



Library Note

Armed Forces Bill (HL Bill 85 of 2015–16)

This House of Lords Library briefing provides an overview of the main provisions of the [Armed Forces Bill](#) and a summary of the Bill's stages in the House of Commons.

The Armed Forces Bill would renew the Armed Forces Act 2006 (itself renewed by the Armed Forces Act 2011) which provides the legal basis for the existence of the Armed Forces as disciplined bodies. This legislation would otherwise expire at the end of 2016. In addition, the Bill would update elements of the Armed Forces' disciplinary system and extend the powers of Ministry of Defence firefighters.

The Bill contains provisions relating to the following matters, as summarised in the [Explanatory Notes](#) to the Bill:

- Duration of the Armed Forces Act 2006
- Testing for alcohol and drugs
- Investigation and charging of service offences
- Suspended sentences of service detention
- Offenders assisting investigations and prosecutions
- The Armed Forces Act 2006 outside the United Kingdom
- Repeals relating to discharge for homosexual acts
- War pensions committees
- Ministry of Defence firefighters

Clauses concerned with repeals relating to discharge for homosexual acts and war pensions committees were added during the Bill's passage through the House of Commons.

Readers may also be interested in the following briefing on the Bill as it was first introduced in the House of Commons in September 2015:

- House of Commons Library, [Armed Forces Bill 2015–16](#), 11 December 2015

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1. Summary

The Armed Forces Bill would, as introduced in the House of Lords and subject to amendments made by the Bill, renew the Armed Forces Act 2006—the legislation providing the legal basis for the maintenance of the Armed Forces as disciplined bodies—which would otherwise expire at the end of 2016.¹ In addition, the Bill includes measures relating to the Armed Forces’ disciplinary system (to which most clauses relate) and other matters including war pensions committees and Ministry of Defence firefighters.²

An Armed Forces Act is required every five years. The primary purpose of these Acts is to continue in force legislation enabling the Armed Forces to be recruited and maintained as disciplined bodies.³ Since the 1950s, renewal has been by a five-yearly Armed Forces Act, with each Act renewing the legislation providing the legal basis for the continued existence of the Armed Forces for one year, and permitting further annual renewal within the five year limit by an Order in Council.⁴ Regular renewal of such legislation by Parliament fulfils the requirement in the Bill of Rights 1688 that the raising or keeping of a standing army within the Kingdom in peacetime, without the consent of Parliament, is against the law.⁵

Currently, the Armed Forces Act 2006 provides “nearly all the provisions for the existence of a system for the Armed Forces of command, discipline and justice, enabling the Armed Forces to be recruited and maintained as disciplined bodies”.⁶ This Act was renewed by the Armed Forces Act 2011, which was much smaller in scale than the 2006 Act.⁷ The Armed Forces Bill currently before Parliament is similar in scale to the 2011 Act, and contains provision to renew the 2006 Act until the end of 2021.⁸

2. Background

In its manifesto published before the general election on 7 May 2015, the Conservative Party undertook to “maintain our world class armed forces so they continue to guarantee your security”.⁹

Following the general election, the new Conservative Government announced in the Queen’s Speech on 27 May 2015 that it would “do whatever is necessary to ensure that our courageous armed forces can keep Britain safe”.¹⁰ The Cabinet Office background briefing published to accompany the Queen’s Speech indicated that this sentence related to the Government’s

¹ Ministry of Defence, [Memorandum to the Joint Committee on Human Rights on the Armed Forces Bill 2015](#), 6 November 2015, p 1.

² [Explanatory Notes](#), p 2.

³ Ministry of Defence, [Armed Forces Bill: Memorandum by the Ministry of Defence for the House of Lords Delegated Powers and Regulatory Reform Committee](#), 11 January 2016, p 1.

⁴ Ministry of Defence, [Memorandum to the Joint Committee on Human Rights on the Armed Forces Bill 2015](#), 6 November 2015, p 1. The most recent order, the Armed Forces Act (Continuation) Order 2015, postponed the date of expiry of the Armed Forces Act 2006 to 2 November 2016.

⁵ Ministry of Defence, [Armed Forces Bill Booklet](#), 18 January 2016, p i. For further information, see UK Government, ‘[Bill of Rights \[1688\]](#)’, accessed 18 January 2016.

⁶ Ministry of Defence, [Armed Forces Bill Booklet](#), 18 January 2016, p i.

⁷ [Explanatory Notes](#), p 2. The Armed Forces Act 2011 amended the 2006 Act, “most notably by requiring an annual Armed Forces Covenant report to be presented to Parliament” (Ministry of Defence, [Armed Forces Bill Booklet](#), 18 January 2016, p 1).

⁸ [Explanatory Notes](#), p 2.

⁹ Conservative Party, [Conservative Party Manifesto 2015](#), April 2015, p 75.

¹⁰ [HL Hansard, 27 May 2015, col 7](#).

intention to introduce an Armed Forces Bill in the 2015–16 session to “continue in force the legislation governing the Armed Forces”, and to “make provision for other defence matters”.¹¹

The briefing further stated that the Bill was “essential” because it would “provide the legal basis for recruitment and discipline of our Armed Forces”, in addition to maintaining the “effectiveness of the Service Justice System so that it continues to serve the needs of the Armed Forces”.¹² The briefing also stated that the Bill would “continue in force the Armed Forces Act 2006 that otherwise will expire in November 2016”, and simplify “some complex processes around the way service personnel are charged for offences”.¹³

3. Overview of the Bill

In summary, the Bill would:

- Renew the Armed Forces Act 2006 for another year (in addition to permitting future annual renewal by Order in Council, not beyond the end of 2021) (Clause 1).
- Enable commanding officers to require testing for drugs/alcohol after serious accidents, for personnel carrying out safety critical duties associated with the incident (Clause 2).
- Simplify the way people are investigated and charged for offences within the Service Justice System (Clauses 3–5).
- Allow the Court Martial to suspend sentences of service detention for up to 24 months (Clause 6).
- Provide the Director of Service Prosecutions with the power to offer immunity and other agreements to witnesses and defendants in return for their assistance with investigations (Clauses 7–12).
- Extend the Armed Forces Act 2006 to the whole of the UK, the Isle of Man and British overseas territories (with the option of extending it to the Channel Islands) (Clause 13).
- Repeal redundant provisions in the Criminal Justice and Public Order Act 1994, relating to homosexuality as a grounds for dismissal from the Armed Forces (Clause 14).
- Expand the remit of [Veterans Advisory and Pensions Committees](#) (Clause 15).
- Extend to Ministry of Defence firefighters statutory powers to act in an emergency to protect life or property, in line with those available to civilian fire and rescue authorities (Clauses 16–17).¹⁴

Clauses 18–22 relate to general matters, including the meaning of “AFA 2006”; commencement and transitional provision; extent in the UK; extent in the Channel Islands, Isle of Man and British overseas territories; and short title.

¹¹ Cabinet Office and Prime Minister’s Office, [The Queen’s Speech 2015](#), 27 May 2015, p 87.

¹² *ibid.*

¹³ *ibid.*

¹⁴ Ministry of Defence, [‘Armed Forces Bill 2015’](#), 18 January 2016.

The Ministry of Defence has published a short booklet in which it provided the following overview of the clauses in the Bill:

Clause 1: Duration of the Armed Forces Act 2006

The primary purpose of the Armed Forces Bill is to provide for the continuation in force of the Armed Forces Act 2006, which would otherwise expire at the end of 2016. Clause 1 provides for continuation of the 2006 Act for a year from the date on which the Bill receives royal assent, and allows further renewal thereafter by Order in Council for up to a year at a time, but not beyond the end of 2021.

Crucially, the 2006 Act confers powers and sets out procedures to enforce the duty of members of the Armed Forces to obey lawful commands. The central effect of expiry of the 2006 Act would be to end the powers and provisions to maintain the Armed Forces as disciplined bodies.

Clause 2: Post-accident Testing for Alcohol and Drugs

Currently, a commanding officer may only require a member of the Armed Forces or a civilian subject to service discipline to co-operate with a preliminary test for drugs or alcohol on suspicion of an offence.

Clause 2 extends the circumstances in which a commanding officer may require co-operation with such a test.

It provides for post-accident preliminary testing without the need for suspicion that the person to be tested may have committed an offence. The new powers to require co-operation with such tests only apply after accidents involving aircraft or ships or after other serious accidents.

Clauses 3–5: Simplifying the Process of Charging Offences Under the 2006 Act

These clauses make a number of changes to provisions in Part 5 of the 2006 Act which deal with the process of deciding whether a person is to be charged with a service offence under that Act. The changes simplify the process.

For example, currently some cases which cannot be dealt with by the commanding officer (CO) must nonetheless be referred by the investigating service police to the CO and then from the CO to the Director of Service Prosecutions for a decision on the charge and prosecution. Clause 3 provides instead that, where there is sufficient evidence to charge an offence which the CO cannot deal with, the service police may refer the case straight to the Director of Service Prosecutions.

Clause 4 makes a minor technical clarification to the procedure for the referral of linked cases from the CO to the DSP. Clause 5 provides for the DSP to bring charges himself.

Clause 6: Increasing the Period for which a Sentence of Service Detention may be Suspended

This clause increases, from 12 to 24 months, the maximum period for which a sentence of service detention may be suspended by the Court Martial. Civilian courts and the Court Martial already have the ability to suspend sentences of imprisonment for up to 24 months. This measure would provide the Court Martial with greater flexibility and allow, in appropriate circumstances, for rehabilitation during service.

The change will mean that a sentence of up to 2 years service detention will be capable of being suspended by the Court Martial for a period of up to 2 years (in line with the civilian provisions regarding suspension of terms of imprisonment as amended by the Legal Aid and Punishment of Offenders Act 2012).

Clauses 7–12: Offenders Assisting Investigations and Prosecutions

Clauses 7 and 8 allow the Director of Service Prosecutions, in return for assistance provided by a person to an investigation or prosecution, to enter into an agreement with the person giving them immunity from prosecution or an undertaking that information will not be used against them in proceedings.

Clauses 9 to 12 make provision with respect to reduced sentences for those who provide such assistance.

The provisions closely follow those in the Serious Organised Crime and Policing Act 2005 which apply to civilian prosecutors and courts.

Clause 13 and Schedule: Bringing the 2006 Act into Force in the Isle of Man and British Overseas Territories

This clause provides for the 2006 Act, as it currently has effect in the UK, to come into force in the Isle of Man and the British overseas territories (except Gibraltar).

The department is consulting with the Government of Gibraltar about extending the provisions of the 2006 Act to that territory.

The schedule makes further provisions in connection with AFA 2006 and the Isle of Man and British overseas territories.

Clause 14: Repeal of Redundant Provisions in the Criminal Justice and Public Order Act 1994 Relating to Discharge for Homosexual Acts

The Criminal Justice and Public Order Act 1994 decriminalised homosexual activity in the Armed Forces, however sections 146(4) and 147(3) of the 1994 Act stated this did not affect the policy (in place at the time) that homosexuality was incompatible with service in the Armed Forces.

These provisions are clearly inconsistent with the Department's current policy on homosexuality and equality. Clause 17 therefore repeals the elements that refer to the Armed Forces.

Elements relating to merchant shipping fall outside the scope of the Bill.

Clause 15: Statutory Remit of Veterans Advisory and Pensions Committees (VAPCs)

This clause expands the statutory remit of Veterans Advisory and Pensions Committees (VAPCs) beyond that currently granted to them as War Pensions Committees.

Clause 14 allows the Secretary of State to make regulations enabling VAPCs to provide advice and deal with complaints in relation to the Armed Forces Compensation Scheme 2005 and future compensation schemes under the Armed Forces (Pensions and Compensation Scheme) Act 2004.

Clauses 16–17: Powers of Ministry of Defence Firefighters in an Emergency

These clauses give Ministry of Defence firefighters the same powers to act in emergencies as employees of civilian fire and rescue authorities. Those powers include powers to enter premises by force if necessary, to close roads and to regulate traffic.

Clause 15 also makes it an offence to obstruct a Ministry of Defence firefighter who is acting in an emergency. Clause 16 gives Ministry of Defence firefighters the same exemptions from provisions in certain Acts (eg rules on drivers' hours) as employees of fire and rescue authorities.¹⁵

The Bill contains provisions which confer powers on the Secretary of State (envisaged to be the Secretary of State for Defence) to make delegated legislation.¹⁶ The Ministry of Defence has published a Memorandum for the House of Lords Delegated Powers and Regulatory Reform Committee—updated on 11 January 2016, following amendments made to the Bill in the House of Commons—which provides an overview of these provisions.¹⁷

4. House of Commons Stages

4.1 Second Reading

The Armed Forces Bill was introduced in the House of Commons on 16 September 2015 and received its second reading on 15 October 2015. Short synopses of the positions on the Bill taken by the Government and the opposition parties that participated in the debate are provided below.

During the second reading debate, the Secretary of State for Defence, Michael Fallon, reiterated the Government's reasons for bringing forward the Bill. After reminding the House of the constitutional significance of Armed Forces bills, Mr Fallon updated the House on progress made since the Armed Forces Act 2011 and the associated requirement for the Government to report on the Armed Forces Covenant, and stated that the Bill provided an

¹⁵ Ministry of Defence, [Armed Forces Bill Booklet](#), 18 January 2016, pp 4–12.

¹⁶ Ministry of Defence, [Armed Forces Bill: Memorandum by the Ministry of Defence for the House of Lords Delegated Powers and Regulatory Reform Committee](#), 11 January 2016, p 3.

¹⁷ *ibid*, pp 1–15.

opportunity to ensure that the 2006 Act was still fit for purpose. Concluding his remarks, Mr Fallon stated:

In conclusion, the Bill is an important act in continuing the authority of the Armed Forces. It makes modest but relevant upgrades to the existing system for the Armed Forces of command, discipline and justice. The world-class reputation that our armed forces enjoy is underpinned by many factors, one of which is that system of command, discipline and justice. We need to make sure that that system continues to be fit for the modern age. I commend the Bill to the House.¹⁸

Speaking on behalf of the Labour Party, the then Shadow Secretary of State for Defence, Maria Eagle, voiced her party's support for the Bill:

The Secretary of State has set out the main provisions in the Bill. It seems to me that they are largely non-contentious, technical and simplifying provisions, all of which we will seek to probe in Committee to ensure they work as intended and to satisfy ourselves that they are fit for purpose.¹⁹

During her speech, Ms Eagle did express concern, however, that the Bill did not “cover how UK disciplinary procedures apply to foreign troops trained by British service personnel on British soil”, and stated that the Labour Party intended to probe in committee what the “current state of play is in respect of ensuring that [sexual assault and rape] are treated as seriously within the service justice system as they are outside it”.²⁰ Ms Eagle also questioned why the provisions relating to Ministry of Defence firefighters had been included in the Bill. Concluding her remarks, Ms Eagle stated:

I am pleased to confirm that, with those few remarks and slight concerns notwithstanding, we will be supporting the Bill and seeking in committee to probe its provisions, improving them where we can. Of course, if they cannot be improved, we will support them.²¹

Speaking on behalf of the Scottish National Party, Brendan O'Hara, Shadow SNP Westminster Group Leader for Defence, expressed his party's support for the Bill:

It goes without saying that we support the renewal of the Armed Forces Acts that enable our dedicated and professional service personnel to defend and protect the people and the interests of all four constituent parts of this United Kingdom. We will fully engage with the Bill as it progresses through committee.²²

Mr O'Hara then set out his concerns regarding the “current state of the Armed Forces, particularly pertaining to Scotland”, which included staffing levels, before restating his party's “commitment to providing a statutory footing for a British Armed Forces Federation”.²³

¹⁸ [HC Hansard, 15 October 2015, col 520.](#)

¹⁹ [ibid, col 521.](#)

²⁰ [ibid, cols 522–3.](#)

²¹ [ibid, col 524.](#)

²² [ibid, cols 526–7.](#)

²³ [ibid, col 527.](#)

In conclusion, Mr O’Hara stated:

[...] we support the Bill and will continue to support it, but we will go through it, as the hon. Member for Garston and Halewood [Maria Eagle] said, line by line to make sure that the Bill will be the best that it can be. Our service personnel deserve no less.²⁴

Jim Shannon, speaking on behalf of the Democratic Unionist Party, stated that sexual assault and rape were a “pressing issue for many of our service personnel” and called for a “change in the culture of our armed forces in relation to this serious subject”, before voicing support for the provisions relating to Ministry of Defence firefighters.²⁵ He concluded his contribution by commending the Bill.²⁶

Speaking at the end of the debate on behalf of the Labour Party, the then Shadow Defence Minister, Kevan Jones, restated that his party would “not oppose the Bill. Much of what it contains is sensible and includes a number of tidying-up measures”.²⁷ Speaking on behalf of the Government, Mark Lancaster, Parliamentary Under-Secretary at the Ministry of Defence, stated that the Bill was “relatively modest and focused mainly on the Service Justice System”, before repeating the constitutional significance of Parliament approving the Bill:

As I have made clear, the Bill is important to the Armed Forces, not least because it renews the legislation necessary for them to exist as disciplined forces. As the debate has demonstrated, it is also important to us here in Parliament, because it provides for our scrutiny of that legislation. That scrutiny is achieved by means of an annual continuation order, which must be approved by both Houses, and by primary legislation every five years.²⁸

4.2 Select Committee on the Bill

A House of Commons select committee on the Bill took evidence on 18 November and examined the Bill on 24 November 2015. Amendments were tabled, but withdrawn, on the following subjects:

- A requirement to publish statistics on sexual assault and rape.
- Removal of [a] Commanding Officer’s discretion to investigate allegations of sexual assault.
- Civilian investigations and prosecutions relating to murder, sexual assault and rape.
- Review of compensation available to veterans suffering from mesothelioma.

²⁴ [HC Hansard, 15 October 2015, col 528.](#)

²⁵ [ibid, cols 530–2.](#)

²⁶ [ibid, col 532.](#)

²⁷ [ibid, col 543.](#)

²⁸ [ibid, cols 544–6.](#)

- Homosexual acts no longer to constitute grounds for discharging a member of HM armed forces.²⁹

The House of Commons Library briefing on the Bill explained the background regarding select committees of that House on Armed Forces bills:

Unlike the majority of government bills, the Armed Forces Bill has traditionally been committed to a specially convened select committee after second reading, which sits only for the duration of the Bill. The Committee is able to publicly scrutinise the clauses of the Bill and make amendments and also take formal evidence and make visits, both in the UK and abroad. As well as reporting the Bill to the House, the Armed Forces Select Committee may also make a special report to the House on its findings and recommendations. Once the Committee is finished, the Bill is re-committed to a committee of the whole House.³⁰

The Committee did not make a special report to the House, nor did it amend the Bill.³¹

4.3 Committee

The Bill's committee stage was taken in a committee of the whole House of Commons on 16 December 2015. A new government clause relating to war pensions committees (clause 15 in the version of the Bill as introduced in the House of Lords) was added to the Bill without opposition during the course of proceedings.³² A number of other clauses were considered but not added to the Bill. A selection of these proposed clauses is summarised below.

Minors

Liz Saville Roberts, the Plaid Cymru MP for Dwyfor Meirionnydd, speaking on her own behalf and that of two Plaid Cymru colleagues, the Green Party MP Caroline Lucas and the Labour MP Carolyn Harris, spoke in support of two new clauses which would have had the effect of permitting those under the age of 18 to be “freely able to discharge themselves from duty should they so wish”, and ensuring that “only those above 18 years of age” would be able to “enlist in the Armed Forces”.³³ The new clauses were opposed by the Government, the Opposition, SNP and DUP spokespersons. Following debate, the proposed clauses were withdrawn.

Serious Offences

The then Shadow Defence Minister, Kevan Jones, moved new clauses relating to the publication of statistics on sexual assault and rape; the removal of a Commanding Officer's discretion to

²⁹ House of Commons Library, [Armed Forces Bill 2015–16](#), 11 December 2015, p 13. The same page of the briefing contained a note on the last of these: “For the avoidance of confusion, a homosexual act has not been a sole ground for dismissal since 2000. The amendment proposed removing sections of the Criminal Justice and Public Order Act 1994. The Government said these sections are redundant but are seeking an appropriate legislative vehicle by which to repeal these sections to ensure they also apply to the Merchant Navy. The Government suggested instead that one option would be to recommend to the Law Commission that these sections be included in the next statute law repeals report. See [Oral Evidence, Armed Forces Bill](#), 18 November 2015, HC 618 of session 2015–16, question 84; and [Select Committee on the Armed Forces Bill](#), 24 November 2015, cols 14–16”.

³⁰ House of Commons Library, [Armed Forces Bill 2015–16](#), 11 December 2015, p 6.

³¹ *ibid*, p 6.

³² [HC Hansard, 16 December 2015, cols 1609–12](#).

³³ [ibid, cols 1613–14](#).

investigate allegations of sexual assault; and civilian investigations and prosecutions relating to murder, sexual assault and rape. These were supported by SNP and DUP spokespersons. Speaking on behalf of the Government, Mark Lancaster, Parliamentary Under-Secretary at the Ministry of Defence, emphasised that unacceptable behaviour in the Armed Forces would not be tolerated and stated that, while he was “not convinced that it is necessary or appropriate to set out requirements in legislation for the publication of such data [on sexual assault and rape]”, he was “determined to make the data that we publish robust, consistent and accessible”.³⁴ He added: “to that end, I am actively considering how best to publish the data as an official statistic”.³⁵ Mr Lancaster also argued that a new clause relating to Commanding Officers’ discretion to investigate sexual assault was not necessary by reassuring MPs that the Armed Forces “already have procedures in place to ensure that allegations of sexual assault are handled appropriately”.³⁶ On the last of the proposed new clauses, Mr Lancaster stated that the “service police and prosecuting authority have the necessary expertise and independence to investigate effectively and prosecute serious offences, including murder, rape and sexual assault by and against service personnel”.³⁷ Following debate, the proposed clauses were withdrawn.

Mesothelioma

Kevan Jones also moved a new clause relating to compensation for former members of the Armed Forces who had contracted mesothelioma as a result of their exposure to asbestos in the course of their military service.³⁸ The proposed new clause was supported by SNP and DUP spokespersons. Speaking on behalf of the Government, Mark Lancaster announced that “any veteran who is diagnosed with mesothelioma from today will be offered a choice between receiving a lump sum of £140,000 and receiving the traditional war pension payments”.³⁹ Following debate, the proposed new clause was withdrawn.

Homosexuality

Kevan Jones moved a new clause which would have removed the provisions applying to the Armed Forces from sections 146(4) and 147(3) of the Criminal Justice and Public Order Act 1994, which relate to a homosexual act constituting grounds for discharge from the Armed Forces.⁴⁰ The SNP supported the new clause.⁴¹ Speaking on behalf of the Government, Mark Lancaster emphasised that the Government was of the view that these sections were “redundant” and that their “existence is inconsistent with the Department’s policy on homosexuality within Her Majesty’s armed forces and the Government’s equality and discrimination policies more generally”.⁴² He stated that he was “keen to repeal this legislation as soon as possible” and that he would “update the House on this matter on Report”.⁴³ Following debate, the proposed new clause was withdrawn.

³⁴ [HC Hansard, 16 December 2015, cols 1622–3.](#)

³⁵ [ibid, col 1623.](#)

³⁶ [ibid.](#)

³⁷ [ibid, col 1624.](#)

³⁸ [ibid, col 1626.](#)

³⁹ [ibid, col 1629.](#)

⁴⁰ [ibid, col 1630.](#)

⁴¹ [ibid, cols 1630–1.](#)

⁴² [ibid, col 1631.](#)

⁴³ [ibid, col 1632.](#)

4.4 Report

The Bill's report stage in the House of Commons took place on 11 January 2016. A new clause—repealing legislation relating to a homosexual act constituting grounds for discharge from the Armed Forces—was added to the Bill during this stage. In addition, other amendments of a technical nature were made to the Bill. A further clause, relating to mesothelioma, was discussed but not added.

Homosexuality

The Government introduced the new clause repealing sections 146(4) and 147(3) of the Criminal Justice and Public Order Act 1994 relating to a homosexual act constituting grounds for discharge from the Armed Forces (clause 14 in the version of the Bill, as introduced in the House of Lords). Introducing the new clause, Mark Lancaster, Parliamentary Under-Secretary at the Ministry of Defence, stated:

I am delighted to be speaking to this new clause today. It reflects the Government's commitment to the fair and equal treatment of lesbian, gay, bisexual and transgender armed forces personnel. It repeals two provisions regarding homosexuality in the Armed Forces that are inconsistent with the Department's current policies and the Government's equality and discrimination policies more generally [...]

When sections 146 and 147 were enacted, it was Government policy that homosexuality was incompatible with service in the Armed Forces and, accordingly, members of the Armed Forces who engaged in homosexual activity were administratively discharged. That policy was rightly abandoned in January 2000, following a judgment of the European Court of Human Rights.⁴⁴

Previously, the Government had expressed that a Law Commission bill may be the most appropriate legislative vehicle to repeal this legislation because it applied to both the Armed Forces and the Merchant Navy, which falls under the auspices of the Department for Transport. However, Mark Lancaster explained that the Government had “decoupled the two issues”, and that the Department for Transport had undertaken to “deal” with the legislation as it applied to the Merchant Navy “as soon as possible”.⁴⁵ Opposition, SNP and Ulster Unionist spokespersons spoke in favour of the new clause and it was added to the Bill unopposed.

Mesothelioma

Danny Kinahan and Tom Elliott of the Ulster Unionist Party (MPs for South Antrim and Fermanagh and South Tyrone, respectively) sponsored a new clause relating to the swift payment of compensation to members of the Armed Forces who had contracted mesothelioma during the course of their service, and a publicity programme to raise awareness of the disease among this group. Introducing the new clause, Danny Kinahan welcomed the announcement, made during the Bill's committee stage, that veterans affected by mesothelioma would be eligible for £140,000 or a war pension. In addition, however, he stated that he wanted to “ensure that compensation is comprehensive” and that “every single person who might be affected is personally contacted by the Ministry of Defence to ensure that they know that there

⁴⁴ [HC Hansard, 11 January 2016, cols 600–1.](#)

⁴⁵ [ibid, col 600.](#)

is a chance they have the disease".⁴⁶ Both Labour and SNP spokespersons voiced support for increasing support for veterans suffering from mesothelioma and stated that, in their view, the current situation was inconsistent with the Military Covenant.⁴⁷ Speaking on behalf of the Government, Mark Lancaster commented on what the Government was doing in relation to the issue of mesothelioma, before stating:

I do not believe that legislation is required, but I am deeply committed to moving the issue forward as quickly as I can, and I ask the hon. Gentleman to consider withdrawing his new clause.⁴⁸

Following debate, the proposed new clause was withdrawn.

4.5 Third Reading

The Bill's third reading in the House of Commons also took place on 11 January 2016.

Speaking on behalf of the Government, Mark Lancaster, Parliamentary Under-Secretary at the Ministry of Defence, opened his remarks by acknowledging the cross-party support for the Bill.⁴⁹ He then set out the case for the Bill to receive its third reading. He summarised the content of the amended Bill as follows:

As I said at the outset, the Bill is relatively modest. However, that in no way diminishes the significance of its provisions. Hon. Members will know that the Armed Forces 2006 Act is a significant piece of legislation. The 2006 Act provides a single system of service law which applies to all members of the Armed Forces wherever in the world they are serving. The Bill provides for the continuation of that Act and makes a few changes to the service justice system to keep it current. The Bill also makes other important changes, including giving Ministry of Defence firefighters the same statutory powers to act in an emergency as civilian fire and rescue authority firefighters. With the support of the House, we have introduced a couple of new clauses. I am pleased that we have not needed to make many changes to the Bill.

In committee of the whole House, we amended the Bill so that it expands the statutory remit of the Veterans Advisory and Pensions Committees. This is good news both for the Committees and the veterans they so ably support. Today, we added a clause to repeal redundant provisions in the Criminal Justice and Public Order Act 1994 that are incompatible with current policies on homosexuality and equality in the Armed Forces.⁵⁰

In addition, Mr Lancaster provided an update regarding discussions on extending the provisions of the Bill to Gibraltar:

For completeness, I should mention Gibraltar. In committee, I said that we were discussing with Gibraltar whether it would be best to provide for the 2006 Act and the Bill to extend there. Those discussions are ongoing. If necessary, the Government will introduce an amendment to the Bill in the other place.⁵¹

⁴⁶ [HC Hansard, 11 January 2016, col 605.](#)

⁴⁷ [ibid, col 608, col 605](#) and [col 611.](#)

⁴⁸ [ibid, col 613.](#)

⁴⁹ [ibid, col 614.](#)

⁵⁰ [ibid, col 614.](#)

⁵¹ [ibid, cols 614–15.](#)

Speaking on behalf of the Labour Party, Toby Perkins, Shadow Defence Minister, welcomed the provisions in the amended Bill, but expressed disappointment that, in committee, the Government had “failed to adopt our amendments relating to the incredibly important issue of sexual assault in the military”.⁵² Concluding his remarks, Mr Perkins outlined the approach that the Labour Party intended to take during the Bill’s passage through the House of Lords:

The Bill will now be scrutinised in another place and Labour will continue to push the Government on some of the issues raised in Committee. We will continue to stand up in every case for the rights of our armed forces personnel and veterans. Labour believes in a modern, effective armed forces to ensure the security of Britain in the world. It is for that reason that I am pleased to offer our continued support to all those who serve our country, and to the Government’s positive measures that improve the lot of the personnel who serve.⁵³

Speaking on behalf of the Scottish National Party, Kirsten Oswald, Shadow SNP Spokesperson for the Armed Forces and Veterans, stated that while her party supported the Bill, it wanted to see “guarantees on the publication of sexual harassment statistics”.⁵⁴ On this subject, she also added:

The Minister has outlined the fact that he intends a voluntary system of publication to ensure that appropriate data [relating to sexual assault] are published and in the public domain. I hope that this turns out to be the case. As we have discussed in earlier stages, it is vital that the data be reported fully, consistently and in a uniform format, so that we can accurately assess the situation in all our forces and whether the desired progress has been made.⁵⁵

In addition, Ms Oswald encouraged the Government to “go further” on the issue of veterans suffering from mesothelioma.⁵⁶

⁵² [HC Hansard, 11 January 2016, col 615.](#)

⁵³ [ibid, col 616.](#)

⁵⁴ [ibid, col 619.](#)

⁵⁵ [ibid, col 619.](#)

⁵⁶ [ibid, col 620.](#)

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