

# Police, Crime, Sentencing and Courts Bill

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## AMENDMENTS TO BE MOVED IN COMMITTEE OF THE WHOLE HOUSE

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### Clause 4

BARONESS RANDERSON

Page 5, line 24, after “police” insert “pursuit”

***Member’s explanatory statement***

*This would specify that the new standards only apply to “police pursuit purposes” rather than all “police purposes”.*

Page 6, line 18, at end insert —

“(j) other members of the emergency services designated by the Secretary of State by regulations.”

***Member’s explanatory statement***

*This would give the Secretary of State a power to designate other members of the emergency services by regulations. This is to probe what effect the new standards would have on other emergency services.*

### Clause 5

BARONESS RANDERSON

Page 6, line 41, after “police” insert “pursuit”

***Member’s explanatory statement***

*This would specify that the new standards only apply to “police pursuit purposes” rather than all “police purposes”.*

Page 7, line 33, at end insert —

“(j) other members of the emergency services designated by the Secretary of State by regulations.”

***Member’s explanatory statement***

*This would give the Secretary of State a power to designate other members of the emergency services by regulations. This is to probe what effect the new standards would have on other emergency services.*

**After Clause 6**

LORD PADDICK

Insert the following new Clause –

**“Police driving**

- (1) When a vehicle is being used for a policing purpose, the driver may depart from the standard of the careful and competent driver (or cause another to do so), or depart from the direction of any mandatory road traffic sign if and only if –
  - (a) driving the vehicle in accordance with road traffic regulations or relevant policy would be likely to hinder the use of that vehicle for the purpose for which it is being used;
  - (b) any such departure is reasonable in the circumstances as the responder reasonably believed them to be; and
  - (c) the departure was proportionate to the circumstances as the responder reasonably believed them to be.
- (2) In deciding whether the departure was reasonable, the following should be taken into account, so far as is relevant –
  - (a) the relevant policy and training received by the driver (if applicable);
  - (b) that a driver reacting to circumstances as they occur may not be able to judge to a nicety the exact measure of any necessary action required;
  - (c) evidence of a driver having only done what the driver honestly and instinctively thought was necessary in the circumstances constitutes strong evidence that any departure from the relevant standard was reasonable.”

***Member’s explanatory statement***

*This amendment probes whether a ‘reasonableness’ defence is needed for police officers in relation to clauses 4 and 5*

**Clause 41**

LORD BEITH

Page 35, line 2, leave out subsection (1)

***Member’s explanatory statement***

*This amendment is based on a recommendation from the DPPRC that clause 41(1) contains an inappropriate delegation of power*

Page 35, line 4, leave out paragraph (a)

***Member’s explanatory statement***

*This is a probing amendment to explore why confidential journalistic material would be required to be extracted from electronic devices*

**After Clause 54**

BARONESS MEACHER

Insert the following new Clause –

**“Restorative Justice Action Plan**

The Secretary of State for Home Affairs and the Secretary of State for Justice must, every three years –

- (a) Prepare a joint Restorative Justice Action Plan for the Criminal Justice System, which aims to improve access, awareness capacity and evidence of the use of Restorative Justice across the country,
- (b) Lay a copy of the Action Plan before Parliament, and
- (c) Report on progress against that Action Plan to Parliament.”

***Member’s explanatory statement***

*This new clause aims to ensure the regular preparation of Action Plans for Restorative Justice, and their presentation to Parliament, in order to improve access, capacity and use of Restorative Justice across the country.*

**Clause 56**

LORD BEITH

Page 49, line 12, leave out “unease”

***Member’s explanatory statement***

*This amendment is intended to probe the meaning of “unease” in the context of protests.*

**After Clause 76**

BARONESS RANDERSON

Insert the following new Clause –

**“Definition of “exceptional hardship”**

In the Road Traffic Offenders Act 1988, after subsection 35(4), insert –

- “(4A) In subsection (4)(b) above, the hardship that would be caused by
- (a) an offender’s disqualification should be regarded as exceptional if and only if it is significantly greater than the hardship that would arise for a large majority of other drivers if the same disqualification were imposed on them. (b) In assessing whether the hardship arising from the offender’s disqualification would be exceptional, a court may take account of –
    - (i) any circumstances relating to the offender’s economic circumstances or location of residence that would make it exceptionally hard for him to access key services such as grocery shops and postal, banking and healthcare facilities,
    - (ii) any hardship that would be incurred by the offender’s family or others who are disabled and who depend on the offender to provide care for them, and

**After Clause 76 - continued**

- (iii) any other circumstance which it believes would make the hardship genuinely exceptional.””

***Member’s explanatory statement***

*This new Clause provides a definition of “exceptional hardship” for the purpose of RTOA.*

Insert the following new Clause—

**“Review of road traffic offences**

The Secretary of State must carry out a review of all road traffic offences and penalties.”

***Member’s explanatory statement***

*This amendment requires the Secretary of State to carry out a review of all road traffic offences and penalties*

**LORD PADDICK**

Insert the following new Clause—

**“Power of police to stop vehicles**

- (1) Section 163 of the Road Traffic Act 1988 is amended as follows.
- (2) In subsection (a), after “vehicle” in the second place in which it occurs, insert “, and switch off the engine,”.

***Member’s explanatory statement***

*This new Clause to the Road Traffic Act 1988 would require a person to switch off their engine after being stopped by a constable in uniform or a traffic officer, and make it an offence not to do so.*

Insert the following new Clause—

**“Failing to stop or report accidents involving actual or potential serious or fatal injury**

- (1) After subsection 170(4) of the Road Traffic Act 1988, insert—
  - “(4A) A person who fails to comply with subsections 170(2) or 170(3) when he knew that the accident had caused serious or fatal personal injury, or where he ought reasonably to have realised that it might have done so, is guilty of an offence.”
- (2) In Part 1 of Schedule 2 of the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to an offence under RTA subsection 170(4), insert the following—

**After Clause 76 - continued**

|                      |                                                                                                                                 |               |          |            |            |       |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------|----------|------------|------------|-------|
| “RTA section 170(4A) | Failing to stop and give particulars after accident involving actual or potential serious or fatal injury or to report accident | On indictment | 14 years | Obligatory | Obligatory | 6-11” |
|----------------------|---------------------------------------------------------------------------------------------------------------------------------|---------------|----------|------------|------------|-------|

- (3) After subsection 34(3)(d) of the Road Traffic Offenders Act 1988, insert—  
“(e) section 4A (failing to stop and give particulars after accident involving actual or potential serious or fatal injury or to report accident)”.”

***Member’s explanatory statement***

*This amendment creates a new offence of failing to stop or report accidents where the driver knew that the accident had caused serious or fatal injury, or where he ought reasonably to have realised that it might have done so, with a maximum sentence of 14 years custody.*

**Clause 109**

LORD CARLILE OF BERRIEW  
LORD GARNIER  
BARONESS PRASHAR

Leave out Clause 109 and insert the following new Clause—

**“109 Power to refer high-risk offenders to High Court for consideration of referral to Parole Board in place of automatic release**

- (1) The Criminal Justice Act 2003 is amended in accordance with subsections (2) to (10).
- (2) In section 243A (release of prisoners serving sentences of less than 12 months), after subsection (2) insert—  
“(2A) Subsection (2) does not apply if—  
  - (a) the prisoner’s case has been referred to the High Court or the Board under section 244ZB, or
  - (b) a notice given to the prisoner under subsection (4) of that section is in force.”
- (3) In section 244 (general duty to release prisoners), after subsection (1) insert—  
“(1ZA) Subsection (1) does not apply if—

**Clause 109 - continued**

- (a) the prisoner's case has been referred to the High Court or the Board under section 244ZB, or
- (b) a notice given to the prisoner under subsection (4) of that section is in force."

(4) After section 244 insert –

**“ Referral of high-risk offenders to High Court in place of automatic release  
244ZB**

- (1) This section applies to a prisoner who –
  - (a) would (but for anything done under this section and ignoring any possibility of release under section 246 or 248) be, or become, entitled to be released on licence under section 243A(2), 244(1) or 244ZA(1), and
  - (b) is (or will be) aged 18 or over on the first day on which the prisoner would be so entitled.
- (2) For the purposes of this section, the Secretary of State is of the requisite opinion if the Secretary of State believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of any of the following offences –
  - (a) murder;
  - (b) specified offences, within the meaning of section 306 of the Sentencing Code.
- (3) If the Secretary of State is of the requisite opinion, the Secretary of State may refer the prisoner's case to the High Court.
- (4) Before referring the prisoner's case to the High Court, the Secretary of State must notify the prisoner in writing of the Secretary of State's intention to do so (and the reference may be made only if the notice is in force).
- (5) A notice given under subsection (4) must take effect before the prisoner becomes entitled as mentioned in subsection (1)(a).
- (6) A notice given under subsection (4) must explain –
  - (a) the effect of the notice (including its effect under section 243A(2A), 244(1ZA) or 244ZA(3)),
  - (b) why the Secretary of State is of the requisite opinion, and
  - (c) the prisoner's right to make representations (see subsection (12)).
- (7) A notice given under subsection (4) –
  - (a) takes effect at whichever is the earlier of –
    - (i) the time when it is received by the prisoner, and
    - (ii) the time when it would ordinarily be received by the prisoner, and
  - (b) remains in force until –
    - (i) the Secretary of State refers the prisoner's case to the High Court under this section, or
    - (ii) the notice is revoked.
- (8) The Secretary of State –
  - (a) may revoke a notice given under subsection (4), and
  - (b) must do so if the Secretary of State is no longer of the requisite opinion.

**Clause 109 - continued**

- (9) If a notice given under subsection (4) is in force and the prisoner would but for the notice have become entitled as mentioned in subsection (1)(a) –
- (a) the prisoner may apply to the High Court on the ground that the prisoner's release has been delayed by the notice for longer than is reasonably necessary in order for the Secretary of State to complete the referral of the prisoner's case to the High Court, and
  - (b) the High Court, if satisfied that that ground is made out, must by order revoke the notice.
- (10) At any time before the High Court disposes of a reference under this section, the Secretary of State –
- (a) may rescind the reference, and
  - (b) must do so if the Secretary of State is no longer of the requisite opinion.
- (11) If the reference is rescinded, the prisoner is no longer to be treated as one whose case has been referred to the High Court under this section (but this does not have the effect of reviving the notice under subsection (4)).
- (12) The prisoner may make representations to the Secretary of State about the referral, or proposed referral, of the prisoner's case at any time after being notified under subsection (4) and before the High Court disposes of any ensuing reference under this section.
- But the Secretary of State is not required to delay the referral of the prisoner's case in order to give an opportunity for such representations to be made.
- (13) Upon hearing a reference, the High Court must determine whether the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of an offence under subsection (2) and either –
- (a) allow the Secretary of State's reference, or
  - (b) dismiss the Secretary of State's reference.
- (14) If the High Court allows the Secretary of State's reference, the Secretary of State must refer the prisoner's case to the Parole Board.
- (15) If the High Court dismisses the Secretary of State's reference, section 243A(2), 244(1) or 244ZA(1), as applicable, of the Criminal Justice Act 2003 applies to the prisoner.

**244ZC Proceedings following reference under section 244ZB**

- (1) This section applies to a prisoner whose case has been referred to the Parole Board under section 244ZB.
- (2) If, in disposing of that reference or any subsequent reference of the prisoner's case to the Board under this subsection, the Board does not direct the prisoner's release, it is the duty of the Secretary of State to refer the prisoner's case to the Board again no later than the first anniversary of the disposal.
- (3) It is the duty of the Secretary of State to release the prisoner on licence as soon as –

**Clause 109 - continued**

- (a) the prisoner has served the requisite custodial period, and
  - (b) the Board has directed the release of the prisoner under this section.
- (4) The Board must not give a direction under subsection (3) in disposing of the reference under section 244ZB unless the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (5) The Board must not subsequently give a direction under subsection (3) unless –
  - (a) the Secretary of State has referred the prisoner’s case to the Board under subsection (2), and
  - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (6) For the purposes of this section, the “requisite custodial period” means the period ending with the day on which the prisoner would have become entitled as mentioned in section 244ZB(1)(a).”
- (5) In section 246(4) (exceptions from power to release early subject to curfew), after paragraph (f) insert –
  - “(fa) the prisoner’s case has been referred to the Board under section 244ZB,
  - (fb) a notice given to the prisoner under subsection (4) of that section is in force.”.
- (6) In section 255A(2) (duty to consider suitability for automatic release following recall of certain prisoners) (as amended by the Counter-Terrorism and Sentencing Act 2021), for “or a serious terrorism prisoner” substitute “, a serious terrorism prisoner or a prisoner whose case was referred to the Board under section 244ZB”.
- (7) In section 255C(1) (prisoners whose release after recall is not automatic), for the words from “who” to the end substitute “ –
  - (a) whose suitability for automatic release does not have to be considered under section 255A(2), or
  - (b) who is not considered suitable for automatic release.”
- (8) In section 260(5) (powers and duties of Secretary of State that continue to apply to prisoner removed from prison pending deportation), after “244,” insert “244ZB,”.
- (9) In section 261(5)(b) (application of release provisions to returning deported prisoner), after “244,” insert “244ZC,”.
- (10) In section 268(1A) (meaning of “requisite custodial period” in Chapter 6 of Part 12), after paragraph (c) insert –
  - “(ca) in relation to a prisoner whose case has been referred to the Parole Board under section 244ZB, the requisite custodial period for the purposes of section 244ZC;”.
- (11) In Schedule 1 to the Crime (Sentences) Act 1997 –
  - (a) in paragraph 8(2)(a) (provisions relating to release continuing to apply to prisoner transferred from England and Wales to Scotland), for “, 244,” substitute “to”;

**Clause 109 - continued**

- (b) in paragraph 9(2)(a) (provisions relating to release continuing to apply to prisoner transferred from England and Wales to Northern Ireland), for “, 244,” substitute “to”.
- (12) In section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (power to alter test for release on licence at direction of Parole Board) –
  - (a) in subsection (2), after paragraph (b) insert –
    - “(bza) a prisoner whose case has been referred to the Parole Board under section 244ZB of the Criminal Justice Act 2003 (power to refer to Parole Board in place of automatic release),”;
  - (b) in subsection (3), before paragraph (ab) insert –
    - “(aaa) amend section 244ZC of the Criminal Justice Act 2003 (proceedings following reference under section 244ZB of that Act),”.

**Clause 176****EARL ATTLEE**

Page 195, line 10, at end insert “which must be no later than the end of the period of two years beginning with the day on which this Act is passed.

- (1A) The Secretary of State may by regulations made by statutory instrument extend the period under subsection (1) by six months.
- (1B) A statutory instrument containing regulations under subsection (1A) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (1C) The Secretary of State may only make the regulations under subsection (1A) twice and may not lay a second instrument before Parliament under that subsection within one month of the first instrument being made.”

***Member’s explanatory statement***

*The amendment is intended to prevent the Government from allowing any provisions of the bill not to come into force within two years. With two successive affirmative orders that period can be extended by 12 months.*

# Police, Crime, Sentencing and Courts Bill

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AMENDMENTS  
TO BE MOVED  
IN COMMITTEE OF THE WHOLE HOUSE

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*6 October 2021*

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