of conduct undertaken on active service by military personnel;
 - (b) military personnel are directed by their commanding officer at each level;
 - (c) military personnel use force in armed conflict (whether of an international or non-international character) that must, of necessity, be regulated exclusively by international humanitarian law, rather than the general law governing the use of force; and
 - (d) save where international humanitarian law is contravened, no court or tribunal shall have any jurisdiction to question the lawfulness of the use of force by military personnel on active service that is authorised by the Minister.
- (2) To advance that purpose, this Act makes provision for the use of force authorised by the Minister to be regulated exclusively by international humanitarian law.
- (3) Any provision made by, or by virtue, of this Act shall be construed so as to further the purpose described in subsection (1) and in a manner which is, so far as possible, compatible with subsection (2).

PART 2: LAWFULNESS OF USE OF FORCE

2 Authorisation of the use of force

- (1) For the purposes of this Act, the use of force by military personnel is authorised where it is permitted by an authorisation granted by the Minister under subsection (2).
- (2) The Minister may grant an authorisation where he is satisfied that the use of force should be regulated exclusively by international humanitarian law (whether or not such use of such force would otherwise be so regulated).

- (3) The Minister may certify that any use of force before the passage of this Act by military personnel when acting in, or in connection with, operations on active service, shall be treated as if it was authorised under subsection (1), if the Minister is satisfied that the use of force should have been regulated exclusively by international humanitarian law (whether or not the use of such force was otherwise so regulated).

3 Authorisation of the use of force: further provision

- (1) An authorisation shall not be granted except –
 - (a) in writing, under the hand of the Minister; or
 - (b) in an urgent case, by the Minister otherwise than in writing, in which case the authorisation shall be reduced to writing as soon as reasonably practicable after it is given and approved under the hand of the Minister.
- (2) Where an authorisation is granted pursuant to subsection (1)(b), a failure to reduce it to writing shall not affect the validity of the authorisation.
- (3) Without prejudice to the generality of the Minister’s power to grant an authorisation, an authorisation –
 - (a) may specify that the matters to which it relates shall be treated for all purposes (including for the purpose of the offences specified in section 5(3)) as an armed conflict of an international character or an armed conflict not of an international character (as the case may be), whether or not those matters would otherwise be so treated;
 - (b) may relate to an armed conflict generally, a particular act or acts, to acts of a description specified in the authorisation, or to acts undertaken in the course of an operation so specified;
 - (c) may apply to all military personnel, particular classes of military personnel specified in the authorisation, or to a particular person or persons;
 - (d) may apply in all places, or in any area specified in the authorisation (whether within the United Kingdom or otherwise); and
 - (e) may be subject to conditions specified in the authorisation.
- (4) Without prejudice to the effect of an authorisation when it is in force, the Minister may, at any time, vary or revoke an authorisation (and subsection (1) shall apply to any variation or revocation of an authorisation as it does to the grant of an authorisation).
- (5) An authorisation has effect until –
 - (a) it expires in accordance with terms specified in the authorisation; or
 - (b) if no such terms are specified, such time as it may be revoked by the Minister under subsection (4).
- (6) The Minister shall provide a copy of any authorisation (including any variation or revocation of an authorisation) to the Panel as soon as reasonably practicable after it is granted or made.
- (7) Unless the Minister considers that it would be contrary to the interests of national security to do so, a copy of an authorisation (including any variation or revocation of an authorisation) shall be laid before Parliament after it is granted or made.
- (8) Where the House of Commons resolves that an authorisation should be revoked, the Minister must make a statement on whether to accept that resolution, or explain why a revocation is not necessary.
- (9) This section applies to certificates issued under section 2(3) as it does to authorisations issued under section 2(2), save that –
 - (a) subsection (1)(b) shall not apply to any such certificate; and
 - (b) a certificate may not be revoked or varied so as to reduce its scope.

4 Non-justiciability of authorisations

The validity of any authorisation granted or certificate issued by the Minister (or any variation or revocation of such an authorisation or certificate), and purporting to be made in exercise of the powers conferred by sections 2 and 3 of this Act, shall not be called into question in any legal proceedings whatsoever.

5 General effect of authorisation

- (1) Where the use of force by military personnel (including the use of force before this Act was passed) is authorised, the use of force shall, subject to the provisions of this section, be treated as lawful for all purposes.
- (2) Accordingly, subject to the provisions of this section, no person shall be liable under the criminal or civil law of any part of the United Kingdom for the use of force that is authorised.
- (3) Where the use of force is authorised, it shall nonetheless be unlawful for military personnel to use force in such a way as to amount to the commission of an offence under –
 - (a) section 1 of the Geneva Conventions Act 1957;
 - (b) section 1 of the Genocide Act 1969 (before its repeal);
 - (c) section 2(1)(a) of the Chemical Weapons Act 1996;
 - (d) section 2(1)(a) of the Landmines Act 1998;
 - (e) sections 51-52 and 58-59 of the ICC Act;
 - (f) sections 1-2 of the International Criminal Court (Scotland) Act 2001;
 - (g) Part 1 of AFA 2006;
 - (h) section 2(1)(a) of the Cluster Munitions (Prohibition) Act 2010; or
 - (i) an ancillary offence which relates to an offence under paragraphs (a)-(h) of this subsection.
- (4) For the purposes of subsection (3)(g), references to an offence under Part 1 of AFA 2006 do not include an offence under section 42 of AFA 2006 unless the act that is, or would be, punishable by the law of England and Wales is an offence under a provision of an enactment listed in subsection (3)(a)-(f) or (g), or an ancillary offence relating to such an offence.
- (5) The Minister may, by regulations, amend the list of enactments in subsection (3) in consequence of His Majesty's Government becoming, or ceasing to be party to arrangements constituting international humanitarian law.
- (6) The fact that the use of force is not authorised does not of itself render the use of force unlawful.

PART 3: CRIMINAL INVESTIGATIONS AND PROCEEDINGS

6 Effect of authorisation on criminal proceedings and criminal investigations

Where the use of force by military personnel was, or may have been authorised, no criminal investigation or criminal proceedings may be initiated or continued against current or former military personnel except in accordance with this Part.

Commencement of criminal investigations and proceedings

7 Threshold for undertaking significant steps in criminal investigations against military personnel

- (1) No significant step may be undertaken in a criminal investigation in relation to the use of force by a person who at the time of the alleged offence constituted military personnel unless the prosecuting authority is satisfied that carrying on the investigation is in the public interest and there are compelling grounds to believe that –
 - (a) the use of force was not authorised for the purposes of this Act; or

- (b) if the use of force was authorised for the purposes of this Act, carrying on the investigation is likely to yield evidence that the use of force was nonetheless unlawful (see section 5 above).
- (2) Nothing in subsection (1) precludes the arrest of a person for an offence which would otherwise be lawful where it is reasonably necessary to arrest the person before the prosecuting authority has been able to determine whether it is satisfied of the matters specified in subsection (1).
- (3) Where—
 - (a) a person is arrested in circumstances permitted by subsection (2); or
 - (b) a criminal investigation to which this section applies has been initiated before the passage of this Act, is ongoing on the day on which this Act is passed and is an investigation in which a significant step has been undertaken;

the investigation may not be continued unless the prosecuting authority determines within seven days that it is satisfied of the matters specified in subsection (1).
- (4) In this section and section 9, a “significant step” in a criminal investigation means—
 - (a) the arrest of current or former military personnel;
 - (b) questioning of current or former military personnel with a view to determining whether that person has committed an offence; or
 - (c) the exercise, in relation to current or former military personnel, of any power to gather evidence or information by compulsion under any enactment, instrument or rule of law.

8 Threshold for instituting criminal proceedings against military personnel

- (1) No criminal proceedings may be instituted in relation to the use of force by a person who at the time of the alleged offence was military personnel unless the prosecuting authority is satisfied that—
 - (a) it is in the public interest to institute criminal proceedings; and
 - (b) on the basis of compelling evidence, it is more likely than not that the person will be convicted of an offence because—
 - (i) the use of force was not authorised for the purposes of this Act and an offence has been committed; or
 - (ii) if the use of force was authorised for the purposes of this Act, the use of force was nonetheless unlawful (see section 5 of this Act).
- (2) No criminal proceedings to which this section applies which were instituted before the passage of this Act and which are pending on the day on which this Act is passed may be continued unless—
 - (a) the prosecuting authority determines within seven days of the passage of this Act that it is satisfied of the matters specified in subsection (1); and
 - (b) if a certificate is issued pursuant to section 2(3) after this Act is passed which is relevant to the proceedings, the prosecuting authority determines within seven days of the issue of the certificate that it is satisfied of the matters specified in subsection (1).

Reopening of criminal proceedings

9 Threshold for reopening criminal investigations and proceedings

- (1) Where a criminal investigation relating to the use of force by military personnel has concluded (whether before or after the passage of this Act), a significant step in a

further criminal investigation relating to the same or substantially the same subject matter as the previous investigation may not be undertaken unless the prosecuting authority is satisfied that –

- (a) carrying on the further investigation would be consistent with section 7(1);
 - (b) there are reasonable grounds to believe that new and compelling evidence would be adduced in any criminal proceedings instituted at the conclusion of the investigation; and
 - (c) there is a real prospect of criminal proceedings being instituted following the conclusion of the investigation (see section 8 above).
- (2) Where criminal proceedings concerning the use of force by military personnel have concluded (whether before or after the passage of this Act) and new criminal proceedings relating to the same or substantially the same subject matter as the previous proceedings could otherwise lawfully be instituted, such proceedings may not be instituted unless the prosecuting authority is satisfied that –
- (a) instituting the proceedings would be consistent with section 8(1); and
 - (b) there is new and compelling evidence.

Supplementary provisions

10 Discharge of functions of prosecuting authority

- (1) This section applies when the prosecuting authority is determining whether it is satisfied of the matters in sections 7(1), 8(1), 9(1) and 9(2).
- (2) The prosecuting authority must consult the Panel.
- (3) The prosecuting authority must have regard and give significant weight to –
 - (a) the operational context in which the use of force occurred;
 - (b) the interests of national security;
 - (c) the extent to which reconciliation pursuant to any peace agreement would be undermined;
 - (d) whether the military operation in question has been the subject of any previous inquiry;
 - (e) the potential adverse effect on current and future military operations and military personnel;
 - (f) the age and health of any current or former military personnel who may be the subject of any investigation or proceeding; and
 - (g) the information reasonably available to military personnel at the time the use of force occurred.

11 Requirement for consent in connection with proceedings concerning active service

- (1) No criminal investigation relating to the use of force by military personnel during active service may be commenced, continued or re-opened without the consent of –
 - (a) the Chief of Defence Staff;
 - (b) the Attorney General; and
 - (c) the prosecuting authority, acting personally.
- (2) When determining whether to give consent under subsection (1), the Attorney General and the prosecuting authority must have regard and give significant weight to the matters set out in section 10(3).
- (3) Nothing in subsection (1) precludes the arrest of a person for an offence which would otherwise be lawful where it is reasonably necessary to arrest the person before it has been practicable to obtain consent pursuant to subsection (1).
- (4) Where a person is arrested in circumstances permitted by subsection (3), the investi-

gation may not be continued unless consent is obtained under subsection (1) within seven days of the arrest being made.

12 Time limits for initiating criminal investigations against military personnel

- (1) Subject to subsection (2), a criminal investigation to which this Part applies must—
 - (a) be commenced within the period of 12 months following the end of the operation or matters on active service that is proposed to be the subject of the investigation; and
 - (b) continue for no longer than 2 years from the date that consent is given pursuant to section 11.
- (2) The periods in subsection (1) may be extended with the consent of each of the Attorney General, the prosecuting authority, acting personally and the Chief of Defence Staff where each of them, following consultation with the Panel (except in urgent cases where that consultation must be carried out as soon as reasonably practicable), considers that there are strong grounds of public interest to do so and either—
 - (a) there are reasonable grounds to believe that new and compelling evidence would be adduced in any criminal proceedings instituted at the conclusion of the investigation; or
 - (b) there is an immediate requirement to arrest or detain an individual.

13 Meaning of “new and compelling” evidence

- (1) For the purposes of this Part, evidence is “new and compelling” if and only if—
 - (a) it is admissible in criminal proceedings;
 - (b) it is obtained from a credible source;
 - (c) it was not available at the time of the earlier investigation or proceedings (as the case may be), and could not reasonably have been obtained at the time of the earlier investigation or proceedings;
 - (d) it is not merely corroborative of evidence that was reasonably available at the time of the earlier investigation or proceedings (as the case may be); and
 - (e) it provides compelling evidence that the accused committed the offence.
- (2) Where there has been no earlier investigation or proceedings, references in subsection (1) to evidence available at the time of “the earlier investigation or proceedings” shall be read as a reference to such evidence that would have been available had a reasonably diligent investigation of the facts been undertaken.

PART 4: INQUIRIES AND INQUESTS

Inquiries

14 Procedure for inquiries into particular operations

- (1) No specified inquiry relating to the use of force by military personnel (whether such force was used before or after the passage of this Act) may be commenced or continued without the consent of—
 - (a) the Chief of Defence Staff;
 - (b) the Attorney General; and
 - (c) the prosecuting authority, acting personally.
- (2) When determining whether to grant consent under subsection (1), the Chief of Defence Staff, the Attorney General and the prosecuting authority must have regard to

the matters set out in section 10(3) and give them significant weight.

- (3) In this Part, subject to subsection (4), a “specified inquiry” means an inquiry which relates to the conduct of military personnel during active service which is-
 - (a) held under-
 - (i) the Inquiries Act 2005, or
 - (ii) the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016; or
 - (b) established by a public authority (within the meaning of HRA 1998) under any other statutory provision or otherwise which is reasonably expected to make any determination in respect of the conduct of military personnel during active service, but excludes a service inquiry conducted pursuant to provision made under Part 16 of AFA 2006.
- (4) This section applies to specified inquiries commenced before this Act was passed.

15 Threshold for holding further inquiries

- (1) This section applies to any specified inquiry where there has at any time (including before this Act was passed) already been a specified inquiry into the same or substantially the same circumstances (“the original inquiry”).
- (2) Any specified inquiry to which this section applies may only be commenced, or (as the case may be) continued where the Attorney General certifies that—
 - (a) there is new and compelling evidence, and
 - (b) it is in the public interest to commence, or (as the case may be) continue the inquiry.
- (3) When determining whether to grant a certificate under subsection (2), the Attorney General must have regard to the matters set out in section 10(3) and give them significant weight.
- (4) For the purposes of this section, evidence is “new and compelling” if and only if—
 - (a) it was not available, and could not reasonably have been obtained, at the time of the original inquiry;
 - (b) it would be afforded considerable weight; and
 - (c) it is capable of materially affecting the conclusions of the original inquiry.

Inquests

16 Requirement to consult the Panel in connection with inquests

- (1) In conducting a specified inquest, the coroner and any jury must, in respect of operational military conditions and determining whether to return a verdict of lawful or unlawful killing, consult the Panel—
 - (a) when the coroner considers appropriate, and
 - (b) in any event, before a determination of the inquest.
- (2) In conducting a specified inquest, a coroner and any jury must have regard to any representations made by the Panel and give them significant weight.

Exemption from providing evidence at inquests or specified inquiries

17 Protection against self-incrimination etc

- (1) No person to whom this section applies who is subject to any criminal investigation or criminal proceedings in relation to the matters to be considered at a specified inquest

or specified inquiry may be compelled to attend that inquest or inquiry for the purpose of giving evidence, or may otherwise be required to produce evidence to that inquest or inquiry.

- (2) No person to whom this section applies who is not subject to any criminal investigation or criminal proceedings may be required to attend any specified inquest or specified inquiry for the purpose of giving evidence, or may otherwise be required to produce evidence to that inquest or inquiry, if doing so would be liable to cause any criminal investigation or proceedings to be commenced against them.
- (3) No adverse inference may be drawn from a person's refusal to give, or produce evidence under subsection (1) or (2).
- (4) Any evidence given by a person to whom this section applies at a specified inquiry or specified inquest shall not be admissible in criminal proceedings against that person, except in proceedings for perjury, or for any other offence specified in regulations made by the Lord Chancellor whose purpose is to protect the administration of justice.
- (5) This section applies to persons who were military personnel at the time of the matters which are being investigated by the specified inquiry or specified inquest.

PART 5: ESTABLISHMENT OF THE EXPERT MILITARY PANEL AND PROCEDURAL REQUIREMENTS FOR CRIMINAL AND CIVIL PROCEEDINGS IN CONNECTION WITH PARTICULAR OPERATIONS

18 Application of this Part

- (1) This Part applies to any criminal or civil proceeding brought against any person in respect of the use of force arising out of, or in connection with, their functions as military personnel during active service.
- (2) This Part also applies to any civil proceedings brought against a public authority (including the Crown) where it is alleged that the authority is liable for the conduct of another person in respect of the use of force arising out of, or in connection with, their functions as military personnel during active service.

19 Expert Military Panel

- (1) The Expert Military Panel ("the Panel") shall comprise three members appointed by His Majesty by warrant under the sign manual.
- (2) The members of the Panel shall be –
 - (a) a Major General serving in His Majesty's forces; and
 - (b) two military personnel, nominated by the Chief of Defence Staff, who have attained the rank of Lieutenant Colonel or lower and who have suitable experience in the type of active service in question.
- (3) The function of the Panel is to provide independent expert advice on matters including, but not limited to –
 - (a) the operational environment in which the alleged use of force occurred;
 - (b) applicable rules of engagement;
 - (c) the scope of any authorisation granted by the Minister under section 2; and
 - (d) any other matters the court considers necessary for the fair determination of the proceedings.
- (4) The Panel must give such evidence and assistance as the court requires when determining any criminal or civil proceedings and for the purpose of carrying out its function.

20 Requirement to consult the Panel in criminal and civil proceedings

- (1) In determining any criminal or civil proceedings to which this Part applies, the court must, in respect of operational military conditions and in determining any issue concerning the lawfulness of the use of force, consult the Panel –
 - (a) when it considers appropriate, and
 - (b) in any event, before the determination of those proceedings.
- (2) In determining any criminal or civil proceedings to which this Part applies, a court and any jury must have regard to any representations made by the Panel and give them significant weight.

21 Jurisdiction and venue

- (1) Any criminal proceedings to which this Part applies must be instituted –
 - (a) pursuant to Part 2 of AFA 2006; or
 - (b) before a civilian court (within the meaning of section 374 of AFA 2006) in England and Wales.
- (2) Any civil proceedings to which this Part applies must be brought before the High Court of England and Wales.
- (3) Proceedings brought under subsection (1)(b) or subsection (2) shall be heard in London unless the parties to any proceedings otherwise agree.

22 Legal aid for criminal and civil proceedings

- (1) No later than 3 months from passing of this Act, the Lord Chancellor, must, by regulations, amend provision made by or under Part 1 of LASPO such that –
 - (a) civil legal services are made available to current and former military personnel against whom civil proceedings are brought in connection with active service; and
 - (b) criminal legal aid is made available to current and former military personnel who are the subject of any criminal investigation or criminal proceedings.
- (2) Regulations under subsection (1) shall secure that current and former military personnel shall be exempt from the requirement under section 21(1) of LASPO.
- (3) Regulations under subsection (1) shall secure that legal aid is made available to current and former military personnel without any consideration of the merits of the case against them.
- (4) The Lord Chancellor must, by regulations, make such corresponding amendments to those required by subsection (1) as he considers appropriate to provision made by or under the Legal Aid (Scotland) Act 1986 and Part 2 of the Access to Justice (Northern Ireland) Order 2003.
- (5) The Minister may, by regulations, establish a scheme for the payment of compensation for military personnel in respect of any adverse impact on military personnel who are the subject of civil or criminal proceedings in relation to active operations.

23 Requirement to notify the relevant prosecuting authority of suspension

- (1) Where military personnel are required to cease, suspend, or materially restrict the performance of their duties as a result of any criminal investigation, criminal proceedings, or civil proceedings, the person imposing the cessation, suspension or material restriction (“the suspending authority”) must notify the prosecuting authority or the court within 5 days of the cessation, suspension or material restriction, unless it would be contrary to the interests of national security to do so.
- (2) The exception to the requirement to make a notification under subsection (1) ceases

to apply as soon as the suspending authority reasonably determines that it would no longer be contrary to the interests of national security to make the notification.

24 Time limit for conclusion of proceedings where duties are suspended

- (1) Where a notification is given under section 23(1) –
 - (a) the relevant prosecuting authority must take all reasonable steps to ensure that the relevant criminal investigation or criminal proceedings are concluded expeditiously and in any event within the period applicable under subsection (2); and
 - (b) the court must take all reasonable steps to ensure that any civil proceedings are heard and determined expeditiously and in any event within the period applicable under subsection (2).
- (2) Subject to subsection (3), any investigation or proceedings to which subsection (1) applies must be concluded within 6 months beginning with the date of receipt of the notification under section 23.
- (3) The period specified in subsection (2) may be extended by the court, with the consent of the Attorney General and the Chief of Defence Staff, for a period of a further 6 months where –
 - (a) the complexity or seriousness of the alleged offence, or subject matter of any civil proceedings makes it impracticable to conclude the matter within that period; or
 - (b) the delay is directly attributable to the conduct of the accused or the defendant (as the case may be).
- (4) If an investigation or proceedings are not concluded within the period specified in subsection (2) (including as extended under subsection (3)), the suspending authority may no longer require military personnel to cease, suspend or materially restrict the performance of their duties as a result of that investigation or those proceedings.
- (5) Failure to conclude a criminal investigation within the time limits contained in this section does not prevent the institution of criminal proceedings, or the initiation of a further criminal investigation, without prejudice to the provisions of Part 2 of this Act.

PART 6: MISCELLANEOUS AND FINAL PROVISIONS

25 Primacy of this Act

- (1) The provisions of this Act have effect notwithstanding any provision made by or under –
 - (a) HRA 1998;
 - (b) Parts 2-4 of the ICC Act;
 - (c) the 2009 Act;
 - (d) the Overseas Operations (Service Personnel and Veterans) Act 2021;
 - (e) relevant separation agreement law (within the meaning of the European Union (Withdrawal) Act 2018; and
 - (f) any other enactment, whether made before or after this Act, relating to criminal proceedings, criminal investigations or inquests concerning the use of force by military personnel.
- (2) Accordingly, and without prejudice to the generality of subsection (1) –
 - (a) section 3(1) of the HRA 1998 does not apply to the interpretation of this Act, or subordinate legislation made under this Act;
 - (b) no court shall have any power under section 4 of HRA 1998 to make a

- declaration that any provision made by or under this Act is incompatible with Convention rights;
- (c) section 6(1) of the HRA 1998 does not apply, and shall be treated as never having applied to –
- (i) the discharge by any person of any function in connection with this Act; or
- (ii) in connection with the use of force by military personnel that is authorised;
- (d) the power under section 10(2) of HRA 1998 may not be exercised to modify provision made by or under this Act; and
- (e) no person may be surrendered pursuant to Part 2 of the ICC Act in relation to the use of force by that person as military personnel.
- (3) HRA 1998 does not apply (and shall be treated as never having applied) in connection with the conduct of, or the investigation of the conduct of military personnel –
- (a) on active service (whether within the United Kingdom or elsewhere); or
- (b) occurring before HRA 1998 came into force.
- (4) For the purposes of the law of homicide, where –
- (a) the use of force by military personnel was authorised for the purposes of this Act;
- (b) an enemy, or a person reasonably believed to be an enemy is killed by military personnel on active service (“the deceased”); and
- (c) the killing of the deceased is not unlawful (see section 5 above);
- the killing shall be lawful, and the deceased (if an enemy) shall be treated as not being under the King’s peace.
- (5) No inference shall be drawn from the provision made by subsection (4) as to whether, for the purposes of the law of homicide –
- (a) the killing of the deceased would otherwise have been unlawful; or
- (b) the deceased would otherwise have been under the King’s peace.

26 Disapplication of inconsistent duties

To the extent that any duty, requirement, or obligation imposed by another enactment (including any enactment passed or made after this Act) or rule of law is inconsistent with a provision of this Act, that duty, requirement, or obligation shall not apply.

27 Extraterritorial application

This Act applies to the use of force outside the United Kingdom by military personnel as it does to the use of force within the United Kingdom.

28 Consequential provisions

- (1) The Secretary of State may by regulations —
 - (a) amend or repeal any enactment passed before or in the same session as this Act;
 - (b) amend or revoke subordinate legislation made before the passing of this Act.
- (2) In subsection (1) —
 - (a) “enactment” includes an Act of the Scottish Parliament and Northern Ireland legislation;
 - (b) the reference to subordinate legislation includes an instrument made under such an Act or under Northern Ireland legislation.

- (3) Regulations under subsection (1) may be made only for the purposes of –
 - (a) supplementing or giving full effect to this Act; or
 - (b) making provision consequential on, or incidental to, the passing of this Act (including transitional or savings provisions).

29 Regulations etc

- (1) Regulations made under this Act are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under this Act shall be laid before Parliament after it has been made and is subject to annulment in pursuance of a resolution of either House of Parliament.

30 Financial provision

The following are to be paid out of money provided by Parliament –

- (a) any expenditure incurred by the Secretary of State, or the Minister, by virtue of this Act;
- (b) any expenditure incurred by the Panel by virtue of this Act.

31 Interpretation

In this Act –

“the 2009 Act” means the Coroners and Justice Act 2009;

“active service” means service in –

- (a) an action or operation against an enemy, or any person reasonably believed by military personnel to be an enemy,
- (b) an operation outside the British Islands for the protection of life or property, or
- (c) the military occupation of a foreign country or territory;

“AFA 2006” means the Armed Forces Act 2006, and references to AFA 2006 shall, where the context requires, include references to –

- (a) corresponding provision of the Army Act 1955, the Air Act 1955 or the Naval Discipline Act 1957, and
- (b) corresponding provision of any enactment repealed by any of those Acts;

“ancillary offence” means –

- (a) an offence of attempting or conspiring to commit an offence;
- (b) an offence contrary to Part 2 of the Serious Crime Act 2007;
- (c) an offence of inciting a person to commit an offence; or
- (d) an offence of aiding, abetting, counselling or procuring the commission of an offence;

“the Attorney General” means the Attorney General of England and Wales;

“authorisation” means an authorisation granted under section 2, or treated as so granted;

“coroner” includes –

- (a) a senior coroner, area coroner and assistant coroner;
- (b) the Chief Coroner when conducting an investigation under paragraph 1 of Schedule 10 to the 2009 Act;
- (c) a judge, former judge, or former coroner conducting an investigation under paragraph 3 of Schedule 10 to the 2009 Act;

“criminal conduct” means conduct which constitutes an offence under the law of any part of the United Kingdom;

“criminal investigation” means an investigation of any criminal conduct, including an investigation of alleged or suspected criminal conduct;

“criminal proceedings” means proceedings relating to criminal conduct and includes proceedings before a court in respect of a service offence within the meaning of the AFA 2006;

“the Director of Public Prosecutions” means the Director of Public Prosecutions appointed pursuant to section 2 of the Prosecution of Offences Act 1985 or section 2 of the Justice (Northern Ireland) Act 2002;

“an enemy” has the same meaning as AFA 2006 (see section 374 of that Act), and includes any armed terrorist;

“HRA 1998” means the Human Rights Act 1998;

“the ICC Act” means the International Criminal Court Act 2001;

“international humanitarian law” means those parts of international law which the Minister considers the United Kingdom is bound by relating to armed conflict provided that it shall always include the international law which underlies the enactments mentioned in section 5(3) of this Act;

“LASPO” means the Legal Aid, Sentencing and Punishment of Offenders Act 2012;

“military personnel” means a member of His Majesty’s forces (within the meaning of AFA 2006) and other persons subject to service law (for the purpose of AFA 2006), and police officers, special constables, cadets, trainees or other security forces when acting under military command or engaged in operations related to armed conflict;

“the Minister” means the Prime Minister, the Secretary of State for the Home Department, or the Secretary of State for Defence, in each case acting personally;

“the Panel” means the Expert Military Panel established by this Act;

“prosecuting authority” means (as the case may be) —

- (e) the Director of Public Prosecutions;
- (f) the Lord Advocate;
- (g) the Director of Service Prosecutions appointed under section 364 of AFA 2006; or
- (h) any other person of a description prescribed by regulations made by the Lord Chancellor;

“specified inquest” means, in Part 4, an inquiry (other than a specified inquiry) into a death that resulted directly from the use of force by military personnel, whether under the 2009 Act or otherwise, during active service;

“terrorist” means any person who is or has been concerned in the commission, preparation or instigation of acts of terrorism (within the meaning of the Terrorism Act 2000);

“use of force” includes any act or omission in which force of any kind is used by military personnel by any means.

32 Crown application

- (1) This Act binds the Crown.
- (2) Nothing in this Act –
 - (a) affects His Majesty’s prerogative in relation to the command of His Majesty’s forces, the defence of the realm, national security, the conduct of foreign relations, or otherwise;
 - (b) affects any statutory provision conferring emergency powers on the Crown, or powers conferred on the Crown for the purpose of the defence of the realm, national security, or the conduct of foreign relations;
 - (c) affects any other privilege, right or immunity of the Crown;
 - (d) renders the Crown criminally liable;
 - (e) enables civil proceedings to be brought against the Crown where they would not otherwise be permitted; or
 - (f) affects the provisions of the Crown Proceedings Act 1947 or the defence of Crown act of state.

33 Commencement

This Act comes into force on the day after the day on which it receives Royal Assent.

34 Extent

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) His Majesty may, by Order in Council, provide for the provisions of this Act to extend, with or without modifications, to –
 - (a) any of the Channel Islands;
 - (b) the Isle of Man;
 - (c) any of the British overseas territories.

35 Short title

This Act may be cited as the Military Operations Act 20[].

Military Operations Bill

A

BILL

TO

Make provision about the authorisation and use of force during or in connection with military operations; to make provision about civil and criminal proceedings, inquests and investigations relating to military operations; to make provision about certain inquiries relating to the use of force during military operations; and for connected purposes.

Annex B: Detailed explanatory notes

WHAT THESE NOTES DO

These Explanatory Notes relate to the Military Operations Bill as introduced in the House of [●] on [●].

- These Explanatory Notes have been prepared in order to assist the reader to understand the provisions of the Military Operations Bill and to help inform debate on it. They do not form part of the Military Operations 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.

OVERVIEW OF THE BILL

1. The Bill establishes the primary legal framework governing the lawfulness of the use of force by military personnel, associated criminal and civil proceedings, and connected investigation and inquest procedures, relating to military operations.
2. The Bill redefines the threshold for the lawful use of lethal force by military personnel when acting in, or in connection with operations on active service under the authority of the Prime Minister / Secretary of Defence. In essence, where there is ministerial authorisation, and no contravention of the international law of armed conflict, subject to limited exceptions, there can be no criminal or civil prosecution brought or investigated.
3. The Bill balances the rights and protections afforded to combatants and military personnel post-operations as identified in the Wolfson Analysis to limit the scope of vexatious claims being brought against military personnel (see policy background below). This is achieved by way of judicial claims being dealt with contemporaneously, and any subsequent criminal investigations only being initiated on the basis of substantive new evidence.
4. The Bill ensures that, where an investigation takes place, the hierarchical nature of the military and other key players in the chain of command is properly accounted for.
5. The Bill will operate retrospectively subject to certain requirements to ensure that military operations carried out before the enactment of the Bill are also covered and afford protective rights to those military personnel that may be potentially unduly subject to criminal and civil proceedings.
6. The Bill will have jurisdiction within domestic and overseas operations and be founded on international humanitarian law.
7. The Bill contains 35 clauses, which are explained below.

POLICY BACKGROUND

8. In June 2025, a review by Shadow Attorney General Lord Wolfson KC examined whether the UK should remain a signatory to, or if it should withdraw from the European Convention on Human Rights (**ECHR**). The document titled '*Advice to the Leader of the Conservative Party Re ECHR*' was published on 2 October 2025 (the **Wolfson Analysis**) and looked at whether Britain could lawfully implement key Conservative policies while still being bound to the ECHR. The Wolfson Analysis concluded that the ECHR would create major barriers for the implementation of Conservative policies should Britain remain in the ECHR, which cannot be resolved with negotiations or repeals to the ECHR. Furthermore, it would be both legally and practically possible for Britain to leave the ECHR.
9. The Wolfson Analysis considers five tests on whether the UK should remain a signatory to, or withdraw itself, from the ECHR. One of these tests is 'the veterans test' which considers the role that the ECHR plays in claims against veterans both overseas and in the context of Northern Ireland legacy cases. In essence, the document explains that the ECHR is a major obstacle to doing justice to veterans who served in Northern Ireland, and to protecting current personnel from being subject to unfair process in

future. The ECHR, though originally conceived as territorially limited, has been extended by the European Court of Human Rights (ECtHR) to apply extraterritorially wherever the UK exercises “authority and control.” This is most notably evident in the cases of *Al-Skeini v United Kingdom* (2011) and *Smith and Others v Ministry of Defence* (2013). As a result, both foreign civilians, and British soldiers abroad, fall within the scope of ECHR protection.

10. This doctrinal evolution has effectively displaced the traditional primacy of international humanitarian law in governing battlefield conduct and military decision-making. Article 2 (right to life) ECHR has developed beyond a prohibition on unlawful killing to include extensive procedural obligations to conduct effective investigations, including into historical deaths, following cases such as *McCann v United Kingdom* (1995) and *Šilih v Slovenia* (2009). In the Northern Ireland context, this has enabled renewed inquest and investigative processes decades after the original events. Article 3 (prohibition of inhuman or degrading treatment) ECHR has likewise been interpreted extensively, with cases such as *Bouyid v Belgium* (2015) lowering the severity threshold for violations. Factored in with Article 5 (liberty and security) ECHR, the ECtHR jurisprudence now imposes detailed and at times unpredictable constraints on operational, detention, and training decisions concerning combatants outside traditional international armed conflict frameworks. Furthermore, damages may be awarded for breaches arising from overseas operations.
11. The cumulative effects of these developments facilitate ‘lawfare’, particularly through coroners’ inquests and renewed prosecutorial scrutiny in Northern Ireland. The procedural obligation under Article 2 ECHR exposes veterans to lengthy, repeated, and overlapping exposure to inquests, investigations by the Independent Commission for Reconciliation and Information Recovery, and criminal proceedings.
12. There have been legislative attempts to address the shortcomings of this situation. The Overseas Operations (Service Personnel and Veterans) Act 2021 introduced a presumption against prosecution for overseas offences older than five years, and the Northern Ireland Troubles (Legacy and Reconciliation) Act 2023 sought to provide finality through conditional immunity in exchange for information. However, in *Re Dillon and Others* (2024), the Northern Ireland courts held that immunity provisions were incompatible with Articles 2 and 3 ECHR, and amnesty-like provisions under those in the 2023 Act were permissible in very limited circumstances. Both these measures are constrained by the ECHR framework and vulnerable to legal challenge.

COMMENTARY ON PROVISIONS OF BILL

Part 1: Introduction

Clause 1: Affirmation of the essential principles of the operation of the military

13. Clause 1 sets out the purpose of this Act, and reaffirms that the Minister, the Defence Council, and the Chief of Defence Staff, are responsible for establishing the rules of engagement to be followed by military personnel in active operations. Military personnel are directed by their commanding officer at each level.
14. Clause 1 also reaffirms that international humanitarian law will exclusively regulate the use of force by military personnel in armed conflict, irrespective of whether this conduct takes place within the borders of the United Kingdom or outside. No court or tribunal will have any jurisdiction to question the lawfulness of the use of force by military personnel on active service that is authorised by the Minister, unless in the

event where international humanitarian law is breached.

15. In advancing the purpose as established under clause 1, the Minister may authorise the use of force which will exclusively be regulated by international humanitarian law.

Part 2: Lawfulness of use of force

Clause 2: Authorisation of the use of force

16. Under clause 2, the Minister may grant an authorisation for the use of force by military personnel, where he is satisfied that the use of force is regulated exclusively by international humanitarian law.
17. Furthermore, the Minister has the power to issue a certificate to retrospectively certify that any use of force by military personnel before the enactment of this Act when acting in, or in connection with, operations on active service, shall be treated as if it was authorised under subsection 2(1).

Clause 3: Authorisation of the use of force: further provision

18. An authorisation must be granted in writing and signed by the Minister. In urgent situations, it is permissible for the Minister to grant the authorisation otherwise than in writing, but subsequently, such authorisation must be reduced to writing as soon as reasonably practicable and signed by the Minister. A failure to reduce the authorisation to writing under subsection 3(1)(b) will not affect the validity of the authorisation granted.
19. Subsection (3) clarifies that, without prejudice to the generality of the Minister's power to grant an authorisation, an authorisation may:
 - a. specify that the matters to which it relates shall be treated as an armed conflict of an international character or not of an international character;
 - b. relate to an armed conflict generally or specify a particular act or acts;
 - c. apply to all military personnel, particular classes of military personnel specified in the authorisation, or to a particular person or persons;
 - d. apply in all places, or in any area specified in the authorisation (whether within the United Kingdom or otherwise); and
 - e. be subject to conditions specified in the authorisation.
20. Subsection (4) enables the Minister to vary or revoke an authorisation at any time. The procedural formality set out under subsection (1) will apply to any such variation or revocation of an authorisation as it does to the grant of an authorisation.
21. An authorisation will remain in effect until it expires in accordance with its terms, or where an authorisation contains no such terms, until the Minister revokes it under subsection (4).
22. Subsections (6)-(8) require that the Minister provides a copy of any authorisation to the Panel as soon as reasonably practicable after it is granted. Additionally, unless the Minister considers that it would be contrary to the interests of national security, a copy of the authorisation must also be submitted before Parliament after it is made. Where the House of Commons resolves for the authorisation to be revoked, the Minister must make a statement on whether to accept that resolution or explain why a revocation is not necessary.
23. Clause 3 applies to clause 2(3) certificates as it does to clause 2(2) authorisations, ex-

cept that, for certificates issued under clause 2(3), clause 3(1)(b) shall not apply, and such certificates cannot be revoked or varied so as to reduce its scope.

Clause 4: Non-justiciability of authorisations

24. The courts cannot question the validity of any authorisation granted, or certificate issued by the Minister in any legal proceedings.

Clause 5: General effect of authorisation

25. Where the Minister authorises the use of force by military personnel, the use of such force will be lawful for all purposes, subject to the provisions of clause 5, and no person shall be liable under criminal law or civil law of any part of the United Kingdom for the use of force that is authorised. Where the use of force is not authorised, this does not of itself render the use of force unlawful.
26. Subsection (3) sets out that though the use of force by military personnel may be authorised under this Act, it shall nonetheless be unlawful where such force amounts to an offence under:
 - a. section 1 of the Geneva Conventions Act 1957;
 - b. section 1 of the Genocide Act 1969 (before its repeal);
 - c. section 2(1)(a) of the Chemical Weapons Act 1996;
 - d. section 2(1)(a) of the Landmines Act 1998;
 - e. sections 51-52 and 58-59 of the ICC Act;
 - f. sections 1-2 of the International Criminal Court (Scotland) Act 2001;
 - g. part 1 of AFA 2006;
 - h. section 2(1)(a) of the Cluster Munitions (Prohibition) Act 2010; or
 - i. an ancillary offence which relates to an offence under paragraphs (a)-(h) of this subsection.
27. Subsection (4) clarifies that for the purposes of clause 5(3)(g), an offence under Part 1 of AFA 2006 does not include an offence under section 42 of AFA 2006 unless this act that is punishable by the law of England and Wales is an offence under a provision of an enactment listed in clause (3)(a)-(f) or (g), or an ancillary offence relating to such an offence.
28. Subsection (5) grants the Minister the power to amend, by way of regulations, the list of enactments at subsection (3) in line with what constitutes international humanitarian law.

Part 3: Criminal investigations and proceedings

Clause 6: Effect of authorisation on criminal proceedings and criminal investigations

29. Where the Minister grants an authorisation, no criminal investigation or proceedings may be initiated or continued against current or former military personnel except in accordance with Part 3 of this Act.

Clause 7: Threshold for undertaking significant steps in criminal investigations against military personnel

30. Under subsection (1), no “significant steps” can be taken in criminal investigations against military personnel in relation to the use of force, unless the prosecuting authority is satisfied that the investigation is in the public interest and that there are

compelling grounds to believe that the use of force was not authorised for the purposes of this Act, or that the use was authorised for the purposes of this Act and carrying out the investigation would likely yield evidence that the use of force was nonetheless unlawful under clause 5 of this Act.

31. However, subsection (2) clarifies that nothing under subsection (1) prevents the arrest of a person for an offence which would otherwise be lawful where it is reasonably necessary to arrest that person before the prosecuting authority has been able to determine whether it is satisfied of the matters set out under subsection (1).
32. Where a person is arrested in circumstances permitted by subsection (2), or where a criminal investigation is initiated prior to the enactment of this Act, and the investigation is ongoing on the day on which this Act is passed, and is an investigation in which a significant step has been undertaken, the investigation may not be continued unless the prosecuting authority determines within 7 days that it is satisfied of the matters set out in subsection (1).
33. Subsection (4) clarifies that under clauses 7 and 9, a “significant step” means:
 - a. the arrest of current or former military personnel;
 - b. questioning of current or former military personnel with a view to determining whether that person has committed an offence; or
 - c. the exercise, in relation to current or former military personnel, of any power to gather evidence or information by compulsion under any enactment, instrument or rule of law.

Clause 8: Threshold for instituting criminal proceedings against military personnel

34. Subsection (1) clarifies that no criminal proceedings may be brought in relation to the use of force by a person who at the time of the alleged offence was military personnel unless the prosecuting authority is satisfied that:
 - d. it is in the public interest to institute criminal proceedings; and
 - e. on the basis of compelling evidence, it is more likely than not that the person will be convicted of an offence because:
 - i. the use of force was not authorised for the purposes of this Act and an offence has been committed; or
 - ii. if the use of force was authorised for the purposes of this Act, the use of force was nonetheless unlawful under clause 5.
35. No criminal proceedings to which clause 8 applies which were commenced prior to the coming into force of this Act, which are pending on the day on which this Act is passed, can continue unless the prosecuting authority within 7 days of this Act being passed is satisfied of the matters set out under clause 8(1), and in the event where a certificate is issued pursuant to clause 2(3) after this Act is passed which is relevant to the proceedings, the prosecuting authority determines within 7 days of issue of the certificate that it is satisfied of the matters specified in subsection (1).

Clause 9: Threshold for reopening criminal investigations and proceedings

36. In the instance where a criminal investigation has concluded (whether before or after the passage of this Act), a significant step relating to the same or substantially the same subject matter as the previous investigation cannot be undertaken unless:
 - f. carrying on the further investigation would be consistent with clause 7(1);

- g. there are reasonable grounds to believe that new and compelling evidence would be adduced; and
- h. there is a real prospect of criminal proceedings being instituted following the conclusion of the investigation.

37. In the instance where criminal proceedings have concluded (whether before or after the passage of this Act) and new criminal proceedings, relating to the same, or substantially the same subject matter as the previous proceedings could otherwise lawfully be commenced, such proceedings cannot be commenced unless the prosecuting authority is satisfied that instituting the proceedings would be consistent with clause 8(1) and that there is new and compelling evidence.

Clause 10: Discharge of functions of prosecuting authority

38. Clause 10 applies to instances where the prosecuting authority is determining whether it is satisfied of matters for the purposes of clauses 7(1), 8(1), 9(1), and 9(2). It requires that the prosecuting authority consults, has regard, and gives significant weight to the views of the Panel, on factors including, the operational context in which the use of force occurred, interests of national security, and whether the military operation in question has been the subject of any previous enquiry.

Clause 11: Requirement for consent in connection with proceedings concerning active service

39. The consent of the Chief of Defence Staff, the Attorney General, and the prosecuting authority (acting personally) is required before a criminal investigation can be commenced, continued or re-opened. In considering whether to give consent, the Attorney General and the prosecuting authority will have regard to the matters set out under clause 10(3).
40. Subsections (3) and (4) clarify that nothing under clause 11(1) prevents the arrest of a person for an offence which would otherwise be lawful where the arrest is necessary before it has been practicable to obtain the consent pursuant to clause 11(1). In this instance, the investigation cannot be continued unless the consent is obtained under clause 11(1) within 7 days of the arrest being made.

Clause 12: Time limits for initiating criminal investigations against military personnel

41. Subsection (1) provides that a criminal investigation under Part 3 of this Act must be commenced within 12 months of the end of the operation and concluded no longer than 2 years from the date on which consent was provided under clause 11 of this Act.
42. These periods can be extended with the consent of the Attorney General, the prosecuting authority (acting personally), and the Chief of Defence Staff, where each of them, following consultation with the Panel (except in urgent cases), considers that there are strong grounds of public interest to do so, and either that there are reasonable grounds to believe that new and compelling evidence would be adduced in any criminal proceedings instituted at the conclusion of the investigation, or that there is an immediate requirement to arrest or detain an individual.

Clause 13: Meaning of “new and compelling” evidence

43. For the purposes of Part 3 of this Act, new and compelling evidence is:
- a. admissible in criminal proceedings;
 - b. obtained from a credible source;

- c. not reasonably available at the time of the earlier investigation or proceedings (as the case may be);
 - d. not merely corroborative of evidence that was reasonably available at the time of the earlier investigation or proceedings (as the case may be); and
 - e. provides compelling evidence that the accused committed the offence.
44. In the event that there has been no earlier investigation or proceedings, consideration would need to be had of such evidence that would have been available had a reasonably diligent investigation of the facts been undertaken.

Part 4: Inquiries and inquests

Clause 14: Procedure for inquiries into particular operations

45. The consent of the Chief of Defence Staff, Attorney General, and the prosecuting authority (acting personally) is required before a specified inquiry can be commenced or continued. In considering whether to give consent, the Attorney General and the prosecuting authority will have regard to the matters set out under clause 10(3).
46. A specified inquiry is one which is held under the Inquiries Act 2005, the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016, or established by a public authority, but excludes a service inquiry conducted pursuant to provision made under Part 16 of AFA 2006.
47. Clause 14 applies to specified inquiries commenced before this Act was passed.

Clause 15: Threshold for holding further inquiries

48. Clause 15 applies to any specified inquiry where there has at any time already been a specified inquiry into the same or substantially the same circumstances. Any such specified inquiry may only be commenced or continued where the Attorney General certifies that there is new and compelling evidence, and that such an inquiry would be in the public interest. In assessing whether such a certificate must be granted, the Attorney General will have regard to the matters set out under clause 10(3). What constitutes as “new and compelling” evidence is set out under subsection (4).

Clause 16: Requirement to consult the Panel in connection with inquests

49. The coroner, and any jury, in conducting a specified inquest in determining to return a verdict of lawful or unlawful killing must consult the Panel where the coroner considers this appropriate, and in any event, before the end of the inquest. Any representations made by the Panel must be regarded and given significant weight.

Clause 17: Protection against self-incrimination etc

50. Where a person is subject to clause 17 for criminal investigation, or proceedings in relation to matters to be considered at a specified inquest or specified inquiry, they should not be compelled to attend that inquest or inquiry for the purpose of giving evidence, or be required to produce evidence. Subsection (2) provides that, similarly, no such compulsion should be made to attend an inquest or inquiry if doing so would be liable to cause criminal investigation or proceedings to be commenced against such individual.
51. No adverse inference may be drawn from a person’s refusal to produce evidence under subsections (1) and (2). As per subsection (4), any evidence provided by a person under clause 17 at a specified inquiry or specified inquest will not be admissible in

criminal proceedings against that person, except in the case of perjury or for another offence specified in regulations made by the Lord Chancellor.

52. Subsection (5) confirms that clause 17 applies to persons who were military personnel at the time of matters which are being investigated by the specified inquiry or specified inquest.

Part 5: Establishment of the expert military panel and procedural requirements for criminal and civil proceedings in connection with particular operations

Clause 18: Application of this part

53. Part 5 of this Act applies to:
 - a. criminal or civil proceeding brought against persons in respect of the use of force arising out of, or in connection with, their functions as military personnel during active service; and
 - b. civil proceedings brought against a public authority (including the Crown) where it is alleged that the authority is liable for the conduct of another person in respect of the use of force arising out of, or in connection with, their functions as military personnel during active service.

Clause 19: Expert Military Panel

54. The Expert Military Panel will consist of 3 members, as appointed by His Majesty by warrant under the sign manual. The constitution will be a Major General serving in His Majesty's forces, and 2 military personnel as nominated by the Chief of Defence Staff, who have attained the rank of Lieutenant Colonel or lower and who have suitable experience. This Panel will give evidence and assistance as the court requires on criminal or civil proceedings for the purpose of carrying out its function.
55. The purpose of the Panel is to provide independent expert advice on the matters listed under subsection (3).

Clause 20: Requirement to consult the Panel in criminal and civil proceedings

56. Clause 20 sets out that the court must consult the Panel where it considers appropriate, and in any event, before the determination of any proceedings, in determining any criminal or civil proceedings to which Part 5 of this Act applies, in respect of operational military conditions, and any issues concerning the lawfulness of the use of force. Correspondingly, the court and any jury must have regard to any representations made by the Panel and give them significant weight in determining any criminal or civil proceedings.

Clause 21: Jurisdiction and venue

57. Any criminal proceedings to which Part 5 applies should be commenced pursuant to Part 2 of AFA 2006 or before a civilian court (within the meaning of section 374 of AFA 2006) in England and Wales. Any civil proceedings to which Part 5 applies should be brought before the High Court of England and Wales.
58. Proceedings brought under subsections (1)(b) or (2) shall be heard in London unless the parties to any proceedings otherwise agree.

Clause 22: Legal aid for criminal and civil proceedings

59. The Lord Chancellor, must, within 3 months of the passing of this Act, by way of regulations, amend the provision made by or under Part 1 of LASPO so that civil

legal services are made available to current and former military personnel against whom civil proceedings are brought. In addition, the regulations must ensure that criminal legal aid is made available to current and former military personnel subject to any criminal investigation or criminal proceedings. Current and former military personnel must be exempted from the requirement under section 21(1) of LASPO and criminal legal aid must be made available to current and former military personnel without any consideration of the merits of the case against them.

60. The Minister, through regulations, may establish a scheme for the payment of compensation for military personnel in respect of any adverse impact on military personnel who are subject of civil or criminal proceedings in relation to active operations.

Clause 23: Requirement to notify the relevant prosecuting authority of suspension

61. Where military personnel are required to be ceased, suspended, or materially restricted in the performance of their duties as a result of criminal investigations, criminal proceedings, or civil proceedings, the authority imposing such restriction must notify the prosecuting authority within 5 days of such restriction unless it would be contrary to the interests of national security to do so. The exception to notify ceases to apply where the suspending authority considers that it would no longer be contrary to the interests of national security to make the notification.

Clause 24: Time limit for conclusion of proceedings where duties are suspended

62. Where a notification is given under clause 23(1), the relevant prosecuting authority must take all reasonable steps to ensure that the relevant criminal investigation or proceedings are concluded expeditiously, and in any event, within 6 months beginning on the date of receipt of the notification under clause 23. This period may be extended by the court, with the consent of the Attorney General and the Chief of Defence Staff, for a period of a further 6 months in instances where the matter is impracticable to conclude within that period or the delay is directly attributable to the conduct of the accused or the defendant.
63. Where an investigation or proceedings is not concluded within the period specified in subsections (2) or (3), the suspending authority can no longer materially restrict military personnel from the performance of their duties as a result of that investigation or those proceedings.
64. Nevertheless, the failure to conclude a criminal investigation within the time limits contained in this clause 24 does not prevent the institution of criminal proceedings, or the initiation of a further criminal investigation, without prejudice to the provisions of Part 2 of this Act.

Part 6: Miscellaneous and final provisions

Clause 25: Primacy of this Act

65. This Act has effect irrespective of any provision made by or under the legal frameworks set out under subsection (1) including any enactment whether made before or after this Act, relating to criminal proceedings, criminal investigations or inquests concerning the use of force by military personnel.
66. Furthermore, subsections (2) and (3) clarify those sections of the HRA 1998 and ICC Act that do not apply under this Act.
67. Subsections (4) and (5) set out that for the purposes of the law of homicide, where the

use of force by military personnel is authorised for the purposes of this Act, an enemy, or a person reasonably believed to be an enemy is killed by military personnel on active service, and the killing of the deceased is not unlawful the killing shall be lawful, and the deceased (if an enemy) shall be treated as not being under the King's peace.

Clause 26: Disapplication of inconsistent duties

68. Any duty, requirement, or obligation imposed by another enactment (either passed or made after this Act) or rule of law that is inconsistent with a provision of this Act will not apply.

Clause 27: Extraterritorial application

69. This Act applies to the use of force by military personnel outside the United Kingdom as it does within the United Kingdom.

Clause 28: Consequential provisions

70. The Secretary of State has the power to make regulations that amend or repeal any enactment or subordinate legislation passed before or in the same session as this Act.

Clause 29: Regulations etc

71. A statutory instrument containing regulations under this Act will be laid before Parliament after it has been made and it will be subject to annulment in pursuance of a resolution of either House of Parliament.

Clause 30: Financial provision

72. Clause 30 clarifies which expenditures will be covered by the money provided by Parliament.

Clause 31: Interpretation

73. Clause 31 sets out the meanings of the terms which are capitalised and otherwise not defined within this Act.

Clause 32: Crown application

74. Clause 32 sets out this Act's application on Crown powers and interests.

Clause 33: Commencement

75. Clause 33 confirms that this Act will come into force on the day after the day on which it receives Royal Assent.

Clause 34: Extent

76. Clause 34 confirms that this Act extends to England and Wales, Scotland and Northern Ireland. This Act can be ordered to extend to, with or without modifications, to the Channel Islands, the Isle of Man, and the British overseas territories.

Clause 35: Short title

77. Clause 35 confirms the short title of this Act.

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