Criminal Justice and Courts Bill – Lords Amendments [Bill 120 of 2014-15]]

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Section Home Affairs Section

This paper is designed to provide background information for Consideration of Lords Amendments of the *Criminal Justice and Courts Bill*, which is due to take place on 1 December 2014.

There were several Government defeats at report stage on judicial review. The Bill introduces a number of reforms aimed at reducing "the burden of judicial review". Broadly these Lords amendments seek to restore judicial discretion in how the new rules are to be applied.

An Opposition amendment would exclude younger boys, and all girls, from the new Secure Colleges. This too was a defeat for the Government.

The Government accepted an amendment to treat 17 year olds in the same way as younger teenagers when they are detained in police custody. They also accepted technical amendments to "two strikes" clause for those aged 16 or over convicted of certain offences to do with knives or other offensive weapons. This clause itself was added as a result of a backbench amendment at report stage in the Commons.

There were many Government amendments to the Bill. They include:

- A new power for the Secretary of State to appoint "Recall Adjudicators" to review the detention of recalled determinate sentence prisoners
- A new offence to deal with "revenge pornography"
- A ban on the offer of inducements as an incentive to bring personal injury claims

The Ministry of Justice has produced *Explanatory Notes* on the Lords Amendments.

Contents

1 Introduction

The *Criminal Justice and Courts Bill* was introduced in the 2013-14 session and carried over to the 2014-15 session. Progress of the Bill together with relevant documentation can be found on the *Criminal Justice and Courts Bill*. This includes the following Commons and Lords Library Papers, prepared for earlier stages:

- Commons Library Research Paper 14/8 (20 February 2014) prepared for second reading in the Commons
- Library Standard Note 6882 (12 June 2014) prepared for report stage in the Commons
- Library Note 2014/022 (26 June 2014) prepared for second reading in the Lords

This paper is designed to provide background information for Consideration of Lords Amendments of the *Criminal Justice and Courts Bill*, which is due to take place on 1 December 2014. The amendment numbers throughout refer to those listed in the latest Bill document, *Lords Amendments to the Criminal Justice and Courts Bill* [Bill 120 of 2014-15]. Unless stated otherwise, references to clause numbers are to the Bill as introduced in the Lords (HL Bill 30).

There were many Government amendments to the Bill. The Ministry of Justice has produced extensive and useful *Explanatory Notes* on the Lords Amendments. This paper does not seek to replicate these or to discuss every amendment.

2 Lords Amendments opposed by the Government

2.1 Excluding boys under 15, and girls, from secure colleges

Clauses 29 and 30 would add "secure colleges" to the list of types of establishments where young offenders could be accommodated, and allow for the contracting out of the provision and running of them. Background is given on pages 20-23 of *Library Research Paper 14/8*.

Lords Amendment 74 would exclude all girls, and boys aged under 15, from the secure colleges. Moving the amendment, the Shadow Justice Spokesperson Lord Beecham said that safeguarding plans for the colleges were inadequate, and that there were so few girls in custody they could easily be accommodated in smaller, more appropriate Secure Children's Homes.[1] The Crossbench peer, Lord Ramsbotham, described the proposed "pathfinder" secure college at Glen Parva as a "cost-saving exercise based on presumed economies of scale".[2] Lord Carlile of Berriew also criticised the physical plans for the pathfinder college (involving locking down part of the site from older students whilst girls and younger boys are moved) and cited the lack of nearby residential mental health facilities with educational provision. The Justice Minister Lord Faulks said that the Government had "gone to considerable lengths" in their designs "to ensure that the younger and more vulnerable groups could be accommodated in separate small units".[3] Secure colleges would "provide the right environment where healthcare professionals" could care for young people. The amendment was narrowly agreed to on division, by 186 votes to 185.

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1 HL Deb 22 October 2014 c666
2 Ibid
3 HL Deb 22 October 2014 c674

2.2 Judicial Review

Part 4 of the Bill would bring in a number of reforms to judicial review following a Government consultation on proposals with the aim of "reducing the burden of judicial review".[4] Background is given on pages 49-56 of *Library Research Paper 14/8.*

Lords Amendments 97-107 were added to the Bill as a result Government defeats on the third day of Report,[5] following heated debate of similar amendments in Committee (which were withdrawn).[6]

The amendments fall into three groups. On report, Labour's Lord Beecham described them as together "dispensing with the fetters on judicial discretion which the Bill would otherwise apply."[7]

Likelihood of substantially different outcome for the applicant

Clause 64 would require the High Court or Upper Tribunal to refuse to grant a remedy or permission on an application for judicial review if it considers it "highly likely" that defendant's conduct in the matter in question would not have affected the outcome for the defendant. At present the court has discretion to refuse to grant permission or a remedy if it is "inevitable" that the failure complained of would not have made a difference to the outcome.

Lords Amendments 97 to 98 would give the High Court or Upper Tribunal discretion over whether they should refuse a remedy if it appears highly likely that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred. **Lords Amendment 99** would give the High Court discretion to consider, if asked to do so by the defendant, whether it was highly likely that the outcome would not have been substantially different. Lords **Amendment 100** would give the High Court discretion to refuse permission for judicial review if they were satisfied that the outcome would have not have been substantially different. **Lords Amendments 101-102** would make equivalent provision for the Upper Tribunal.

At report stage, Lord Pannick said that the clause ignored the fact that one of the central purposes of judicial review is to identify unlawful *conduct* by the Government or other public bodies. To introduce an initial stage of considering "what would have happened if the defendant had acted differently" would be time-consuming, expensive and extremely difficult.[8] Lord Beecham said that the proposals had been "roundly condemned by the Constitution Committee, by the Delegated Powers and Regulatory Reform Committee, by 11 Police and Crime Commissioners and, of course, by the Joint Committee on Human Rights".[9]

The Conservative peer Lord Horam highlighted delays he said that judicial review was causing to infrastructure projects, the costs and examples of abuse.[10] For the Government, Lord Faulks said that "judicial review, when used properly, is an essential component of the

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4 Ministry of Justice *Judicial Review: Proposals for further reform* September 2013 Cm 8703. See also *Judicial Review - proposals for further reform: the Government response* February 2014 Cm 8811 & *Annex A: Summary of responses*

5 HL Deb 27 October 2014 cc952-1003

6 HL Deb 28 July 2014 cc1434-74

7 HL Deb 27 October 2014 c954

8 HL Deb 27 October 2014 c953

9 HL Deb 27 October 2014 c955

10 HL Deb 27 October 2014 c956

rule of law", but that it could delay "crucial projects with direct implications for jobs."[11] The lead amendment was agreed to on division by 247 votes to 146.[12]

Information about financial resources

Clause 65 provides that permission to proceed with a judicial review cannot be granted unless the applicant provides information about the financing of judicial review. **Lords Amendment 103** would give the High Court discretion over this, and **Lords Amendment 104** does the equivalent for the Upper Tribunal. **Clause 66** provides that, when considering liability for costs in judicial review proceedings, the relevant courts must have regard to the financial information provided under clause 65. **Lords Amendments 105 and 106** would, again, give these courts discretion over this.

In the debate at report stage, Lord Pannick said that these clauses would have a "severely inhibiting effect on judicial review",[13] and Labour's Baroness Lister of Burtersett also referred to their "the chilling or deterrent effect".[14] For the Government, Lord Faulks said that the clauses were "about transparency" and would prevent a third party from using a "front man" to shield themselves from incurring their share of the costs.[15] The lead amendment was agreed to on division by 228 votes to 195.[16]

Interveners and costs

Clause 67 would establish a presumption that interveners in a judicial review will pay their own costs (and any costs incurred by any other party because of the intervention) except in exceptional circumstances. **Lords Amendment 107** would give courts discretion over this. Lord Pannick, who moved the amendment at report stage, said that courts would be denied assistance from public interest bodies with knowledge and experience which may help them to resolve legal issues, including government departments who make a number of interventions in judicial review cases.[17] Lord Faulks said that the Government thought it "right that people who intervene in judicial reviews should have a fairer financial stake in the case and do so in a way that does not cause the true parties to the judicial review additional costs".[18] The amendment was agreed to on division by 219 votes to 186.

3 Other Lords Amendments accepted by the Government

3.1 Knives

Clause 25 would amend the sentencing for second offences for those aged 16 or over in possession of a weapon or bladed article in public, or on school premises. A previous conviction for threatening with a knife or an offensive weapon would count as a first strike. The minimum custodial sentence would be six months for those aged 18 or over, and a four month Detention and Training Order for those aged over 16 but under 18.This was added to the Bill at report stage, following the passing of an amendment sponsored by Conservative MP Nick de Bois.[19] The clause was controversial in the Lords. In committee a number of peers spoke against it in the clause stand part debate, citing erosion of judges' discretion

11 HL Deb 27 October 2014 cc973-4
12 HL Deb 27 October 2014 c978
13 HL Deb 27 October 2014 c982
14 HL Deb 27 October 2014 c983
15 HL Deb 27 October 2014 c986
16 HL Deb 27 October 2014 c988
17 HL Deb 27 October 2014 c993
18 HL Deb 27 October 2014 c996
19 HC Deb 17 June 2014 c1013

amongst other arguments. However, others supported it because of the deterrent effect of a known penalty. On division, it was agreed that the clause should stand part (228 votes to 159.)[20]

At report stage, Baroness Browning (who in 2011 was a Home Office minister with responsibility for gang and knife crime) introduced some technical and drafting amendments to the clause.[21] These are now listed as **Lords Amendments 48 to 67 and 124.** See pages 6-7 of the *Explanatory Notes* for details.

3.2 Arrested Juveniles

Currently section 37 of the *Police and Criminal Evidence Act 1986* (PACE) defines an "arrested juvenile" as a person who "appears to be under the age of 17". This means that 17 year olds are not treated in the same way as 10-16 year olds under Part 4 of PACE. In particular, where a younger child who is arrested and charged is not released, they will be transferred where practicable to local authority accommodation, whereas a 17 year old would be kept in police custody.[22]

The different treatment of 17 year olds from that of younger teenagers under PACE Codes (statutory guidance for police) has been highlighted in a number of cases where 17 year olds killed themselves after being arrested.[23] In April 2013 Hughes Cousins-Chang, a 17 year old who had been detained as an adult, successfully challenged the policy through judicial review.[24] The High Court ruled that the Home Secretary's refusal to revise Code C so as to distinguish the procedures applicable to a 17-year-old detainee in police custody from those applicable to an adult was unlawful.[25] As a consequence, the PACE code was revised.

Lord Listowel (Crossbench) moved amendments in committee and at report stage to change the definition of an arrested juvenile to include 17 year olds.[26] At report stage, Lord Ashton of Hyde (for the Government) explained that an internal Home Office review following the Cousins-Chang case was examining other primary legislation which might need to be amended. [27] Lord Listowel withdrew his amendment. However, he moved it again at third reading. Lord Faulks said that that the Government had "listened to his plea":

> The Government have now concluded their review and have arrived at a very clear conclusion: the provisions in PACE that relate to the treatment of 17 year-olds should be amended as soon as possible so that they are treated as children.
>
> I must point out that this is a very complex area and the Home Office review was very wide-ranging—more so than the amendment that has been tabled today. This means that the amendment only partially affects the change in relation to the treatment of 17 year-olds. However, in the limited time available, this amendment makes the most substantial change, that relating to the overnight detention of children charged and denied bail. The effect of the amendment would be that 17 year-olds, as with 12 to 16 year-old children, must be transferred to suitable local authority accommodation

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20 HL Deb 21 July 2014 c955
21 HL Deb 20 October 2014 cc502-9
22 Section 38(6) of PACE
23 See for example "Joe Lawton's parents in reform plea over his death" *BBC News* 8 March 2013
24 "Teenager wins ruling on detention of 17-year-olds", *BBC News,* 25 April 2013
25 *R. (on the application of HC) v Secretary of State for the Home Department*, [2013] EWHC 982 (Admin);
26 HL Deb 22 October 2014 cc726-9
27 Ibid c728-9

> overnight in these circumstances. The amendment has the full backing of the police. The Home Office will work with forces to help them prepare for implementation.[28]

4 Government Amendments made in the Lords

4.1 Recall adjudicators

There was debate in Committee in the Lords about the impact of various provisions in the Bill upon the work of the Parole Board,[29] particularly in the context of the recent Supreme Court Judgement on the issue of when the Parole Board should offer an oral hearing to determine prisoners' release or transfer to open conditions.[30]

Lords Amendments 5 to 35 and 121 to 123 are the Government's response to another judgement, and aim to *reduce* some of the burden on the Parole Board. Currently, prisoners on determinate sentences who are recalled to prison must be referred to the Parole Board to have their detention reviewed. This is because the Parole Board is a "court-like" body. On 2 July 2014, the Supreme Court overturned previous case-law by finding that determinate sentence recall cases do not engage Article 5(4) of the European Convention on Human Rights.[31]

The Government's amendments, which were introduced at report stage[32] would provide a power for the Secretary of State to appoint "Recall Adjudicators" to review the detention of recalled determinate sentence prisoners. Further information is given in the Ministry of Justice's Impact Assessment, *Recall Adjudicator for recalled determinate sentence prisoners*, (15 October 2015).

4.2 "Revenge pornography"

Lords Amendments 70 and 71 would create a new offence of disclosing private sexual photographs and films with intent to cause distress. The offence, which will extend to England and Wales, will be triable either way and punishable with a maximum custodial sentence of two years. **Lords Amendment 126** would insert a new schedule to deal with "information society services"[33]

The issue of revenge pornography was raised at Lords Committee stage. Lord Marks of Henley-on-Thames (Liberal Democrat) moved amendments to make it an offence to publish a sexually explicit or pornographic image without consent. Lord Marks explained the problem as follows:

> …the term "revenge pornography" refers to the publication, usually but not always, on the internet, of intimate images of former lovers without their consent. This thoroughly nasty behaviour generally involves the perpetrator in taking advantage of his or her possession of sexually explicit images, generally taken or obtained in private during the

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28 HL Deb 10 November 2014 c20

29 See HL Deb 14 July 2014 cc379-385

30 *Reilly's Application for Judicial Review, also known as Osborn v Parole Board and Booth v Parole Board*, [2013] UKSC 61, 9 October 2013

31 *R. (on the application of Whiston) v Secretary of State for Justice*, [2014] UKSC 39, , 02 July 2014

32 HL Deb 20 October 2014 cc451-4

33 Defined as in Article 2(a) of the E-Commerce Directive as covering "any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service" (see paragraph 6 of the Schedule introduced by Lords Amendment 126.

> course of an intimate relationship in circumstances where the parties, and certainly the party photographed, had every right to expect that the images would remain private.[34]

He called for the practice to be criminalised. The Minister of State at the Ministry of Justice, Lord Faulks, said that the Government was "carefully considering" what needed to be done to combat revenge pornography:

> If new legislation is required, we must ensure that we address all the issues involved to ensure that we properly target the material that is causing concern and that we capture only the relevant behaviour. This requires detailed consideration and care, as has been widely acknowledged during the debate. Although there is a degree of consensus about what evil we are trying to seek out and criminalise, exactly how we capture it is a complex problem. This debate will certainly help the analysis that will take place in the month or two that follow, and I would of course be happy to see any of those concerned to ensure that we capture adequately and appropriately the behaviour at which these amendments are directed. We will take away these amendments and return to the House with our conclusion at a later stage of the Bill…[35]

Lord Marks withdrew his amendments, although he returned to the subject at report stage,[36] when the Government moved its own amendments to introduce the new offence.[37] Lord Faulks summed this up as follows:

> The current law can already punish instances of this behaviour in certain circumstances. A number of offences can be used, and the recently updated guidance from the CPS has made clear that, where intimate images are used to coerce victims into further sexual activity, offences in the Sexual Offences Act 2003 can be used both where the victim is an adult and where they are a child.
>
> This offence, however, will target very different behaviour: namely, the malicious disclosure of private sexual photographs or films. The offence seeks to target material, the disclosure of which would have the potential to cause the most harm to an individual. It will therefore apply to the disclosure of private sexual photographs or films of people, such as those which show them engaged in sexual activity or depicted in a sexual way where what is shown is not the kind of thing usually seen in public. In determining whether the picture is sexual, the court will be required to take into account both the nature of what is shown and the context provided by the whole of the pictures' content. To commit the offence, the disclosure must take place without the consent of at least one person featured in the image and with the motivation of causing that person distress.[38]

Lord Marks said that he was "content that the government amendments represent an effective way of dealing with this despicable behaviour."[39]

4.3 Personal injury claims: cases of fundamental dishonesty

Clause 45 of Bill 30 was added at Report stage in the House of Commons. The clause would require a court to dismiss in its entirety any personal injury claim where it was satisfied that the claimant had been fundamentally dishonest, unless it would cause substantial

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34 HL Deb 21 July 2014 c969
35 HL Deb 21 July 2014 c979
36 HL Deb 20 October 2014 cc517-532
37 Ibid c537
38 Ibid cc523-4
39 Ibid c519

injustice to the claimant to do so.[40] Lord Faulks had previously stated that, under the current law, the courts have discretion to dismiss a claim entirely for fraudulent behaviour, but will only do so in very exceptional cases, and will generally still award the claimant compensation in relation to the "genuine" element of the claim.[41] A Government factsheet provides information about the mischief Clause 45 is intended to address: *Tackling unjustified personal injury claims*.[42]

Sub-clause (5) of Clause 45 deals with the amount of the defendant's costs a court might require the claimant to pay when it dismisses a claim. At committee stage, Lord Hunt of Wirral asked for clarification of how this sub-clause would operate, querying whether it "simply undoes the good work of the rest of the clause".[43] In reply, Lord Faulks said that the sub-clause would ensure that, when a court dismisses a claim under the clause, it could award costs against the claimant only to the extent that these exceeded the damages that would otherwise have been awarded. However, he said that he would consider the drafting of sub-clause (5) before Report stage.[44]

Lords Amendment 84 is a Government amendment, agreed at report stage without vote, which would replace sub-clause (5) of Clause 45 and which, Lord Faulks said, would clarify the position. Revised sub-clause (5) would apply when the court was assessing costs in proceedings where the claim had been dismissed because of the claimant's fundamental dishonesty. The court would be required to deduct the amount of damages that it would have awarded to the claimant from the amount which it would otherwise order the claimant to pay in respect of the defendant's costs. Lord Faulks set out the underlying intention of the provision:

> …to ensure that claimants are not excessively sanctioned by both losing the genuine element of the award of damages and having to pay the defendant's costs without any credit for what the defendant has saved by avoiding payment of the genuine element of the award. I should add that one of the main intentions behind this provision is to deter people from bringing these claims at all, or at least deter them from being dishonest when advancing them.[45]

Lord Faulks said that it was not the Government's intention to interfere more generally with the court's discretion on whether to make a costs order and, if so, in what terms.

4.4 Rules against inducements to make personal injury claims

Lords Amendments 85 to 88 and 117 are Government amendments which would ban the offer by a regulated person (as defined) of monetary and non-monetary inducements to potential claimants as an incentive to bring personal injury claims (now **Clauses 57 to 60** of the Bill as amended on Report).[46]

Lord Faulks said that the measures would complement other Government reforms intended to control the costs of civil litigation. He said it was necessary to stop the practice of offering inducements in order to protect both consumers and the reputation of the legal profession. A Government fact sheet set out the Government's concern that the offer of inducements by

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40 HC Deb 17 June 2014 cc1066
41 HL Deb 9 June 2014 cc26-7WS
42 Gov.UK website [accessed 27 November 2014]
43 HL Deb 23 July 2014 c1260
44 HL Deb 23 July 2014 c1268-9
45 HL Deb 22 October 2014 cc742
46 HL Bill 49 2014-15

some law firms was helping to encourage exaggerated or fraudulent personal injury claims, wasting time and money. The Government expressed concern about the impact such claims could have on motor insurance premiums.[47]

At committee stage, Lord Faulks indicated that a ban on the offer of inducements had cross-industry support and had been endorsed by the House of Commons Transport Committee.[48] The new provisions were supported by the Opposition.

New clauses were agreed without vote at Committee stage.[49] Government amendments to the new provisions were agreed without vote at Report stage;[50] these amendments are intended to prevent regulated persons avoiding the ban by offering inducements through third parties, and were introduced in response to an amendment tabled (but not moved) by Lord Hunt of Wirral at Committee stage.

The amendments would define what is considered to be an inducement, and other relevant terms. Regulators set out in a list would be required to monitor and enforce the ban, and would have power to make rules for that purpose. Breach of the ban would not be a criminal offence and would not give rise to a right of action for breach of statutory duty.

The Lord Chancellor would have power to make regulations by statutory instrument – the affirmative resolution procedure would apply to regulations made under the new clause inserted by Lords Amendment 85 (Rules against inducement to make personal injury claims) and the negative resolution procedure would apply to regulations made under the new clause inserted by Lords Amendment 87 (Inducements: interpretation).

The new provisions would extend only to England and Wales.

4.5 Appeals from the Court of Protection

Section 53 of the *Mental Capacity Act 2005* (MCA 2005) sets out the routes of appeal for cases in the Court of Protection and provides that rules of court may specify that appeals from certain levels of judge lie to another (higher) judge within that Court, rather than to the Court of Appeal.

The *Crime and Courts Act 2013* added to the categories of judicial office holders who are eligible for nomination to sit in the Court of Protection, but omitted to address the subject of appeals from this extended range. This means that appeals from decisions of judges in the wider range have to go to the Court of Appeal.

Lords Amendments 89 and 110 are Government amendments agreed without vote at Report stage. They would deal with this omission and provide that rules of court could allow appeals from decisions of any specified description of person to be heard within the Court of Protection rather than by the Court of Appeal. Lord Faulks said that this would prevent the Court of Appeal being "unnecessarily burdened by a significant increase in cases" and would allow the Court of Protection the flexibility to deal with resources efficiently.[51] The new clause would come into effect on the same day as Royal Assent.

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47 Gov.UK, *Criminal Justice and Courts Bill: fact sheet: Banning inducements to issue personal injury claims* [accessed 27 November 2014]

48 HL Deb 23 July 2014 c1272

49 HL Deb 23 July 2014 c1271-5

50 HL Deb 22 October 2014 cc744-6

51 HL Deb 22 October 2014 cc746-50

4.6 Meeting a child following sexual grooming

Lords Amendment 73 was a Government amendment agreed to after a brief debate in committee. It would amend the existing offence in section 15 of the *Sexual Offences Act 2003*. At present, the offence occurs where a person has met or communicated with the child "on at least two occasions" and subsequently meets (or travels to meet) the child intending to commit sexual offences. The amendment would mean the perpetrator would only have had to met or communicated with the child on "one or more" occasions rather than "at least two". There was a brief debate, and all those who spoke welcomed the change. [52]

4.7 Other Government amendments

There were many other Government amendments in the Lords which did not occasion much, if any, debate. These include:

- **Lords Amendments 1-4**, which make minor changes to the new sentencing scheme for serious offences. These were agreed in committee without division or much debate. [53]
- **Lords Amendment 36** on rehabilitation of offenders in Scotland, which is "required in order to address a legal competence gap that has been identified by the Scottish Government in relation to the exercise of enabling powers in Schedule 3 to the Rehabilitation of Offenders Act 1974"[54]
- **Lords Amendment 124** which increases the time limit for bringing prosecutions for offences under Section 127 of the *Communications Act 2003*. Section 127 makes it an offence to send grossly offensive, indecent, obscene or menacing material over a public telecommunications network.[55]
- **Lords Amendments 83, 108 and 109,** designed clarify the operation of the mode of trial used for low-value shoplifting (following the introduction of section 176 of the *Anti-social Behaviour, Crime and Policing Act 2014*)[56]
- **Lords Amendments 95** which would allow the President of the Supreme Court of the United Kingdom to make written representations to Parliament about the Supreme Court and its jurisdiction in the same way as the Lord Chief Justice of any part of the United Kingdom can do[57]
- **Lords Amendment 95** which would allow the Supreme Court to appoint judges to the judges to the Supplementary Panel within two years of their retirement, provided that they are under the age of 75.[58]

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52 HL Deb 21 July 2014 cc960-2
53 HL Deb 14 July 2014 c378
54 HL Deb 14 July 2014 c469
55 HL Deb 20 Oct 2014 cc526-7
56 HL Deb 23 July 2014 cc1229-31
57 HL Deb 22 Oct 2014 cc748-9
58 Ibid

5 Clauses which the Government removed from the Bill

In committee, the Government explained that it would not be proceeding with what had been clauses 51 and 52 of the Bill designed to reform the law of strict liability contempt:

> These clauses were included in the Bill at introduction to implement recommendations by the Law Commission intended to reform the law of strict liability contempt. The purpose was to remove the burden on publishers to monitor online archives for potentially contemptuous material, while protecting a defendant's right to a fair trial. However, the Government have received representations from media organisations making it clear that they oppose the measures. The Joint Committee on Human Rights also commented on the issue in its 14th report of this Session. The Government have carefully considered those concerns. We remain of the view that the proposals are balanced and measured but we are satisfied that the existing law will continue to provide satisfactory protection to the integrity of legal proceedings.
>
> Since the measures were intended to assist the media but the media do not want them, we see no purpose in proceeding with the clauses. The then Attorney-General therefore announced in a statement on 30 June, and I also gave notice at Second Reading, that the Government had decided not to pursue the measure and would seek to omit the clauses from the Bill. Amendment 86 is consequential to the omission of Clause 51, since there is no purpose in defining its extent. I urge the Committee to agree that Clauses 51 and 52 should not stand part of the Bill.[59]

[59] HL Deb 28 July 2014 cc1424-6