



Overseas Operations (Service Personnel and Veterans) Act 2021

2021 CHAPTER 23

PART 1

RESTRICTIONS ON PROSECUTION FOR CERTAIN OFFENCES

Presumption against prosecution

3 Matters to be given particular weight

- (1) In making a decision to which section 1 applies, a relevant prosecutor must give particular weight to the matters set out in subsection (2) (so far as they tend to reduce the person's culpability or otherwise tend against prosecution).
- (2) Those matters are—
 - (a) the adverse effect (or likely adverse effect) on the person of the conditions the person was exposed to during deployment on the operations mentioned in section 1(3)(b), including their experiences and responsibilities (for example, being exposed to unexpected or continuous threats, being in command of others who were so exposed, or being deployed alongside others who were killed or severely wounded in action);
 - (b) in a case where there has been a relevant previous investigation and no compelling new evidence has become available, the public interest in finality (as regards how the person is to be dealt with) being achieved without undue delay.
- (3) In considering the matter in subsection (2)(a), the prosecutor must have regard to the exceptional demands and stresses to which members of Her Majesty's forces are likely to be subject while deployed on overseas operations, regardless of their length of service, rank or personal resilience.
- (4) In subsection (2)(a) "adverse effect", in relation to a person, means—

Status: This is the original version (as it was originally enacted).

- (a) an adverse effect on their capacity to make sound judgements or exercise self control, or
 - (b) any other adverse effect on their mental health,
- and in this subsection “effect” means an effect at the time of the alleged conduct.