



Welcome to the first in a series of Bulletins providing a brief update to organisations and individuals with an interest in reform of the laws of homicide. This edition looks at how the clauses contained in the Coroners and Justice Bill were considered in the Commons Committee stage. If you would like to receive this Bulletin in a different format, please contact us.

Parliamentary Timetable

The Coroners and Justice Bill was introduced into the House of Commons on 14 January 2009 and had its Second Reading on 26 January.

Oral evidence on the homicide provisions was taken by the Public Bill Committee on the 3 and 5 February. Witnesses included representatives of the Law Commission, Criminal Bar Association, Law Society and Justice for Women. Maria Eagle, the Minister for criminal justice, gave evidence to the Committee on 3 February. Written submissions to the committee on the homicide provisions were also made by these organisations and others, including Liberty and Dignity in Dying. These are available at:

<http://www.publications.parliament.uk/pa/cm2009/cmpublic/cmpbcor.htm>

The Committee then spent six days scrutinising individual clauses of the Bill. The homicide clauses were looked at on 26 February and 3 March.

Next steps

The next stages of the Bill are:

- Commons Report stage and Third Reading (to take place on 23 and 24 March)
- Introduction to the House of Lords

Should the Bill have a successful passage through Parliament Royal Assent could be given by the autumn.

Main points raised at Committee

Committee members expressed a range of views on a number of issues about the clauses. Many of the views expressed represented quite detailed proposals about how the partial defences to murder should be cast, usually tabled as amendments. The detail of the debate and Government responses can be found in Hansard

(<http://www.publications.parliament.uk/pa/cm2009/cmpublic/cmpbcor.htm>). Issues covered included the following:

General

- The Government's decision not to implement the whole of the Law Commission's recommendations in its report on "Murder, Manslaughter and Infanticide" and to retain the mandatory life sentence for murder.

Diminished responsibility

- Whether it should be necessary for the defendant to have a recognised medical condition before the defence was available.
- The precise wording of the causation requirement in diminished responsibility.
- The Government's decision not to include in the diminished responsibility partial defence a developmental immaturity limb.
- Exploration of the possible role of the diminished responsibility partial defence in cases where the deceased was suffering from illness and it was this that so affected the defendant that he killed in desperation.

Loss of control

- The merits of including the new fear of serious violence limb in the loss of control partial defence, which were accepted.

- Whether the requirement that the defendant had lost their self-control should be removed altogether.
- Whether a limit of reasonable proximity between the trigger and the killing should be introduced if self-control need not be sudden.
- Whether the requirement that the defendant had a justifiable sense of being seriously wronged (in the words and conduct limb of the loss of control partial defence) is objective; whether the test should be “**seriously**” wronged.
- How the sexual infidelity exclusion in the words and conduct limb would operate – and whether it should be removed (on its own or along with the incitement exclusion) or supplemented with a further exception to rule out honour killings.
- How best to set out in the clauses the position with regard to burden of proof and the requirement as to when the judge must put the partial defence to the jury.
- Whether, for a desire for revenge to be sufficient to render the partial defence unavailable, it should have to be “**considered**”.

Infanticide

- The minor changes to the law of infanticide in the Bill did not attract any amendments and passed this stage without debate.

Amendments to Bill

A Government amendment was passed, adding the word “reasonably” to clause 41(6). This now provides that:

“...sufficient evidence is adduced to raise an issue with respect to the defence if evidence is adduced on which, in the opinion of the trial judge, a jury, properly directed, could reasonably conclude that the defence might apply”.

After careful reflection, the Government reached the view that the addition of this word served to put the meaning beyond doubt.

A drafting amendment tabled by the opposition was agreed. This replaced the word “justified” with the word “justifiable” in clause 42(6)(b).

This paragraph now reads:

“...a sense of being seriously wronged by a thing done or said is not justifiable if D incited the thing to be done or said for the purpose of providing an excuse to use violence.”

The word “justifiable” also appears in 42(4)(b). The Government considered that the use of consistent language throughout the clause ruled out the possibility of an unintended interpretation of the words.

None of the other amendments was put to a vote.

Joint Committee on Human Rights

As part of its scrutiny of the Coroners and Justice Bill, the Joint Committee on Human Rights has sought further information on whether the proposals for reform of the partial defences to murder provide adequate legal certainty and meet the state's responsibility to protect the individual right to life (Articles 2 and 6).

Copies of the correspondence between the Committee and the Minister can be seen at: http://www.parliament.uk/parliamentary_committees/joint_committee_on_human_rights/legislative_scrutiny0809.cfm

Want to find out more?

You can find a complete account of what happened in Committee by visiting <http://www.publications.parliament.uk/pa/cm200809/cmpublic/cmpbcor.htm>.

The team responsible for the homicide clauses of the Bill can be contacted at Murder_Review@justice.gsi.gov.uk.