



Overseas Operations (Service Personnel and Veterans) Act 2021

2021 CHAPTER 23

PART 2

OVERSEAS OPERATIONS: LIMITATION PERIODS

11 Court's discretion to extend time in certain Human Rights Act proceedings

- (1) The Human Rights Act 1998 is amended as follows.
- (2) After section 7 insert—

“7A Limitation: overseas armed forces proceedings

- (1) A court or tribunal exercising its discretion under section 7(5)(b) in respect of overseas armed forces proceedings must do so—
 - (a) in accordance with subsection (2), and
 - (b) subject to the rule in subsection (4).
- (2) The court or tribunal must have particular regard to—
 - (a) the effect of the delay in bringing proceedings on the cogency of evidence adduced or likely to be adduced by the parties, with particular reference to—
 - (i) the likely impact of the operational context on the ability of individuals who are (or, at the time of the events to which the proceedings relate, were) members of Her Majesty's forces to remember relevant events or actions fully or accurately, and
 - (ii) the extent of dependence on the memories of such individuals, taking into account the effect of the operational context on the ability of such individuals to record, or to retain records of, relevant events or actions;

Status: This is the original version (as it was originally enacted).

- (b) the likely impact of the proceedings on the mental health of any witness or potential witness who is (or, at the time of the events to which the proceedings relate, was) a member of Her Majesty's forces.
 - (3) In subsection (2) references to “the operational context” are to the fact that the events to which the proceedings relate took place in the context of overseas operations, and include references to the exceptional demands and stresses to which members of Her Majesty's forces are subject.
 - (4) The rule referred to in subsection (1)(b) is that overseas armed forces proceedings must be brought before the later of—
 - (a) the end of the period of 6 years beginning with the date on which the act complained of took place;
 - (b) the end of the period of 12 months beginning with the date of knowledge.
 - (5) In subsection (4), the “date of knowledge” means the date on which the person bringing the proceedings first knew, or first ought to have known, both—
 - (a) of the act complained of, and
 - (b) that it was an act of the Ministry of Defence or the Secretary of State for Defence.
 - (6) “Overseas armed forces proceedings” means proceedings—
 - (a) against the Ministry of Defence or the Secretary of State for Defence, and
 - (b) in connection with overseas operations.
 - (7) “Overseas operations” means any operations outside the British Islands, including peacekeeping operations and operations for dealing with terrorism, civil unrest or serious public disorder, in the course of which members of Her Majesty's forces come under attack or face the threat of attack or violent resistance.
 - (8) In this section the reference to the British Islands includes the territorial sea adjacent to the United Kingdom and the territorial sea adjacent to any of the Channel Islands or the Isle of Man.
 - (9) In this section “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006 (see section 374 of that Act).”
- (3) In section 22 (short title, commencement, application and extent), after subsection (4) insert—
- “(4A) Section 7A (limitation: overseas armed forces proceedings) applies to proceedings brought under section 7(1)(a) on or after the date on which section 7A comes into force, whenever the act in question took place.”