

Police, Crime, Sentencing and Courts Bill

AMENDMENTS TO BE MOVED IN COMMITTEE OF THE WHOLE HOUSE

After Clause 1

LORD PADDICK

Insert the following new Clause—

“Scrutiny of investigation: timeliness

- (1) Police (Complaints and Misconduct) Regulations 2020 are amended as follows.
- (2) After Regulation 13 insert—

“13A Scrutiny of investigation: timeliness

- (1) A legally qualified person within the meaning of regulation 28(4)(a) and (6) of the Police (Conduct) Regulations 2020 shall be appointed to scrutinise the information provided pursuant to regulation 13.
- (2) On each occasion where information is provided in writing under regulation 13 paragraph (1) or (2) the legally qualified person appointed under paragraph (1) shall determine whether there is good and sufficient reason for—
 - (i) the time already taken; and
 - (ii) realistically anticipated to be needed for completion of the investigation.
- (3) In determining whether there is good and sufficient reason under paragraph (2) the legally qualified person may have regard to any relevant matter, and shall have particular regard to—
 - (a) whether the investigation has been efficient and effective;
 - (b) whether there has been unnecessary or unreasonable delay having regard to complexity and seriousness of the case;
 - (c) the impact upon the officer and others;
 - (d) any anticipated further delay;
 - (e) the public interest and affect upon confidence in the police disciplinary system; and
 - (f) representations made on behalf of any person entitled to receive a copy of the information provided under regulation 13.
- (4) Unless the legally qualified person determines that there is good and sufficient reason under paragraph (2)(i) and (ii) then—

After Clause 1 - continued

- (i) all investigation into possible misconduct or gross misconduct shall be terminated forthwith; and
 - (ii) no disciplinary proceedings may be initiated in respect of the matters under investigation.
- (5) Nothing in this provision shall have any effect in relation to any criminal investigation.”

(3) After Regulation 19 insert –

“19A Scrutiny of investigation: timeliness

- (1) A legally qualified person within the meaning of regulation 28(4)(a) and (6) shall be appointed to scrutinise the information provided pursuant to regulation 19.
- (2) On each occasion where information is provided in writing under regulation 19(1) the legally qualified person appointed under paragraph (1) shall determine whether there is good and sufficient reason for 8 –
 - (a) the time already taken; and
 - (b) realistically anticipated to be needed for completion of the investigation.
- (3) In determining whether there is good and sufficient reason under paragraph (2) the legally qualified person may have regard to any relevant matter, and shall have particular regard to –
 - (a) whether the investigation has been efficient and effective;
 - (b) whether there has been unnecessary or unreasonable delay having regard to complexity and seriousness of the case;
 - (c) the impact upon the officer and others;
 - (d) any anticipated further delay;
 - (e) the public interest and affect upon confidence in the police disciplinary system; and
 - (f) representations made on behalf of any person entitled to receive a copy of the information provided under regulation 19.
- (4) Unless the legally qualified person determines that there is good and sufficient reason under paragraph (2)(i) and (ii) then –
 - (a) all investigation into possible misconduct or gross misconduct shall be terminated forthwith; and
 - (b) no disciplinary proceedings may be initiated in respect of the matters under investigation.
- (5) Nothing in this provision shall have any effect in relation to any criminal investigation.”.

Member’s explanatory statement

This amends the Police (Complaints and Misconduct) Regulations 2020 to provide for a mechanism for scrutiny and consequences where the delays in disciplinary proceedings being brought against police officers.

Clause 37

LORD PADDICK

Page 32, line 32, at end insert “but may not be a person employed by the police or other person excluded by the code of practice published under section 40;”

Member's explanatory statement

This restricts the definition of an authorised person for the extraction of information from electronic devices.

Clause 38

LORD PADDICK

Page 33, line 22, at end insert –

“(4A) An authorised person must have the authority of an officer of the rank of inspector or higher who is independent of the investigation into the death of or risk to the user of the device.”

Member's explanatory statement

This amendment adds a safeguard to the extraction of information from a device where the user has died or is at risk.

Clause 39

LORD PADDICK

Page 33, line 44, at end insert –

“(c) the authorised person has the authority of an officer of the rank of inspector or higher and who is independent of the investigation into the death of or risk to the user of the device.”

Member's explanatory statement

This amendment adds a safeguard to the extraction of information from a device where the user has died or is at risk.

Clause 40

LORD PADDICK

Page 34, line 18, after “guidance” insert “and contained in regulations”

Member's explanatory statement

This ensures that there can be parliamentary scrutiny of any code of practice about the extraction of information

After Clause 54

THE LORD BISHOP OF ST ALBANS
LORD CARRINGTON

Insert the following new Clause –

“Poaching of game

- (1) The Game Laws (Amendment) Act 1960 is amended as follows.
- (2) In section 2(1), after “committing” insert “, has committed, or is about to commit”
- (3) In section 4 –
 - (a) in subsection (1) –
 - (i) after “section thirty” insert “or section thirty-two”, and

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- (ii) at the end insert “or any animal, vehicle, or other article belonging to him, or in his possession or under his control at the relevant time.”;
- (b) in subsection (2), after “gun”, in both places it occurs, insert “, animal,”;
- (c) at the end insert –
 - “(6) Where a person is convicted of an offence under the Night Poaching Act 1828 or the Game Act 1831, the court may order the offender to reimburse any expenses incurred by the police in connection with the keeping of any animal seized in connection with the offence.”
- (4) In section 4A(1), for “section thirty of the Game Act 1831 as one of five or more persons liable under that section” substitute “section 1 or 9 of the Night Poaching Act 1828, or section 30 or 32 of the Game Act 1831”.
- (5) After section 4A insert –

“4B Disqualification Orders

- (1) Where a person is convicted of an offence under either the Night Poaching Act 1828 or the Game Act 1831, the court may, instead of or in addition to dealing with the person in any other way, make an order disqualifying the person from having custody of a dog for such period as the court thinks fit.
- (2) A person who is disqualified from having custody of a dog by virtue of an order made under subsection (1) may, at any time after the end of the period of one year beginning with the day on which the order was made, apply to the court that made it for a direction terminating the disqualification.
- (3) On an application under subsection (2) the court may –
 - (a) having regard to the applicant’s character, conduct since the disqualification was imposed, and any other circumstances of the case, grant or refuse the application, and
 - (b) order the applicant to pay all or any part of the costs of the application,
 and where an application in respect of an order is refused no further application in respect of that order may be made before the end of the period of one year beginning with the day on which the application was rejected.
- (4) Where a court decides not to make an order under subsection (1) in relation to an offender, it must –
 - (a) give reasons for the decision in open court, and
 - (b) if it is a magistrates’ court, cause the reasons to be entered in the register of proceedings.
- (5) Any person who has custody of a dog in contravention of an order under subsection (1), is guilty of an offence.
- (6) Disqualification from having custody of a dog under this section includes disqualifying a person –
 - (a) from owning dogs;
 - (b) from keeping dogs;
 - (c) from participating in the keeping of dogs;

After Clause 54 - continued

- (d) from being party to an arrangement under which they are entitled to control or influence the way in which dogs are kept;
- (e) from dealing in dogs;
- (f) from transporting dogs;
- (g) from arranging for the transport of dogs.””

Member’s explanatory statement

This new Clause is intended to broaden the powers available to the police and the courts for dealing with illegal hare coursers. Measures include providing for forfeiture of animals on conviction and permitting the recovery of expenses incurred by the police in housing a seized animal.

Insert the following new Clause –

“Trespassing in pursuit of game

- (1) The Game Act 1831 is amended as follows.
- (2) In section 30 (trespassing in search or pursuit of game) –
 - (a) for “level 3” substitute “level 5 on the standard scale or imprisonment up to six months, or both”;
 - (b) omit “and if any persons to the number of five or more together shall commit any trespass, by entering or being in the daytime upon any land in search or pursuit of game, or woodcocks, snipes, or conies, each of such persons shall, on conviction thereof before a justice of the peace, forfeit and pay such sum of money, not exceeding level 4 on the standard scale as to the said justice shall seem meet”
- (3) In section 32 (Penalty on Persons found armed using violence), omit “, to the number of five or more together,”
- (4) In section 41 (time for Proceedings etc), for “three” substitute “six”.”

Member’s explanatory statement

This new Clause is intended to broaden the powers available to the police and the courts for dealing with illegal hare coursers. Measures include increasing the maximum fine and reducing the threshold to allow for individual convictions.

Clause 77

LORD PADDICK

Page 72, line 34, leave out paragraphs (a) and (b)

Member’s explanatory statement

This amendment, together with Lord Paddick’s amendment to page 72, line 37, ensures that a person may only be authorised to give a discretionary or community caution if they have been authorised by a prosecuting authority for those purposes; and requires a prosecuting authority to be satisfied that that person has received adequate training and is suitable to carry out those functions.

Page 72, line 37, at end insert –

- “(8) A prosecuting authority may designate a person under subsection (7)(c) only if the prosecuting authority is satisfied that the person –
- (a) is capable of effectively carrying out the functions that are exercisable by virtue of the designation,
 - (b) has received adequate training in respect of the exercise of those functions, and
 - (c) is otherwise a suitable person to exercise those functions.”

Member’s explanatory statement

This amendment, together with Lord Paddick’s amendment to page 72, line 34, ensures that a person may only be authorised to give a discretionary or community caution if they have been authorised by a prosecuting authority for those purposes; and requires a prosecuting authority to be satisfied that that person has received adequate training and is suitable to carry out those functions.

Clause 80

LORD PADDICK

Page 75, line 1, leave out subsection (8)

Member’s explanatory statement

This amendment removes the subsection which allows the maximum number of hours attached to the unpaid work condition and the attendance condition to be amended by regulations.

Lord Paddick gives notice of his intention to oppose the Question that Clause 80 stand part of the Bill.

Member’s explanatory statement

This is to probe whether the Bill strikes the right balance between the investigative functions of police officers and sanctions that are normally the role of the courts.

Clause 81

LORD PADDICK

Page 75, line 15, at end insert “not exceeding £200,”

Member’s explanatory statement

This would specify the maximum fine on the face of the Bill.

Page 75, line 19, leave out subsection (3)

Member’s explanatory statement

This is consequential on Lord Paddick’s amendment to Clause 81, page 75, line 15.

Clause 86

LORD PADDICK

Page 78, line 17, leave out subsection (4)

Member's explanatory statement

This amendment is to probe the effect of subsection (4).

Clause 89

LORD PADDICK

Page 80, line 33, leave out subsection (8)

Member's explanatory statement

This amendment removes the subsection which allows the maximum number of hours attached to the unpaid work condition and the attendance condition to be amended by regulations.

Lord Paddick gives notice of his intention to oppose the Question that Clause 89 stand part of the Bill.

Member's explanatory statement

This is to probe whether the Bill strikes the right balance between the investigative functions of police officers and sanctions that are normally the role of the courts.

Clause 90

LORD PADDICK

Page 81, line 3, at end insert “, taking into account the offender’s ability to pay.”

Member's explanatory statement

This requires the ability of an offender to pay a financial penalty to be taken into account when it is attached to a community caution.

Page 81, line 5, at end insert “not exceeding £200,”

Member's explanatory statement

This would specify the maximum fine on the face of the Bill.

Page 81, line 10, leave out subsection (3)

Member's explanatory statement

This is consequential on Lord Paddick’s amendment to Clause 90, page 81, line 5.

Clause 96

LORD PADDICK

Page 84, leave out line 18

Member's explanatory statement

This is consequential on Lord Paddick’s objection to Clause 97 standing part of the Bill.

Page 84, line 19, leave out from “person” to “where” in line 20

Member's explanatory statement

This is consequential on Lord Paddick’s objection to Clause 97 standing part of the Bill.

Clause 97

LORD PADDICK

Page 84, line 26, at beginning insert “Except for a simple caution,”

Member’s explanatory statement

This amendment would retain the use of the simple caution.

Lord Paddick gives notice of his intention to oppose the Question that Clause 97 stand part of the Bill.

Member’s explanatory statement

This removes the Clause that abolishes all other cautions and out-of-court disposals.

Clause 100

LORD PADDICK

Page 85, leave out lines 34 to 40

Member’s explanatory statement

This amendment is consequential on Lord Paddick’s amendments to Clause 77, page 72, lines 34 and 37.

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8 October 2021
