

Police, Crime, Sentencing and Courts Bill

CORRECTED AMENDMENTS TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

Clause 7

LORD BROOKE OF ALVERTHORPE

Page 9, line 13, at end insert –

“(8A) A strategy prepared under this section must have regard to known drivers of serious violence including alcohol and drug use.”

Member’s explanatory statement

This amendment aims to ensure that the specified authorities in a local government area who prepare and implement a strategy to prevent and reduce serious violence in the area must ensure that the strategy has regard to the already known drivers of serious violence including alcohol and drug use.

Clause 12

LORD BROOKE OF ALVERTHORPE

Page 13, line 14, at end insert –

- “(5) For the purposes of this section, violence should be defined as “serious” if it results in –
- (a) injury requiring emergency hospital treatment, or
 - (b) harm which constitutes grievous bodily harm.”

Member’s explanatory statement

This amendment would clarify the definition of serious violence, ensuring that any violence which is serious enough to result either in injury requiring emergency hospital treatment or in harm constituting grievous bodily harm would meet the threshold for serious violence.

After Clause 53

LORD DUBS

Insert the following new Clause –

“The right to protest

- (1) The Public Order Act 1986 Part II (Processions and Assemblies) is amended as follows.
- (2) Before section 11 insert –
 - “10A The right to protest**
 - (1) Everyone has the right to engage in peaceful protest, both alone and with others.
 - (2) Public authorities have a duty to –
 - (a) respect the right to protest;
 - (b) protect the right to protest; and
 - (c) facilitate the right to protest.
 - (3) A public authority may only interfere with the right to protest, including by placing restrictions upon its exercise, when it is necessary and proportionate to do so to –
 - (a) protect national security or public safety,
 - (b) prevent disorder or crime, or
 - (c) protect public health, or the rights and freedoms of others.
 - (4) For the purposes of this section “public authority” has the same meaning as in section 6 of the Human Rights Act 1998 (acts of public authorities).”

Member’s explanatory statement

This amendment would introduce an express statutory right to protest, imposing both negative and positive obligations on public authorities while recognising that the right to protest may need to be limited to protect other legitimate public interests.

Clause 55

LORD DUBS

Page 47, line 1, leave out subsections (2) to (4) and insert –

- “(2) After subsection (11) insert –
 - “(12) The Secretary of State may by regulations make provision about the meaning for the purposes of this section of ‘serious disruption to the life of the community’.
 - (13) Regulations under subsection (12) may, in particular:
 - (a) define any aspect of ‘serious disruption to the life of the community’ for the purposes of this section;
 - (b) give examples of cases in which a public procession is or is not to be treated as resulting in serious disruption to the life of the community.
 - (14) Regulations under subsection (12) –
 - (a) are to be made by statutory instrument;

Clause 55 - continued

- (b) may apply only in relation to public processions in England and Wales;
 - (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (15) A statutory instrument containing regulations under subsection (12) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.””

Member’s explanatory statement

This amendment would remove the proposed new trigger for imposing conditions on public processions based on noise in England and Wales. The Secretary of State’s power to make regulations would be amended accordingly.

Clause 56**LORD DUBS**

Page 48, line 14, leave out paragraph (b)

Member’s explanatory statement

This amendment would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

Page 48, line 29, leave out from beginning to end of line 32 and insert –

- “(a) in the case of an assembly in England and Wales, such conditions as to the place at which the assembly may be (or continue to be) held, the time at which it is to start and conclude, its maximum duration, or the maximum number of persons who may constitute it, as appear to the officer necessary to prevent the disorder, damage, disruption, impact or intimidation mentioned in subsection (1);”

Member’s explanatory statement

This amendment removes the proposed ability to impose any necessary conditions on public assemblies in England and Wales and replace it with the existing available conditions plus conditions concerning the time at which the public assembly must start and finish.

Page 48, line 40, leave out subsections (5) and (6) and insert –

“(5) After subsection (10A) (as inserted by section 57(11)) insert –

“(11) The Secretary of State may by regulations make provision about the meaning for the purposes of this section of ‘serious disruption to the life of the community’.

(12) Regulations under subsection (11) may, in particular:

- (a) define any aspect of ‘serious disruption to the life of the community’ for the purposes of this section;
- (b) give examples of cases in which a public assembly is or is not to be treated as resulting in serious disruption to the life of the community.

(13) Regulations under subsection (11) –

- (a) are to be made by statutory instrument;

Clause 56 - continued

- (b) may apply only in relation to public processions in England and Wales;
 - (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (14) A statutory instrument containing regulations under subsection (11) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.””

Member’s explanatory statement

This amendment would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

Clause 57

LORD DUBS

Page 50, line 3, leave out from beginning to end of line 5 and insert—

- “(a) in the case of a public procession in England and Wales, at the time the person fails to comply with the condition the person—
- (i) knows that the condition has been imposed or has deliberately or recklessly avoided gaining knowledge that the condition has been imposed; and
 - (ii) knows or ought to know that their action or inaction amounts to a failure to comply with the condition;”

Member’s explanatory statement

This amendment prevents a person who fails to comply with a condition on a public procession in England and Wales avoiding criminal liability by deliberately or recklessly avoiding knowledge of the relevant condition, without extending the criminal offence to cover persons who breach conditions accidentally. The law in Scotland would remain as it is now.

Page 50, line 8, leave out subsection (6)

Member’s explanatory statement

This amendment removes increases in sentences for non-violent offences by those who organise and attend public processions.

Page 51, line 1, leave out from beginning to end of line 3 and insert—

- “(a) in the case of a public assembly in England and Wales, at the time the person fails to comply with the condition the person:
- (i) knows that the condition has been imposed or has deliberately or recklessly avoided gaining knowledge that the condition has been imposed; and
 - (ii) knows or ought to know that their action or inaction amounts to a failure to comply with the condition;”

Member's explanatory statement

This amendment prevents a person who fails to comply with a condition on a public assembly in England and Wales avoiding criminal liability by deliberately or recklessly avoiding knowledge of the relevant condition, without extending the criminal offence to cover persons who breach conditions accidentally. The law in Scotland would remain as it is now.

Page 51, line 6, leave out subsections (11) and (12)

Member's explanatory statement

This amendment removes increases in sentences for non-violent offences by those who organise and attend public assemblies.

Clause 60

LORD DUBS

Page 53, line 41, leave out subsection (2) and insert –

“(2) For the purposes of subsection (1) “serious harm” means –

- (a) death, personal injury or disease,
- (b) loss of, or damage to, property,
- (c) serious distress, serious annoyance, serious inconvenience or serious loss of amenity, or
- (d) being put at serious risk of suffering anything mentioned in paragraphs (a) to (c).”

Member's explanatory statement

This amendment removes the reference to the experience of a ‘person’ when defining what serious harm means in the context of ‘serious harm to the public or a section of the public’. It also requires the public to be put at significant risk of harm before criminal liability arises, to avoid the offence being excessively broad in its reach.

Page 54, line 4, at end insert –

“(3A) In determining whether a person has a reasonable excuse for the purposes of subsection (3), a court must have particular regard to the importance of the right to protest, including the right to freedom of expression under Article 10 and the right to freedom of association under Article 11 of Part 1 of Schedule 1 to the Human Rights Act 1998.”

Member's explanatory statement

This amendment ensures that the right to protest is given particular regard when a court considers whether a person has a reasonable excuse defence to a charge of public nuisance.

Clause 62

LORD DUBS

Lord Dubs gives notice of his intention to oppose the Question that Clause 62 stand part of the Bill.

Member's explanatory statement

This amendment would leave out Clause 62 of the Bill, which would criminalise people who live on, or intend to live on, unauthorised encampments and provides powers to the police to confiscate property, including caravans.

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24 September 2021
