

Police, Crime, Sentencing and Courts Bill

TENTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 13th October 2021, as follows –

Clauses 1 to 10	Clauses 102 to 128
Schedule 1	Schedule 12
Clause 11	Clause 129
Schedule 2	Schedule 13
Clauses 12 to 42	Clause 130
Schedule 3	Schedule 14
Clause 43	Clauses 131 to 135
Schedule 4	Schedule 15
Clauses 44 to 47	Clause 136
Schedule 5	Schedule 16
Clauses 48 to 51	Clauses 137 to 157
Schedule 6	Schedule 17
Clauses 52 to 54	Clauses 158 to 162
Clauses 62 to 67	Schedule 18
Schedule 7	Clauses 163 to 169
Clauses 68 to 74	Schedule 19
Schedule 8	Clause 170
Clause 75	Clauses 55 to 61
Schedule 9	Clauses 171 and 172
Clauses 76 to 98	Schedule 20
Schedule 10	Clauses 173 to 177
Clauses 99 to 101	Title.
Schedule 11	

[Amendments marked ★ are new or have been altered]

Amendment
No.

After Clause 170

LORD FALCONER OF THOROTON

268

Insert the following new Clause –

“Video recorded cross-examination or re-examination of complainants in respect of sexual offences and modern slavery offences

- (1) Section 28 of the Youth Justice and Criminal Evidence Act 1999 comes into force in relation to proceedings to which subsection (2) applies on the day on which this Act is passed.
- (2) This subsection applies where a witness is eligible for assistance by virtue of section 17(4) of the Youth Justice and Criminal Evidence Act 1999 (complainants in respect of a sexual offence or modern slavery offence who are witnesses in proceedings relating to that offence, or that offence and any other offences).
- (3) This section has effect notwithstanding section 68(3) of the Youth Justice and Criminal Evidence Act 1999.”

Member’s explanatory statement

This new clause would bring section 28 of the Youth Justice and Criminal Evidence Act 1999, which provides for the cross-examination of vulnerable witnesses to be recorded rather than undertaken in court, fully into force for victims of sexual offences and modern slavery offences.

LORD FALCONER OF THOROTON
BARONESS BENNETT OF MANOR CASTLE

269

Insert the following new Clause –

“Assistance for bereaved persons and core participants at inquests and public inquiries

- (1) With respect to inquests, and public inquiries relating to deaths or serious injuries, and where one or more public authority, or private entity whose relevant activity falls within subsection (2), are designated as “interested persons” (IPs) or “core participants” (CPs), bereaved IPs and CPs shall be entitled to publicly-funded legal assistance and representation at the same level or in proportion to the resources provided to the public authority or private entity, as set out in Schedule (*Assistance for bereaved persons and core participants at inquests and public inquiries: amendment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012*).
- (2) Relevant activity of a private entity falls within this subsection where it –
 - (a) is delegated or contracted from a public authority, or
 - (b) is one where the private entity or individual owes a health and safety responsibility to the public or a section of it, including but not limited to sporting, leisure and entertainment events and premises, public transport systems and the provision of utilities and retail facilities.”

Member’s explanatory statement

Combined with the proposed new schedule to follow Schedule 20, this amendment would ensure that bereaved persons and core participants at inquests and public inquiries received legal aid proportionate to the legal expenditure by any public authorities involved in the inquest or inquiry (so-called “equality of arms”).

LORD FALCONER OF THOROTON

270 Insert the following new Clause—

“Public advocate: establishment

- (1) The Lord Chancellor must appoint a person (“the Advocate”) to undertake the functions set out in this Part.
- (2) The Lord Chancellor must, out of money provided by Parliament, pay the expenses of the Advocate and may also pay them such allowances as the Secretary of State determines.
- (3) The Lord Chancellor must ensure that there is an efficient and effective system to support the carrying on of the business of the Advocate.”

Member’s explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

271 Insert the following new Clause—

“Public advocate: role

- (1) The Advocate may undertake the functions set out in section (*Public advocate: functions*) for a particular event when—
 - (a) invited to do so by the Lord Chancellor, or
 - (b) for that event both requirements (one and two) have been met.
- (2) Requirement one is that, in the Advocate’s opinion, an event has occurred which has led to large scale loss of life and involved—
 - (a) serious health and safety issues,
 - (b) a failure in regulation, or
 - (c) other events of serious concern.
- (3) In reaching an opinion under subsection (2), the Advocate must have regard to previous decisions of the Advocate.
- (4) Requirement two is that the Advocate has been asked to undertake their functions by fifty per cent plus one or more of the total of—
 - (a) representatives of those deceased due to the event, and
 - (b) any injured survivors of the event.
- (5) For the purposes of subsection (4)(a), each person who is deceased due to the event shall have one representative who will be the first qualifying person of legal age from—
 - (a) a husband, wife or civil partner from a marriage or partnership that was in existence at the time of the event;
 - (b) a child;
 - (c) a grandchild;
 - (d) a parent;
 - (e) a sibling;
 - (f) a half-sibling;
 - (g) a grandparent;
 - (h) a niece or nephew;

After Clause 170 - continued

- (i) a half-aunt or half-uncle;
 - (j) a cohabitant with the deceased;
 - (k) the executor of the deceased's last will and testament; or
 - (l) in the event that no qualifying person higher in this list can be traced and the deceased has died intestate, the Advocate themselves or any person with a verifiable relationship with the deceased that the Advocate may appoint on application for them to do so.
- (6) In subsection (5)–
- (a) if there is more than one qualifying person in any of the categories in subsection (5)(a), (b), (c) or (e) then the elder person of legal age within that category will be the first qualifying person; and
 - (b) if a parent is the first qualifying person and is legally separated from the other parent of the deceased, both may choose jointly to represent the deceased.
- (7) The first qualifying person under subsection (5) may assign another qualifying person as their representative.
- (8) For the purposes of subsection (2), the large scale loss of life need not occur due to one single incident and the Advocate may choose to classify a series of deaths over a period of time as a large scale loss of life.
- (9) For the purposes of subsection (4)(b), an injured person is one who has been admitted to hospital as a result of the event.”

Member's explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

272

Insert the following new Clause –

“Public advocate: functions

- (1) The functions of the Advocate are as follows.
- (2) The Advocate must report to the representatives under section 2(5) during any police or other authority's investigation into the disaster regarding the progress of the investigation, and how the representatives can assist with it, including, if there are no lawyers representing the families, the implications of engaging lawyers at that stage.
- (3) Should any person listed in subsection (5) of section (*Public advocate: role*) request it, the Advocate must make any reports they have provided under subsection (2) to the representatives or legal representatives available to all qualifying persons listed in subsection (5) of section (*Public advocate: role*).
- (4) Following a further request to the Advocate by fifty percent plus one or more of the representatives of those deceased due to the event, the Advocate must set up a panel (the “Advocate's Panel”) which must register as a data controller under the Data Protection Act 1998 and review all documentation relating to the event, the deceased and the representatives and report thereon.

After Clause 170 - continued

- (5) In establishing the Advocate’s Panel under subsection (4), the Advocate must consult the representatives of those deceased due to the event about the composition of the Panel.
- (6) Subject to section 4, all relevant public authorities and other relevant organisations must provide documentation under subsection (4) to an Advocate’s Panel on request from the Panel.
- (7) An Advocate’s Panel must publish a report on its review of the documentation.
- (8) The Advocate may not chair an Advocate’s Panel but will be a member, along with further members and a person whom the Advocate deems fit to appoint to chair the panel.
- (9) In this section, any reference to a representative shall mean all persons meeting the requirements of subsection (4) of section (*Public advocate: role*), including those who have not asked the Advocate to undertake these functions.”

Member’s explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

273

Insert the following new Clause—

“Public advocate: disclosure of information to an Advocate’s Panel

- (1) Nothing in this section detracts from the duty upon relevant public authorities to provide relevant information to an Advocate’s Panel on request from the Panel.
- (2) In this Part—
 - “relevant information” includes all information which may reasonably be considered to be related to the cause of the event, the event, and actions taken after the event due to it;
 - “public authority” has the same meaning as in the Freedom of Information Act 2000.
- (3) A public authority may only decline to provide information to the Advocate’s Panel if disclosure of that information to the Panel—
 - (a) is not possible for reasons of safeguarding national security;
 - (b) would, or would be likely to, prejudice the defence of the United Kingdom or of any Crown dependency or overseas territory, or the capability, effectiveness or security of the armed forces of the Crown;
 - (c) is prohibited by or under any enactment, is incompatible with any international obligation of the United Kingdom, or would constitute or be punishable as a contempt of court; or
 - (d) would, or would be likely to, prejudice a police investigation as to whether any person has failed to comply with the law.

After Clause 170 - continued

- (4) A public authority may request that the Advocate's Panel provide an assurance that information provided to the Panel will be secured to the same data security standard as used by that authority, and the Panel may provide such assurance and use its best endeavours to maintain that standard.
- (5) If information is withheld from the Advocate's Panel under subsection (3), the Panel must be informed of the subject of the matter being withheld and the reason for that exemption.
- (6) Upon receiving a notification that information is being withheld, the Panel may apply to the Information Commissioner for a decision whether the public authority has assessed correctly that disclosure is not possible under subsection (3).
- (7) Upon receiving an application from an Advocate's Panel under subsection (6), the Information Commissioner must consider the application and issue a decision notice to the Panel and to the relevant public authority stating either—
 - (a) that the public authority has correctly assessed that the information should be withheld; or
 - (b) that all or some of the information should not be withheld, the steps that the public authority must take to provide the information and the period within which they must be taken.
- (8) A decision notice issued by the Information Commissioner under subsection (7) may be appealed by the Advocate's Panel or the relevant public authority to the Tribunal.
- (9) If on an appeal under subsection (8) the Tribunal considers—
 - (a) that the notice against which the appeal is brought is not in accordance with the law, or
 - (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he or she ought to have exercised his or her discretion differently, the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.
- (10) On such an appeal, the Tribunal—
 - (a) may review any finding of fact on which the notice in question was based; and
 - (b) shall notify the Lord Chancellor of its decision.
- (11) An Advocate's Panel and any office or officials supporting the work of the Advocate are not a public authority for the purpose of the Freedom of Information Act 2000.
- (12) In this section, "Tribunal" has the meaning given by section 84 of the Freedom of Information Act 2000."

Member's explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

274 Insert the following new Clause –

“Public advocate: report

- (1) The Advocate shall send to the Lord Chancellor a report –
 - (a) on an annual basis, summarising their work;
 - (b) at the conclusion of support relating to a particular event; and
 - (c) at any other time they identify a need so to do.
- (2) The Lord Chancellor must lay before Parliament a copy of any reports received from the Advocate within 15 days of their receipt.”

Member’s explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

BARONESS CHAKRABARTI

LORD ROSSER

BARONESS NEWLOVE

LORD BROWN OF EATON-UNDER-HEYWOOD

275 Insert the following new Clause –

“Duty to establish inquiry into lessons to be learned from the death of Sarah Everard

- (1) The Secretary of State must within one month of the coming into force of any provision of this Act, cause an inquiry to be held under the Inquiries Act 2005 into the matters arising from the abduction, rape and murder of Sarah Everard to identify the lessons to be learned for the professional culture, funding, vetting and organisation of policing, the prevention of violence against women and the investigation and prosecution of misogynistic crimes.
- (2) The inquiry must be undertaken by a chair who is to be a senior woman judge or retired judge, and a panel of other members of relevant experience appointed as set out under section 4 of the Inquiries Act 2005.”

LORD PADDICK

BARONESS CHAKRABARTI

276 Insert the following new Clause –

“Criminal Justice and Public Order Act 1994: repeal of section 60

Section 60 of the Criminal Justice and Public Order Act 1994 is omitted.”

Member’s explanatory statement

This provision will repeal section 60 of CJPOA, which provides for suspicion-less stop and search.

BARONESS KENNEDY OF CRADLEY

277 Insert the following new Clause –

“Section 6 of the Sexual Offences Act 1956: removal of time limitation

Proceedings for the offence under section 6 of the Sexual Offences Act 1956 (intercourse with a girl between thirteen and sixteen) are not to be barred only by virtue of the passage of time since the date of the alleged offence.”

After Clause 170 - continued

BARONESS JONES OF MOULSECOOMB
 LORD HUNT OF KINGS HEATH
 BARONESS HARRIS OF RICHMOND

278 Insert the following new Clause—

“Referendums on abolition of Police and Crime Commissioners

- (1) A referendum is to be held for each police area listed in Schedule 1 to the Police Act 1996.
- (2) Each referendum is to be held on the same day as the next Police and Crime Commissioner election.
- (3) The question that is to appear on the ballot papers is—
 “Do you think that your local police force should be overseen by an individual Police and Crime Commissioner, or by a Police Authority made up of a committee of local councillors.”
- (4) The alternative answers to that question that are to appear on the ballot papers are—
 “My police force should be overseen by an individual Police and Crime Commissioner”, and
 “My police force should be overseen by a Police Authority made up of a committee of local councillors”
- (5) Those entitled to vote in the referendum are the persons who, on the date of the referendum, are allowed to vote as electors in the Police and Crime Commissioner election.
- (6) Where the referendum results in a majority for a police area being overseen by a Police Authority made up of a committee of local councillors, the Secretary of State must by regulations made by statutory instrument make provision for the purposes of implementating the result within one year of the passing of this Act.”

Member’s explanatory statement

This amendment is intended to establish referendums to determine how each local police force should be governed.

BARONESS JONES OF MOULSECOOMB
 BARONESS HARRIS OF RICHMOND

279 Insert the following new Clause—

“Removal of election deposit in Police and Crime Commissioner elections

No sum of money or deposit may be required for any candidate to be validly nominated in any election for a Police and Crime Commissioner.”

Member’s explanatory statement

This amendment will remove the £5,000 election deposit in Police and Crime Commissioner elections.

BARONESS COUSSINS
THE LORD BISHOP OF LEEDS
LORD PANNICK
LORD MARKS OF HENLEY-ON-THAMES

280 Insert the following new Clause—

“Spoken word interpreters: minimum standards

Spoken word interpreters appointed to a court or tribunal must—

- (a) be registered on the National Register of Public Service Interpreters (“NRPSI”),
- (b) possess a Level 6 Diploma in Public Service Interpreting, or comply with NRPSI Rare Language Status protocols, and
- (c) have completed the requisite number of hours’ experience of court interpreting commensurate with the category of case complexity, as agreed by the Secretary of State in conjunction with relevant professional bodies.”

Member’s explanatory statement

This amendment would establish minimum standards for qualifications and experience for interpreters in courts and tribunals, along the lines of the Police Approved Interpreters Scheme.

LORD ROSSER
LORD HUNT OF KINGS HEATH
BARONESS JONES OF MOULSECOOMB

281 Insert the following new Clause—

“Inquiry on police culture and violence against women and girls

- (1) Within two months of the day on which this Act is passed, the Secretary of State must establish an inquiry into the culture of policing and the prevalence of violence against women and girls.
- (2) The inquiry is to be established under the terms of the Inquiries Act 2005, subject to the following—
 - (a) the chair is to be independent of the Government and police forces in England and Wales;
 - (b) in fulfilling the duty under section 8(1)(a) of that Act (to have regard to the need to ensure that the inquiry panel has the necessary expertise to undertake the inquiry), the Minister must appoint members of the inquiry panel with experience of the prevention of violence against women and girls;
 - (c) the chair may require a person to give evidence or produce documents, and to require a person to give evidence under oath.
- (3) The inquiry must consider—
 - (a) recruitment of the police workforce;
 - (b) police vetting procedures;
 - (c) disciplinary and misconduct procedures for serving police officers accused of misconduct or an offence;
 - (d) culture and standards of behaviour in policing, including the prevalence and impact of misogyny;

After Clause 170 - continued

- (e) the role of police leadership in shaping the culture of policing, tackling misogyny and setting priorities for policing;
 - (f) the prevention of violence against women and girls;
 - (g) the experience of victims who report offences linked to violence against women and girls, including harassment, sexual violence and domestic abuse, to the police;
 - (h) reporting rates and conviction rates for crimes linked to violence against women and girls;
 - (i) steps needed to establish the prevention of violence against women and girls as a police priority.
- (5) Within one year of being established the inquiry must publish a final report and recommendations, or –
- (a) publish an interim report and recommendations, and
 - (b) publish a statement setting out the reasons for the delay of the final report and recommendations, and a timetable for their completion.
- (6) Where a final report or interim report is published under subsection (5) a Minister of the Crown must make a statement to each House of Parliament on the contents of the report and associated recommendations.
- (7) Within six months of a final report being published under subsection (5) a Minister of the Crown must make a statement to each House of Parliament on action that has been taken in response to the recommendations made.”

Member’s explanatory statement

This would require a statutory inquiry, with the powers to compel witness and take evidence under oath, to be established into the culture of policing and the prevalence of violence against women and girls.

LORD ROSSER
LORD HUNT OF KINGS HEATH

282

Insert the following new Clause –

“Mandatory violence against women and girls training for police recruits

- (1) Each police force in England and Wales must –
- (a) provide mandatory specialist training on the prevention of violence against women and girls to be completed on recruitment by all new officers and staff members, and
 - (b) require all serving police officers and staff members to complete mandatory specialist training on the prevention of violence against women and girls, within 12 months of the day on which this Act is passed.
- (2) Training under this section must be designed and delivered in collaboration with an organisation or organisations external to the police, with relevant expertise in the prevention of violence against women and girls.”

Member's explanatory statement

This would require specialist VAWG (violence against women and girls) training to be provided to all new officers on their recruitment to the force, and would require specialist VAWG training to be undertaken by the entire existing force in response within 12 months of the Act being passed.

LORD ROSSER

283 Insert the following new Clause –

“Vetting procedure for an officer transferring between forces

The Secretary of State must revise the code of practice under section 39A of the Police Act 1996 that relates to vetting (following the procedure set out in that section) to secure that vetting clearance is not transferable between forces.”

Member's explanatory statement

This would require an officer who leaves one force and is employed by another to be vetted again on joining the new force.

LORD FALCONER OF THOROTON

284 Insert the following new Clause –

“Harassment in a public place

- (1) A person must not engage in any conduct in a public place –
 - (a) which amounts to harassment of another, and
 - (b) which he or she knows or ought to know amounts to harassment of the other.
- (2) For the purposes of this section, the person whose conduct is in question ought to know that it amounts to harassment of another if a reasonable person would think the conduct amounted to harassment of the other.
- (3) For the purposes of this section –

“conduct” includes speech;

“harassment” of a person includes causing the person alarm or distress.
- (4) Subsection (1) does not apply to conduct if the person can show –
 - (a) that it was for the purpose of preventing or detecting crime,
 - (b) that it was under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
 - (c) that in the particular circumstances it was reasonable.
- (5) A person who engages in any conduct in breach of subsection (1) is guilty of an offence.
- (6) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.”

Member's explanatory statement

This would create a specific offence of street harassment.

285 Insert the following new Clause—

“Kerb-crawling

- (1) It is an offence for a person, from a motor vehicle while it is in a street or public place, or in a street or public place while in the immediate vicinity of a motor vehicle that they have just got out of, to engage in conduct which amounts to harassment in such manner or in such circumstances as to be likely to cause annoyance, alarm, distress or nuisance to any other person.
- (2) A person guilty of an offence under this section is liable on summary conviction to revocation of their driving licence, or a fine not exceeding level 3 on the standard scale, or both.
- (3) In this section “motor vehicle ” has the same meaning as in the Road Traffic Act 1972.
- (4) In this section “street” has the meaning given by section 1(4) of the Street Offences Act 1959.”

Member’s explanatory statement

This would create a specific offence of kerb crawling.

286 Insert the following new Clause—

“Restriction on evidence or questions about complainant’s sexual history

- (1) Section 41 of the Youth, Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) In subsection (1)—
 - (a) starting in paragraph (b) omit “in cross examination, by or on behalf of any accused at the trial,”;
 - (b) at end insert “with anyone other than the defendant”.
- (3) In subsection (2)—
 - (a) for “an accused” substitute “a party to the trial”;
 - (b) in paragraph (a) omit “or (5)”.
- (4) For subsection (3) substitute—

“(3) This subsection applies if the evidence or question relates to a relevant issue in the case and that issue is not an issue of consent.”
- (5) For subsection (5) substitute—

“(5) For the purposes of subsection (3) no evidence may be adduced or question asked unless the judge determines in accordance with the procedures in this subsection that the question or evidence has significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice.
- (5A) In determining that question the judge must take into account—
 - (a) the interests of justice, including the right of the accused to make a full answer and defence;
 - (b) the need to preserve the integrity of the trial process by removing from the fact-finding process any discriminatory belief or bias;
 - (c) the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility in the jury;

After Clause 170 - continued

- (d) the potential threat to the complainant’s personal dignity and right to privacy;
- (e) the complainant’s right to personal security and to the full protection and benefit of the law;
- (f) the provisions of the Victims Code;
- (g) and any other factor that the judge considers relevant.”

(6) In subsection (6), for “subsections (3) and (5)” substitute “subsection (3)”.

Member’s explanatory statement

This amendment excludes the admission in evidence of any sexual behaviour of the complainant with a third party, whether by the prosecution or the defence, to show consent, whilst leaving it admissible if it is relevant to any other issue in the case. It sets out the additional requirement that to be admitted the material must be more probative than prejudicial and sets out the considerations the judge must have regard to in considering that extra requirement.

287 Insert the following new Clause—

“Definition of “issue of consent”

- (1) Section 42 of the Youth, Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) For paragraph (b) substitute—
 - “(b) “issue of consent” means any issue where the complainant in fact consented to the conduct constituting the offence with which the defendant is charged and any issue where the accused reasonably believed that the complainant so consented;”

Member’s explanatory statement

This amendment re-defines “issue of consent” for the purposes of section 41, including in the definition the defendant’s reasonable belief in consent, and thus removing it as a reason for the inclusion of a complainant’s sexual history or behaviour.

288 Insert the following new Clause—

“Admission of evidence or questions about complainant’s sexual history

- (1) The Youth, Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) After section 43 insert—

“43A Admission of evidence or questions about complainant’s sexual history

In any trial or contested hearing to which section 41 of the Youth Justice and Criminal Evidence Act 1999 applies, if no pre-trial application in accordance with Part 36 of the Criminal Procedure Rules has been made, or if such application has been made and refused in whole or in part, no further application may be made during the course of the trial or before its commencement to call such evidence or ask such question, and no judge may allow such application or admit any such questions or evidence.”

Member's explanatory statement

This new Clause would have the effect that no section 41 evidence or questions could be admitted by a judge at trial unless there had been an application before trial in accordance with the practice directions; and the amendment would ban applications from being made immediately before or during the trial.

289 Insert the following new Clause—

“Complainant’s right of representation and appeal on an application to adduce evidence or questions on sexual conduct

- (1) The Youth, Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) After section 43 insert—

“43A Complainant’s right of representation and appeal on an application to adduce evidence or questions on sexual conduct

In any trial to which section 41 applies, where notice is given that there will be an application under Part 36 of the Criminal Procedure Rules for leave to ask questions or to adduce evidence as to any sexual behaviour of the complainant—

- (a) the complainant may not be compelled to give evidence at any hearing on the application;
- (b) the complainant is entitled to be served with the application and to be legally represented (with the assistance of legal aid if financially eligible) as “a party” within the meaning of the Criminal Procedure Rules in responding in writing to the application and in presenting their case at any hearing on the application;
- (c) if the application succeeds in whole or in part, the complainant has a right to appeal for a rehearing of the application to the Court of Appeal on notice within seven days of the judgment being delivered;
- (d) on any such appeal, the Court of Appeal must rehear the application in full and may grant or refuse it in whole or in part;
- (e) the Secretary of State may, by regulations, set out rules of procedure relating to any hearing or appeal under this section.”

Member's explanatory statement

This new Clause would give the complainant a right of representation, with legal aid if they are financially eligible, to oppose any application to admit section 41 material about them. This new Clause would also give complainants a right of appeal to the Court of Appeal if the application is allowed in whole or in part. The new Clause also provides that the complainant is not compellable as a witness at the application.

290 Insert the following new Clause—

“Collection of and reporting to Parliament on data and information relating to proceedings involving rape and sexual assault

- (1) The Secretary of State must collect and report to Parliament annually the following data and information—
 - (a) the time taken in every case of rape or sexual assault for the case to progress from complaint to charge, from charge to pre-trial plea and management hearing, and from then until trial;

After Clause 170 - continued

- (b) the number of applications to ask questions or adduce evidence of any sexual behaviour of the complainant under section 41 of the Youth Justice and Criminal Evidence Act 1999 (“the 1999 Act”) made in the magistrates and crown courts of England and Wales, irrespective of whether a trial was subsequently held;
 - (c) the number of cases which involved questions on or evidence of any sexual behaviour of the complainant in all rape, sexual abuse and other trials or contested hearings in the magistrates and crown courts of England and Wales, irrespective of whether an application was made to admit such questions or evidence in advance of the trial or hearing;
 - (d) in cases to which section 41 of the 1999 Act applies –
 - (i) whether Part 36 of the Criminal Procedure Rules was followed in each application and if it was not, how it was not;
 - (ii) the questions proposed to be asked;
 - (iii) the evidence proposed to be called;
 - (iv) whether the prosecution opposed the application and if so the content of their representations;
 - (v) whether evidence was called to support or oppose the application;
 - (vi) whether the application was allowed in whole or in part and a copy of the judgment made on the application; and
 - (vii) any other material which might assist in an assessment of the frequency, basis and nature of applications for the use of such questions or evidence and the likely impact on any parties to any trial and the trial outcome.
- (2) The data and information collected under subsection (1) must include –
- (a) all the material from any pre-trial application;
 - (b) the questions in fact asked and the evidence in fact called about any sexual behaviour of the complainant in the trial;
 - (c) any application at the start or during the course of the trial to vary or alter any judgment given in any earlier application or any further application to admit such questions or evidence;
 - (d) whether any material not previously authorised was used in the trial;
 - (e) whether the prosecution objected; and
 - (f) any ruling made or action taken by the judge on the further conduct of the trial as a consequence of the admission of questions or evidence under section 41 of the 1999 Act.
- (3) The data and information to be collected under this section must be collected from the date of the passing of this Act.”

Member’s explanatory statement

This Clause requires the Secretary of State to collect and report to Parliament data and information on trial delay and section 41 matters.

291 Insert the following new Clause –

“Training for relevant public officials in relation to the conduct of cases of serious sexual offences

- (1) The Secretary of State must, on this Act coming into force, publish and implement a strategy to provide training on the investigation of rape and alleged rape complainants, and the admissibility of and cross-examination of complainants on their sexual history, to –
 - (a) the Crown Prosecution Service;
 - (b) police forces;
 - (c) the judiciary; and
 - (d) such other public bodies as the Secretary of State considers appropriate.
- (2) The Secretary of State must ensure that any judge who is asked to hear a trial where the accused is charged with rape or any other serious sexual offence has attended and completed a training programme for such trials which has been accredited by the Judicial College.”

Member’s explanatory statement

This new Clause ensures that all criminal justice agencies shall be trained and that no judge can hear a sexual offence trial of any kind unless they have attended the Judicial College serious sexual offence course.

BARONESS HAMWEE
LORD PADDICK

292 Insert the following new Clause –

“Automated decision-making: safeguards

- (1) Where data is being processed for a criminal justice purpose, section 14 of the Data Protection Act 2018 is to be read as if the amendments in subsections (2) to (7) had been made.
- (2) In subsection (1) after “solely” insert “or significantly”.
- (3) In subsection (4) after “solely” insert “or significantly”.
- (4) In subsection (4)(a) after “solely” insert “or significantly”.
- (5) In subsection (4)(b)(ii) after “solely” insert “or significantly”.
- (6) In subsection (5) after paragraph (a) insert –
 - “(aa) provide to the data subject all such information as may be reasonable regarding the operation of the automated processing and the basis of the decision,”
- (7) After subsection (5) insert –
 - “(5A) The controller’s powers and obligations under this section are not limited by commercial confidentiality claimed by the provider of equipment or programmes used”.

After Clause 170 - continued

LORD PONSONBY OF SHULBREDE

292A Insert the following new Clause –

“Offence of requiring or accepting sexual relations as a condition of accommodation

- (1) It is an offence for a person (A) to require or accept from a person (B) sexual relations as a condition of access to or retention of accommodation or related services or transactions.
- (2) For the purposes of this section, A is –
 - (a) a provider of accommodation,
 - (b) an employee of a provider of accommodation,
 - (c) an agent of a provider of accommodation, or
 - (d) a contractor of a provider of accommodation.
- (3) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a maximum of 7 years.”

Member’s explanatory statement

This new Clause would create an offence of requiring or accepting sexual relations as a condition of accommodation, sometimes known as “sex for rent”. This would be punishable on indictment with a prison term of a maximum of 7 years.

292B Insert the following new Clause –

“Offence of arranging or facilitating the requirement or acceptance of sexual relations as a condition of accommodation

- (1) It is an offence for a person, who may in particular be a publisher, to arrange or facilitate an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*).
- (2) A person commits an offence if they intend to arrange or know that their actions would facilitate an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*).
- (3) A publisher commits an offence if they –
 - (a) know they are arranging or facilitating an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*),
 - (b) reasonably should know their actions would enable the arrangement of or facilitate an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*), or
 - (c) were informed that their actions had enabled the arrangement of or facilitated an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*), and they failed to take remedial action within a reasonable time.
- (4) A person found guilty of an offence under this section is liable on conviction on indictment to a fine of £50,000.”

Member's explanatory statement

This new Clause is contingent on Lord Ponsonby's proposed new Clause "Offence of requiring or accepting sexual relations as a condition of accommodation". It creates an offence of arranging or facilitating an offence of requiring or accepting sexual relations as a condition of accommodation. This is intended to capture, for example, publishers or hosts of advertisements for such arrangements. The penalty for this offence would be a fine of £50,000.

BARONESS NEWLOVE
LORD RUSSELL OF LIVERPOOL
LORD HUNT OF KINGS HEATH

292C Insert the following new Clause—

"Time limits for prosecutions for common assault in domestic abuse cases

- (1) The Criminal Justice Act 1988 is amended as follows.
- (2) At the end of section 39 insert—
 - “(3) Subject to subsection (4) below, summary proceedings for an offence of common assault or battery involving domestic abuse may be brought within a period of six months from the date on which a report of the offence was made to the police.
 - (4) No such proceedings may be brought by virtue of this section more than two years after the commission of the offence.
 - (5) For the purposes of this section “domestic abuse” has the same meaning as in section 1 of the Domestic Abuse Act 2021.”

Member's explanatory statement

This new Clause seeks to extend the existing six month time limit for common assault in cases of domestic abuse.

LORD BACH
LORD HUNT OF KINGS HEATH

292D Insert the following new Clause—

"Police and Crime Commissioners: removal of disqualification for conviction

In section 66 of the Police Reform and Social Responsibility Act 2011 (disqualification from election or holding office as Police and Crime Commissioner: other grounds), omit—

- (a) subsection (3)(c), and
- (b) subsection (4).”

Member's explanatory statement

This amendment is intended to probe the position as it relates to prospective Police and Crime Commissioners who have been convicted of a crime.

BARONESS STOWELL OF BEESTON
 BARONESS MASHAM OF ILTON
 LORD PATTEN
 BARONESS O'LOAN

292E Insert the following new Clause—

“Crime scenes: religious rituals or prayer

In securing a crime scene where a person within that crime scene is severely injured, such that there is a strong likelihood that they might die, there is a presumption that the constable in charge will allow entry to the crime scene to a minister of religion in order to perform religious rituals or prayer associated with dying.”

Member’s explanatory statement

This amendment is intended to probe expectations of police procedure.

LORD MCCOLL OF DULWICH

292F Insert the following new Clause—

“Modern slavery through control of another's property

In Section 1 of the Modern Slavery Act 2015 (Slavery, servitude and forced or compulsory labour) after subsection (1)(b) insert—

“or

- (c) the person occupies or exercises some substantial control over another’s home in connection with the commission of another criminal offence and the person knows or ought to know that the other person—
 - (i) has not given consent,
 - (ii) is unable to give free and informed consent, or
 - (iii) has withdrawn consent.”

Member’s explanatory statement

This new Clause would make exploitation through exercise of control over another person’s property without their consent an offence under Section 1 of the Modern Slavery Act.

LORD WASSERMAN
 BARONESS MORRIS OF YARDLEY
 BARONESS GREY-THOMPSON
 BARONESS LUDFORD

292G Insert the following new Clause—

“Recording the sex and acquired gender of alleged victims and perpetrators of crime

After section 44 of the Police Act 1996 insert—

“44A Recording sex registered at birth and acquired gender

- (1) Police forces in England and Wales must keep a record of the sex registered at birth of each person who is—
 - (a) the alleged victim of a crime reported to that police force, or
 - (b) arrested for a crime by a member of that police force.
- (2) Police forces in England and Wales must keep a record of the acquired gender of each person with a gender recognition certificate who is—

After Clause 170 - continued

- (a) the alleged victim of a crime reported to a member of that police force, or
 - (b) arrested for a crime by a member of that police force.
- (3) Provision by a police force to the Secretary of State of any protected information recorded under subsection (2) above does not constitute an offence under section 22 of the Gender Recognition Act 2004.”

Member’s explanatory statement

This amends the Police Act 1996 to ensure that the sex registered at birth and acquired gender, if appropriate, of anyone who is the alleged victim of a crime or who is arrested for a crime will be recorded by police.

BARONESS BLAKE OF LEEDS

292H Insert the following new Clause –

“Offences under the Protection from Eviction Act 1977

- (1) Where a local authority is investigating an offence under the Protection from Eviction Act 1977, the police must cooperate with the relevant local authority and provide relevant information to it.
- (2) Local authorities must review such information that they have received every year.”

Member’s explanatory statement

This amendment would support procedure for dealing with illegal evictions.

LORD HUNT OF KINGS HEATH
BARONESS ARMSTRONG OF HILL TOP

292J Insert the following new Clause –

“Duties to collaborate and plan to provide support to children affected by domestic violence or at high risk of criminal exploitation

- (1) The specified authorities for a local government area must collaborate with each other to provide support to children affected by domestic violence or at high risk of criminal exploitation.
- (2) The duty imposed on the specified authorities for a local government area by subsection (1) includes a duty to plan together to exercise their functions so as to provide support to children affected by domestic violence or at high risk of criminal exploitation.
- (3) In particular, the specified authorities for a local government area must prepare and implement a strategy for exercising their functions to provide support to children affected by domestic violence or at high risk of criminal exploitation.
- (4) In preparing a strategy under this section for a local government area, the specified authorities for the area must ensure that the following are consulted –
 - (a) each educational authority for the area;
 - (b) each prison authority for the area;
 - (c) each youth custody authority for the area.

After Clause 170 - continued

- (5) A strategy under this section for a local government area may specify an action to be carried out by –
 - (a) an educational authority for the area,
 - (b) a prison authority for the area, or
 - (c) a youth custody authority for the area.
- (6) In preparing a strategy under this section for a local government area, the specified authorities for the area may invite participation from a person of a description for the time being prescribed by order of the Secretary of State under section 5(3) of the Crime and Disorder Act 1998.
- (7) Once a strategy has been prepared under this section for a local government area, the specified authorities for the area must –
 - (a) keep the strategy under review, and
 - (b) from time to time prepare and implement a revised strategy.
- (8) A strategy under this section may cover an area that is wider than a local government area.
- (9) The Secretary of State may by regulations make provision for or in connection with the publication and dissemination of a strategy under this section.
- (10) References in subsections (4) to (9) to a strategy under this section include a revised strategy.
- (11) This section does not affect any power of a specified authority to collaborate or plan apart from this section.
- (12) In this section “specified authority” means a person listed as follows –
 - a district council;
 - a county council;
 - a London Borough Council;
 - the Common Council of the City of London in its capacity as a local authority;
 - the Council of the Isles of Scilly;
 - a provider of probation services within the meaning given by section 3(6) of the Offender Management Act 2007;
 - a youth offending team established under section 39 of the Crime and Disorder Act 1998;
 - a clinical commissioning group established under section 14D of the National Health Service Act 2006;
 - a chief officer of police for a police area in England and Wales.”

Member’s explanatory statement

The aim of the amendment is to introduce a statutory duty on local authorities, the NHS and the police to collaborate to ensure that early help is provided to children living in families with domestic violence concerns or those who are at risk of criminal exploitation.

BARONESS BRINTON

292K Insert the following new Clause—

“Desecration of a corpse

- (1) A person (‘D’) is guilty of an offence if—
 - (a) D acts with severe disrespect to a corpse, and
 - (b) D knows that, or is reckless to whether, their acts are one of severe disrespect.
- (2) In subsection (1)(a), disrespect to a corpse includes but is not limited to—
 - (a) dismembering a corpse, including—
 - (i) removing or attempting to remove identifiable body parts such as teeth, or fingers;
 - (ii) decapitation or attempted decapitation;
 - (b) destroying or attempting to destroy a corpse by means or burning or the use of chemicals.
- (3) For the purposes of subsection (1)(a), whether an act is one of severe disrespect is to be judged according to the standard of the reasonable person.
- (4) A person is not guilty of an offence under this section if—
 - (a) the act would otherwise be criminal under section 1 of the Human Tissue Act 2004,
 - (b) the act is also a criminal offence under section 70 of the Sexual Offences Act 2003 (sexual penetration of a corpse), or
 - (c) the act is a lawful cremation under the Cremation (England and Wales) Regulations 2008.
- (5) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years.”

Member’s explanatory statement

The current common law offence of preventing a lawful and decent burial is rarely used. This amendment therefore creates a specific criminal offence of desecration of a corpse to address intentional acts of disrespect towards a deceased person’s remains.

292L Insert the following new Clause—

“Concealment of a body

- (1) A person (‘D’) is guilty of an offence if—
 - (a) D conceals or attempts to conceal the deceased body of another person, and
 - (b) D intends to obstruct a coronial investigation, or
 D conceals a death to facilitate another criminal offence.
- (2) In subsection (1) concealment of the deceased includes but is not limited to—
 - (a) burying a corpse;
 - (b) submerging a corpse in water; or

After Clause 170 - continued

- (c) otherwise preventing an official burial or cremation by the deceased's family.
- (3) For the purposes of subsection (1)(b), the circumstances in which a coronial investigation is required are set out in section 1 of the Coroners and Justice Act 2009.
- (4) For the purposes of subsection (1)(b), concealment of a homicide will be conclusive evidence of an intent to obstruct a coronial investigation.
- (5) A person guilty of an offence under this section is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years.”

Member's explanatory statement

The common law offence of obstructing the coroner is rarely used. This amendment therefore creates a specific criminal offence of concealment of a body to address circumstances where an offender refuses to co-operate in the recovery of their victims' remains.

LORD FALCONER OF THOROTON

292M

Insert the following new Clause –

“Review of offences under section 66 of the Sexual Offences Act 2003

- (1) The Secretary of State must establish a review of the offence of exposure, under section 66 of the Sexual Offences Act 2003, within two months of the day on which this Act is passed.
- (2) A review under this section must consider –
 - (a) the adequacy of sentencing guidelines for exposure,
 - (b) incidence rates and rates of reporting by victims of exposure,
 - (c) charging rates and prosecution rates for exposure,
 - (d) the adequacy of police investigations into reports of exposure,
 - (e) the use and effectiveness of custodial and non-custodial sentences handed down for the offence,
 - (f) reoffending rates for the offence,
 - (g) rates of offenders who commit one or more other sexual offences following a charge or sentence for exposure, and the category of those offences, and
 - (h) the impact of the offence on victims.
- (3) A report on the findings of the review under this section, and any associated recommendations, must be published within one year of the day on which this Act is passed.
- (4) Where a report is published under subsection (3) a Minister of the Crown must make a statement to each House of Parliament on the contents of the report and associated recommendations.

After Clause 170 - continued

- (5) Within six months of a report being published under subsection (3) a Minister of the Crown must make a statement to each House of Parliament on action that has been taken in response to any recommendations made.”

BARONESS NEWLOVE
LORD RUSSELL OF LIVERPOOL
BARONESS BRINTON
LORD HUNT OF KINGS HEATH

292N Insert the following new Clause –

“Strategy on stalking

- (1) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed, prepare and publish a document setting out a strategy for –
- (a) detecting, investigating and prosecuting offences involving stalking,
 - (b) assessing and managing the risks posed by individuals who commit offences involving risks associated with stalking, and
 - (c) reducing the risk that such individuals commit further offences.
- (2) In preparing the strategy, the Secretary of State must –
- (a) seek to adopt a multi-agency stalking intervention programme;
 - (b) seek to ensure that risk assessments for stalking victims are carried out by trained specialist stalking professionals;
 - (c) seek to ensure that any judge, police officer or other relevant public official involved in an investigation or legal proceedings involving stalking has attended and completed relevant training.
- (3) The Secretary of State –
- (a) must keep the strategy under review;
 - (b) may revise it.
- (4) If the Secretary of State revises the strategy, the Secretary of State must publish a document setting out the revised strategy.
- (5) In preparing or revising a strategy under this section, the Secretary of State must consult such other persons as the Secretary of State considers appropriate.
- (6) Subsection (5) does not apply in relation to any revisions of the strategy if the Secretary of State considers the proposed revisions of the strategy are insubstantial.
- (7) In this section –
- the references to “acts associated with stalking” and “risks associated with stalking” are to be read in accordance with section 1 of the Stalking Protection Act 2019;

After Clause 170 - continued

“multi-agency stalking intervention programme” means a programme through which public authorities, including police forces, probation services and the National Health Service, collaborate with each other and stalking advocacy support services to intervene on those carrying out acts associated with stalking, whether or not convicted of an offence, depending on the level of risk they pose to the victim and the public.”

Member’s explanatory statement

This amendment aims to promote the early identification of and intervention on stalking, and better investigation and prosecution of the crime, by requiring the Government to develop a strategy that includes: the adoption of a multi-agency intervention programme, risk assessments for victims to be carried out by trained professionals, and training for relevant public officials.

LORD MARKS OF HENLEY-ON-THAMES
LORD THOMAS OF GRESFORD

292P Insert the following new Clause—

“Royal Commission on criminal sentencing

- (1) Within six months of the passing of this Act, the Secretary of State must establish a Royal Commission to carry out a full review of criminal sentencing.
- (2) In particular the Commission must make recommendations on—
 - (a) how to reduce the prison population;
 - (b) how to reduce violence and overcrowding in prisons;
 - (c) addressing the particular needs of young people in custody;
 - (d) addressing the particular needs of women in custody;
 - (e) how to ensure that sentencing for offences is focussed upon reform and rehabilitation of offenders and reducing reoffending;
 - (f) how to reduce the over-representation of people from Black, Asian and minority ethnic backgrounds in prison;
 - (g) the imposition and management of non-custodial sentences; and
 - (h) the abolition of some mandatory or minimum prison sentences.”

Member’s explanatory statement

This amendment would establish a Royal Commission to review criminal sentencing.

LORD COAKER

292Q Insert the following new Clause—

“Fast-track public space protection orders

In the Anti-social Behaviour, Crime and Policing Act 2014, after section 61 (variation and discharge of orders) insert—

“61A Fast-track public spaces protection orders

- (1) A local authority may make a fast-track public spaces protection order where the following conditions are met—

After Clause 170 - continued

- (a) the public space to which the order will apply is a school within the local authority area,
 - (b) activities carried on, or likely to be carried on, in the vicinity of the school have had, or are likely to have, a detrimental effect on the quality of life for pupils and staff,
 - (c) the local authority has provided for a five-day consultation period, and consulted –
 - (i) the leadership of the school to which the order will apply,
 - (ii) a chief officer of police of the police area in which the school to which the order will apply is located, and
 - (iii) other such persons as the local authority considers appropriate, and
 - (d) consent for the order to be applied has been granted by –
 - (i) the leadership of the school to which the order will apply,
 - (ii) a chief officer of police of the police area in which the school to which the order will apply is located, and
 - (iii) the leader of the local authority which will make the order.
- (2) A “fast-track public spaces protection order” is a public spaces protection order which immediately imposes prohibitions or requirements as provided for under section 59.
- (3) A fast-track public spaces protection order may not have effect for a period of more than 6 months unless extended under this section.
- (4) Before the time when a fast-track public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent –
- (a) occurrence or recurrence after that time of the activities identified in the order, or
 - (b) an increase in the frequency or seriousness of those activities after that time.
- (5) A fast-track public spaces protection order under this section may not be –
- (a) extended for a period of more than 6 months
 - (b) extended more than once.””

Member’s explanatory statement

This probes the need for fast-tracked exclusion zones around schools, in response to anti-vaccination protesters targeting schools, pupils and teachers.

LORD FALCONER OF THOROTON

292R

Insert the following new Clause –

“Urgent review of offences under section 61 of the Sexual Offences Act 2003

- (1) The Secretary of State must establish a review into the prevalence of, and the response of the criminal justice system to, the offence of administering a substance with intent under section 61 of the Sexual Offences Act 2003, within one month of the day on which this Act is passed.
- (2) A review under this section must consider –

After Clause 170 - continued

- (a) incidence rates and rates of reporting by victims;
 - (b) charging and prosecution rates for the offence;
 - (c) the adequacy of sentencing guidelines for the offence;
 - (d) the adequacy of police investigations into reports of the offence;
 - (e) re-offending rates, and rates of offenders who commit one or more other sexual offences following a charge or sentence for administering a substance with intent;
 - (f) the impact of the offence on victims.
- (3) A report on the findings of the review under this section, and any associated recommendations, must be published within six months of the day on which this Act is passed.
- (4) Where a report is published under subsection (3) a Minister of the Crown must make a statement to each House of Parliament on the contents of the report and associated recommendations.
- (5) Within three months of a report being published under subsection (3) a Minister of the Crown must make a statement to each House of Parliament on action that has been taken in response to recommendations made.”

Member’s explanatory statement

This requires an urgent review of the prevalence of, and the response of the criminal justice system to, incidents of spiking.

LORD BASSAM OF BRIGHTON

292S Insert the following new Clause –

“Relevant offences for football banning orders

In Schedule 1 to the Football Spectators Act 1989, after paragraph (q) insert –

- “(r) any offence under section 127 of the Communications Act 2003 (improper use of public electronic communications network) committed by the accused towards a member of a football team and involving racial hatred.””

Member’s explanatory statement

This would add online offences, specifically posting racist abuse aimed at football players, to the list of relevant offences for which a football banning order can be made.

LORD PONSONBY OF SHULBREDE

LORD FALCONER OF THOROTON

292T★ Insert the following new Clause –

“Offence of sexually motivated homicide

- (1) A person (“A”) commits an offence if –
- (a) A kills another person (“B”), in the course of, or with the motive of, sexual gratification, and
 - (b) A intended the action that led to the death of B.
- (2) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for life.”

Before Clause 55

LORD DUBS
 BARONESS JONES OF MOULSECOOMB
 LORD PADDICK
 LORD HAIN

293 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 ROSSER
 LORD DUBS
 LORD OATES
 LORD HAIN

294 Page 47, line 1, leave out subsections (2) and (3)

Member’s explanatory statement

This is based on a JCHR recommendation. This amendment would remove the proposed new trigger for imposing conditions on public processions based on noise in England and Wales.

LORD DUBS
 BARONESS JONES OF MOULSECOOMB
 BARONESS LUDFORD
 LORD HAIN

295 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;

(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.

LORD PADDICK
 BARONESS JONES OF MOULSECOOMB
 LORD HAIN

296 Page 47, line 14, at end insert –

“(c) after “directions” insert “approved on application to the High Court”.”

Member’s explanatory statement

This amendment would require the police to apply to the courts in order to impose conditions on public processions.

LORD BEITH

297 Page 47, line 22, leave out “unease,”

Member’s explanatory statement

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

LORD BEITH
LORD JUDGE
LORD HAIN
LORD BLUNKETT

298 Page 47, line 33, leave out subsection (4)

Member's explanatory statement

This is based on a DPRRC recommendation. It removes the ability of the Secretary of State to make regulations defining "serious disruption to the activities of an organisation" and "serious disruption to the life of the community", thereby requiring these terms to be defined on the face of the Bill.

LORD PADDICK
LORD ROSSER
LORD HAIN

The above-named Lords give notice of their intention to oppose the Question that Clause 55 stand part of the Bill.

Clause 56

LORD ROSSER
LORD DUBS
LORD OATES
LORD HAIN

299 Page 48, line 12, leave out subsection (2)

Member's explanatory statement

This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS D'SOUZA
BARONESS LUDFORD

300 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.

LORD PADDICK
LORD HAIN

301 Page 48, line 27, after "directions" insert "approved on application to the High Court"

Member's explanatory statement

This amendment would require the police to apply to the courts in order to impose conditions on public assemblies.

LORD DUBS
 BARONESS JONES OF MOULSECOOMB
 BARONESS LUDFORD
 LORD HAIN

- 302 Page 48, line 30, after “conditions” insert “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,”

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.

LORD ROSSER
 LORD DUBS
 BARONESS JONES OF MOULSECOOMB
 LORD OATES

- 303 Page 48, line 31, leave out “, impact”

Member’s explanatory statement

This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

LORD HENDY
 LORD HAIN

- 304 Page 48, line 38, at end insert –
 “(1B) Subsections (1)(aa) and (1)(ab) do not apply to an assembly rendered lawful by section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992.”

LORD ROSSER
 LORD DUBS
 BARONESS D’SOUZA
 LORD OATES

- 305 Page 48, line 40, leave out subsection (5)

Member’s explanatory statement

This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

LORD DUBS
 BARONESS JONES OF MOULSECOOMB
 BARONESS LUDFORD
 LORD HAIN

- 306 Page 48, line 40, leave out subsections (5) and (6) and insert –
 “(5) After subsection (10A) (as inserted by section 57(11)) insert –

Clause 56 - continued

- “(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;
 - (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.

LORD BEITH

307 Page 49, line 1, leave out “unease”

Member’s explanatory statement

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

LORD JUDGE

LORD BEITH

LORD HAIN

LORD HOPE OF CRAIGHEAD

308 Page 49, line 12, leave out subsection (6)

Member’s explanatory statement

Deleting this provision would leave “serious disruption” to carry its natural meaning, or to be defined on the face of the Bill.

LORD ROSSER

LORD PADDICK

The above-named Lords give notice of their intention to oppose the Question that Clause 56 stand part of the Bill.

Clause 57

LORD DUBS
 BARONESS JONES OF MOULSECOOMB
 BARONESS D'SOUZA
 BARONESS LUDFORD

309 Page 50, leave out lines 3 to 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.

LORD ROSSER
 LORD DUBS
 BARONESS LUDFORD
 LORD BLUNKETT

310 Page 50, leave out line 5 and insert –

- “(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 is based on a JCHR recommendation. It would provide that a person who breaches a condition after deliberately or recklessly avoiding knowledge of the relevant condition can face criminal liability, without extending the criminal offence to cover persons who breach conditions accidentally.

LORD DUBS
 BARONESS JONES OF MOULSECOOMB
 BARONESS D'SOUZA
 BARONESS LUDFORD

311 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.

312 Page 51, leave out lines 1 to 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 –

Clause 57 - continued

- (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.

313 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.

LORD ROSSER
LORD PADDICK
LORD HAIN
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 57 stand part of the Bill.

Clause 58

LORD ROSSER
LORD PADDICK
LORD HAIN
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 58 stand part of the Bill.

Clause 59

LORD ROSSER
LORD PADDICK
LORD HAIN
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 59 stand part of the Bill.

Clause 60

LORD PADDICK
LORD HAIN

314 Page 53, line 34, leave out from “public” to “and” in line 37

Member's explanatory statement

This amendment is intended to narrow the offence of intentionally or recklessly causing public nuisance.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS LUDFORD
LORD HAIN

315 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.

BARONESS MORRISSEY
BARONESS JONES OF MOULSECOOMB

315A Page 53, line 43, leave out “personal injury or disease” and insert “or personal injury”

Member's explanatory statement

This amendment would remove reference to "disease" from the newly proposed public nuisance offence.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS LUDFORD
LORD HAIN

316 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.

LORD ETHERTON

317 Page 54, line 14, at end insert “but, for the avoidance of doubt, this is without prejudice to the continuation of the common law civil cause of action for public nuisance”

Member's explanatory statement

This is a probing amendment highlighting that the effect of the Bill is that there will arise differences between what constitutes a criminal offence under Part 3 of the Bill and the common law cause of action for public nuisance. These differences will likely make it easier to claim damages for the common law cause of action for public nuisance than to prosecute the commission of an offence under Part 3.

LORD PADDICK
LORD ROSSER
LORD HAIN
BARONESS CHAKRABARTI

The above-named Lords give notice of their intention to oppose the Question that Clause 60 stand part of the Bill.

Clause 61

LORD PADDICK

- 318 Page 55, line 18, leave out from “protest” to “and” in line 19 and insert “a police officer present at the scene of the rank of inspector or higher”

Member's explanatory statement

This would define "senior police officer" as an officer of the rank of inspector or higher.

LORD BEITH

- 319 Page 56, leave out lines 15 to 32

Member's explanatory statement

This is based on a DPRRC recommendation. It removes the ability of the Secretary of State to make regulations defining “serious disruption to the activities of an organisation”, thereby requiring this term to be defined on the face of the Bill.

LORD PADDICK
LORD ROSSER
LORD DUBS
LORD HAIN

The above-named Lords give notice of their intention to oppose the Question that Clause 61 stand part of the Bill.

After Clause 61

BARONESS WILLIAMS OF TRAFFORD

- 319A Insert the following new Clause—

“Offence of locking on

- (1) A person commits an offence if—
- (a) they intentionally—
 - (i) attach themselves to another person, to an object or to land,
 - (ii) attach a person to another person, to an object or to land, or
 - (iii) attach an object to another object or to land,
 - (b) that act causes, or is capable of causing, serious disruption to—
 - (i) two or more individuals, or

After Clause 61 - continued

- (ii) an organisation,
in a place other than in a dwelling, and
 - (c) they intend that act to have a consequence mentioned in paragraph (b) or are reckless as to whether it will have such a consequence.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for the act mentioned in paragraph (a) of that subsection.
 - (3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine or to both.
 - (4) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (3) to 51 weeks is to be read as a reference to 6 months.
 - (5) In this section “dwelling” means –
 - (a) a building or structure which is used as a dwelling, or
 - (b) a part of a building or structure, if the part is used as a dwelling,
 and includes any yard, garden, grounds, garage or outhouse belonging to and used with a dwelling.”

Member’s explanatory statement

This amendment creates a new offence of “locking on”, involving the attachment of an individual to another individual, to an object or to land, or an object to another object or to land. It is a requirement of the offence that the act causes or is capable of causing serious disruption to two or more individuals or an organisation and that the accused intends that to occur or is reckless as to whether it will occur.

319B

Insert the following new Clause –

“Offence of being equipped for locking on

- (1) A person commits an offence if they have an object with them in a place other than a dwelling with the intention that it will be used in the course of or in connection with the commission by any person of an offence under section (Offence of locking on)(1) (offence of locking on).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.
- (3) In this section “dwelling” has the same meaning as in section (Offence of locking on).”

Member’s explanatory statement

This amendment creates a new offence where a person has an object with them in a place other than a dwelling with the intention that it will be used in the course of or in connection with the commission by any person of an offence under the new clause in the name of Baroness Williams of Trafford to be inserted after Clause 61 and relating to “locking on”.

319C Insert the following new Clause –

“Wilful obstruction of highway

- (1) Section 137 of the Highways Act 1980 (penalty for wilful obstruction) is amended as follows.
- (2) In subsection (1) –
 - (a) after “liable to” insert “imprisonment for a term not exceeding 51 weeks or”;
 - (b) for “not exceeding level 3 on the standard scale” substitute “or both”.
- (3) After subsection (1) insert –
 - “(1A) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (1) to 51 weeks is to be read as a reference to 6 months.
 - (1B) For the purposes of this section it does not matter whether free passage along the highway in question has already been temporarily restricted or temporarily prohibited (whether by a constable, a traffic authority or otherwise).
 - (1C) In subsection (1B), “traffic authority” has the same meaning as in the Road Traffic Regulation Act 1984 (see section 121A of that Act).”

Member’s explanatory statement

This amendment increases the penalty for the offence of wilfully obstructing a highway. It also clarifies that for the purposes of the offence it does not matter whether free passage along the highway in question has already been temporarily restricted or prohibited.

319D Insert the following new Clause –

“Obstruction etc of major transport works

- (1) A person commits an offence if the person –
 - (a) obstructs the undertaker or a person acting under the authority of the undertaker –
 - (i) in setting out the lines of any major transport works,
 - (ii) in constructing or maintaining any major transport works, or
 - (iii) in taking any steps that are reasonably necessary for the purposes of facilitating, or in connection with, the construction or maintenance of any major transport works, or
 - (b) interferes with, moves or removes any apparatus which –
 - (i) relates to the construction or maintenance of any major transport works, and
 - (ii) belongs to the undertaker, to a person acting under the authority of the undertaker, to a statutory undertaker or to a person acting under the authority of a statutory undertaker.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for the act mentioned in paragraph (a) or (b) (as the case may be) of that subsection.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine or to both.

After Clause 61 - continued

- (4) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (3) to 51 weeks is to be read as a reference to 6 months.
- (5) In this section “major transport works” means –
- (a) works in England and Wales –
 - (i) relating to transport infrastructure, and
 - (ii) the construction of which is authorised directly by an Act of Parliament, or
 - (b) works the construction of which comprises development within subsection (6) that has been granted development consent by an order under section 114 of the Planning Act 2008.
- (6) Development is within this subsection if –
- (a) it is or forms part of a nationally significant infrastructure project within any of paragraphs (h) to (l) of section 14(1) of the Planning Act 2008,
 - (b) it is or forms part of a project (or proposed project) in the field of transport in relation to which a direction has been given under section 35(1) of that Act (directions in relation to projects of national significance) by the Secretary of State, or
 - (c) it is associated development in relation to development within paragraph (a) or (b).
- (7) In this section “undertaker” –
- (a) in relation to major transport works within subsection (5)(a), means a person who is authorised by or under the Act (whether as a result of being appointed the nominated undertaker for the purposes of the Act or otherwise) to construct or maintain any of the works;
 - (b) in relation to major transport works within subsection (5)(b), means a person who is constructing or maintaining any of the works (whether as a result of being the undertaker for the purposes of the order granting development consent or otherwise).
- (8) In this section –
- “associated development” has the same meaning as in the Planning Act 2008 (see section 115 of that Act);
 - “development” has the same meaning as in the Planning Act 2008 (see section 32 of that Act);
 - “development consent” has the same meaning as in the Planning Act 2008 (see section 31 of that Act);
 - “England” includes the English inshore region within the meaning of the Marine and Coastal Access Act 2009 (see section 322 of that Act);
 - “maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace, and “maintenance” is to be construed accordingly;
 - “nationally significant infrastructure project” has the same meaning as in the Planning Act 2008 (see section 14(1) of that Act);

After Clause 61 - continued

“statutory undertaker” means a person who is, or who is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990;

“Wales” includes the Welsh inshore region within the meaning of the Marine and Coastal Access Act 2009 (see section 322 of that Act).

- (9) In section 14 of the Planning Act 2008 (nationally significant infrastructure projects), after subsection (3) insert—

“(3A) An order under subsection (3)(a) may also amend section (*Obstruction etc of major transport works*) (6)(a) of the Police, Crime, Sentencing and Courts Act 2021 (obstruction etc of major transport works).”

Member’s explanatory statement

This amendment contains a new offence of obstructing the construction or maintenance of major transport works. These are transport works that are authorised directly by an Act of Parliament or by certain development consent orders under the Planning Act 2008.

- 319E** Insert the following new Clause—

“Powers to stop and search on suspicion

In section 1(8) of the Police and Criminal Evidence Act 1984 (offences in relation to which stop and search power applies)—

- (a) omit the “and” at the end of paragraph (d), and
- (b) after paragraph (e) insert—
 - “(f) an offence under section 137 of the Highways Act 1980 (wilful obstruction) involving activity which causes or is capable of causing serious disruption to two or more individuals or to an organisation;
 - (g) an offence under section 60 of the Police, Crime, Sentencing and Courts Act 2021 (intentionally or recklessly causing public nuisance);
 - (h) an offence under section (*Offence of locking on*) of that Act (offence of locking on); and
 - (i) an offence under section (*Obstruction etc of major transport works*) of that Act (obstruction etc of major transport works);”

Member’s explanatory statement

This amendment amends section 1 of the Police and Criminal Evidence Act 1984 to allow a constable to stop and search a person or vehicle if they have reasonable grounds for suspecting that they will find an article made, adapted or intended for use in the course of or in connection with an offence listed in the amendment.

- 319F** Insert the following new Clause—

“Powers to stop and search without suspicion

- (1) This section applies if a police officer of or above the rank of inspector reasonably believes—
- (a) that any of the following offences may be committed in any locality within the officer’s police area—

After Clause 61 - continued

- (i) an offence under section 137 of the Highways Act 1980 (wilful obstruction) involving activity which causes or is capable of causing serious disruption to two or more individuals or to an organisation;
 - (ii) an offence under section 60 (intentionally or recklessly causing public nuisance);
 - (iii) an offence under section (*Offence of locking on*) (offence of locking on);
 - (iv) an offence under section (*Obstruction etc of major transport works*) (obstruction etc of major transport works), or
- (b) that persons are carrying prohibited objects in any locality within the officer's police area.
- (2) In this section "prohibited object" means an object which—
- (a) is made or adapted for use in the course of or in connection with an offence within subsection (1)(a), or
 - (b) is intended by the person having it with them for such use by them or by some other person,
- and for the purposes of this section a person carries a prohibited object if they have it in their possession.
- (3) If the further condition in subsection (4) is met, the police officer may give an authorisation that the powers conferred by this section are to be exercisable—
- (a) anywhere within a specified locality within the officer's police area, and
 - (b) for a specified period not exceeding 24 hours.
- (4) The further condition is that the police officer reasonably believes that—
- (a) the authorisation is necessary to prevent the commission of offences within subsection (1)(a) or the carrying of prohibited objects (as the case may be),
 - (b) the specified locality is no greater than is necessary to prevent such activity, and
 - (c) the specified period is no longer than is necessary to prevent such activity.
- (5) If it appears to a police officer of or above the rank of superintendant that it is necessary to do so to prevent the commission of offences within subsection (1)(a) or the carrying of prohibited objects, the officer may direct that the authorisation is to continue in force for a further period not exceeding 24 hours.
- (6) This section confers on any constable in uniform power—
- (a) to stop any person and search them or anything carried by them for a prohibited object;
 - (b) to stop any vehicle and search the vehicle, its driver and any passenger for a prohibited object.
- (7) A constable may, in the exercise of the powers conferred by subsection (6), stop any person or vehicle and make any search the constable thinks fit whether or not the constable has any grounds for suspecting that the person or vehicle is carrying a prohibited object.

After Clause 61 - continued

- (8) If in the course of a search under this section a constable discovers an object which the constable has reasonable grounds for suspecting to be a prohibited object, the constable may seize it.
- (9) This section and sections (*Further provisions about authorisations and directions under section (Powers to stop and search without suspicion)*) (further provisions about authorisations and directions under this section), (*Further provisions about searches under section (Powers to stop and search without suspicion)*) (further provisions about searches under this section) and (*Offence relating to section (Powers to stop and search without suspicion)*) (offence relating to this section) apply (with the necessary modifications) to ships, aircraft and hovercraft as they apply to vehicles.
- (10) In this section and the sections mentioned in subsection (9) –
 “specified” means specified in an authorisation under this section;
 “vehicle” includes a caravan as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960.
- (11) The powers conferred by this section and the sections mentioned in subsection (9) do not affect any power conferred otherwise than by this section or those sections.”

Member’s explanatory statement

This amendment makes provision for a senior police officer to give an authorisation applying to a specified locality for a specified period and allowing a constable to stop and search a person or vehicle for an object made, adapted or intended for use in the course of or in connection with an offence listed in the amendment. While the authorisation is in force the constable may exercise the power whether or not they have any grounds for suspecting the person or vehicle is carrying such an object.

319G

Insert the following new Clause –

“Further provisions about authorisations and directions under section (*Powers to stop and search without suspicion*)

- (1) If an inspector gives an authorisation under section (*Powers to stop and search without suspicion*), the inspector must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.
- (2) An authorisation under section (*Powers to stop and search without suspicion*) must –
 (a) be given in writing signed by the officer giving it,
 (b) specify the grounds on which it is given, and
 (c) specify the locality in which and the period during which the powers conferred by that section are exercisable.
- (3) A direction under section (*Powers to stop and search without suspicion*) (5) must –
 (a) be given in writing, or
 (b) where it is not practicable to comply with paragraph (a), be recorded in writing as soon as it is practicable to do so.

After Clause 61 - continued

- (4) References (however expressed) in section (*Powers to stop and search without suspicion*) or this section to a police officer of or above a particular rank include references to a member of the British Transport Police Force of or above that rank.
- (5) In the application of section (*Powers to stop and search without suspicion*) to a member of the British Transport Police Force by virtue of subsection (4), references to a locality within the officer's police area are to be read as references to a place in England and Wales of a kind mentioned in section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003."

Member's explanatory statement

This amendment makes further provision in relation to the new clause in the name of Baroness Williams of Trafford to be inserted after clause 61 and relating to powers to stop and search in the absence of suspicion.

319H Insert the following new Clause—

“Further provisions about searches under section (*Powers to stop and search without suspicion*)

- (1) A person who is searched by a constable under section (*Powers to stop and search without suspicion*) is entitled to obtain a written statement that the person was searched under the powers conferred by that section.
- (2) Subsection (1) applies only if the person applies for the statement within the period of 12 months beginning with the day on which the person was searched.
- (3) Where a vehicle is stopped by a constable under section (*Powers to stop and search without suspicion*), the driver is entitled to obtain a written statement that the vehicle was stopped under the powers conferred by that section.
- (4) Subsection (3) applies only if the driver applies for the statement within the period of 12 months beginning with the day on which the vehicle was stopped.
- (5) Any object seized by a constable under section (*Powers to stop and search without suspicion*) may be retained in accordance with regulations made by the Secretary of State.
- (6) The Secretary of State may make regulations regulating the retention and safe keeping, and the disposal or destruction in circumstances prescribed in the regulations, of such an object.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) Regulations under this section—
 - (a) may make different provision for different purposes;
 - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

Member's explanatory statement

This amendment makes further provision in relation to the new clause in the name of Baroness Williams of Trafford to be inserted after clause 61 and relating to powers to stop and search in the absence of suspicion.

319J Insert the following new Clause—

“Offence relating to section (*Powers to stop and search without suspicion*)

- (1) A person commits an offence if the person intentionally obstructs a constable in the exercise of the constable's powers under section (*Powers to stop and search without suspicion*).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 3 on the standard scale or to both.
- (3) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (2) to 51 weeks is to be read as a reference to 1 month.”

Member's explanatory statement

This amendment makes further provision in relation to the new Clause in the name of Baroness Williams of Trafford to be inserted after Clause 61 and relating to powers to stop and search in the absence of suspicion.

319K Insert the following new Clause—

“Serious disruption prevention orders

- (1) In Part 11 of the Sentencing Code (behaviour orders), after Chapter 1A (as inserted by section 140) insert—

“CHAPTER 1B**SERIOUS DISRUPTION PREVENTION ORDERS***Serious disruption prevention orders made on conviction***342L Serious disruption prevention order made on conviction**

- (1) This section applies where—
 - (a) a person aged 18 or over (“P”) is convicted of an offence (“the current offence”) which was committed on or after the day on which this section comes into force, and
 - (b) the prosecution applies for a serious disruption prevention order to be made in respect of P.
- (2) The court dealing with P in respect of the current offence may make a serious disruption prevention order in respect of P if—
 - (a) the court is satisfied on the balance of probabilities that the current offence is a protest-related offence,
 - (b) the earlier offence condition is met, and
 - (c) the court considers it necessary to make the order for a purpose mentioned in subsection (5).
- (3) The earlier offence condition is that—
 - (a) within the relevant period, P has been convicted of an offence (“the earlier offence”),

After Clause 61 - continued

- (b) the court is satisfied on the balance of probabilities that the earlier offence was a protest-related offence, and
- (c) the current offence and the earlier offence –
 - (i) relate to different protests, or
 - (ii) were committed on different days.
- (4) In subsection (3) “the relevant period” means the period of 5 years ending with the day on which P is convicted of the current offence; but an offence may be taken into account for the purposes of this section only if it was committed –
 - (a) on or after the day on which this section comes into force, and
 - (b) when P was aged 16 or over.
- (5) The purposes are –
 - (a) to prevent P from committing a protest-related offence or a protest-related breach of an injunction;
 - (b) to prevent P from carrying out activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales;
 - (c) to prevent P from causing or contributing to –
 - (i) the commission by any other person of a protest-related offence or a protest-related breach of an injunction, or
 - (ii) the carrying out by any other person of activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales;
 - (d) to protect two or more individuals, or an organisation, in England and Wales from the risk of serious disruption arising from –
 - (i) a protest-related offence,
 - (ii) a protest-related breach of an injunction, or
 - (iii) activities related to a protest.
- (6) A serious disruption prevention order under this section is an order which, for a purpose mentioned in subsection (5) –
 - (a) requires P to do anything described in the order;
 - (b) prohibits P from doing anything described in the order.
- (7) The court may make a serious disruption prevention order in respect of P only if it is made in addition to –
 - (a) a sentence imposed in respect of the current offence, or
 - (b) an order discharging P conditionally.
- (8) For the purpose of deciding whether to make a serious disruption prevention order the court may consider evidence led by the prosecution or P.
- (9) It does not matter whether the evidence would have been admissible in the proceedings for the current offence.
- (10) On making a serious disruption prevention order the court must in ordinary language explain to P the effects of the order.

After Clause 61 - continued

- (11) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of this section to have been committed on the last of those days.

*Serious disruption prevention orders made otherwise than on conviction***342M Serious disruption prevention order made otherwise than on conviction**

- (1) A magistrates' court may make a serious disruption prevention order in respect of a person ("P") where—
- (a) a person within subsection (7) applies by complaint to the court for a serious disruption prevention order to be made in respect of P,
 - (b) P is aged 18 or over when the application is made,
 - (c) the condition in subsection (2) is met, and
 - (d) the court considers it necessary to make the order for a purpose mentioned in subsection (4).
- (2) This condition in this subsection is that the court is satisfied on the balance of probabilities that—
- (a) on at least two occasions in the relevant period, P has—
 - (i) been convicted of a protest-related offence,
 - (ii) been found in contempt of court for a protest-related breach of an injunction,
 - (iii) carried out activities related to a protest that resulted in, or were likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales,
 - (iv) caused or contributed to the commission by any other person of a protest-related offence or a protest-related breach of an injunction, or
 - (v) caused or contributed to the carrying out by any other person of activities related to a protest that resulted in, or were likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales, and
 - (b) each event mentioned in paragraph (a)—
 - (i) relates to a different protest, or
 - (ii) took place on a different day.
- (3) In subsection (2) "the relevant period" means the period of 5 years ending with the day on which the order is made; but an event may be taken into account for the purposes of this section only if it occurred—
- (a) on or after the day on which this section comes into force, and
 - (b) when P was aged 16 or over.
- (4) The purposes are—
- (a) to prevent P from committing a protest-related offence or a protest-related breach of an injunction;
 - (b) to prevent P from carrying out activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales;
 - (c) to prevent P from causing or contributing to—

After Clause 61 - continued

- (i) the commission by any other person of a protest-related offence or a protest-related breach of an injunction, or
- (ii) the carrying out by any other person of activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales;
- (d) to protect two or more individuals, or an organisation, in England and Wales from the risk of serious disruption arising from—
 - (i) a protest-related offence,
 - (ii) a protest related-breach of an injunction, or
 - (iii) activities related to a protest.
- (5) A serious disruption prevention order under this section is an order which, for a purpose mentioned in subsection (4)—
 - (a) requires P to do anything described in the order;
 - (b) prohibits P from doing anything described in the order.
- (6) On making a serious disruption prevention order the court must in ordinary language explain to P the effects of the order.
- (7) The following persons are within this subsection—
 - (a) a relevant chief officer of police;
 - (b) the chief constable of the British Transport Police Force;
 - (c) the chief constable of the Civil Nuclear Constabulary;
 - (d) the chief constable of the Ministry of Defence Police.
- (8) For the purposes of subsection (7)(a) a chief officer of police is a relevant chief officer of police in relation to an application for a serious disruption prevention order in respect of P if—
 - (a) P lives in the chief officer's police area, or
 - (b) the chief officer believes that P is in, or is intending to come to, the chief officer's police area.
- (9) An application for a serious disruption prevention order made by a chief officer of police for a police area may be made only to a court acting for a local justice area that includes any part of that police area.
- (10) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of this section to have been committed on the last of those days.
- (11) Section 127 of the Magistrates' Courts Act 1980 (time limits) does not apply to a complaint under this section.

*Provisions of serious disruption prevention orders***342N Provisions of serious disruption prevention order**

- (1) The requirements imposed on a person ("P") by a serious disruption prevention order may, in particular, have the effect of requiring P to present themselves to a particular person at a particular place at, or between, particular times on particular days.
- (2) Sections 342O and 342P make further provision about the inclusion of requirements (including notification requirements) in a serious disruption prevention order.

After Clause 61 - continued

- (3) The prohibitions imposed on a person (“P”) by a serious disruption prevention order may, in particular, have the effect of prohibiting P from—
- (a) being at a particular place;
 - (b) being at a particular place between particular times on particular days;
 - (c) being at a particular place between particular times on any day;
 - (d) being with particular persons;
 - (e) participating in particular activities;
 - (f) having particular articles with them;
 - (g) using the internet to facilitate or encourage persons to—
 - (i) commit a protest-related offence or a protest-related breach of an injunction, or
 - (ii) carry out activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales.
- (4) References in this section to a particular place or particular persons, activities or articles include a place, persons, activities or articles of a particular description.
- (5) A serious disruption prevention order which imposes prohibitions on a person may include exceptions from those prohibitions.
- (6) Nothing in this section affects the generality of sections 342L(6) and 342M(5).
- (7) The requirements or prohibitions which are imposed on a person by a serious disruption prevention order must, so far as practicable, be such as to avoid—
- (a) any conflict with the person’s religious beliefs, and
 - (b) any interference with the times, if any, at which the person normally works or attends any educational establishment.

342O Requirements in serious disruption prevention order

- (1) A serious disruption prevention order which imposes on a person (“P”) a requirement, other than a notification requirement under section 342P, must specify a person who is to be responsible for supervising compliance with the requirement.
- (2) That person may be an individual or an organisation.
- (3) Before including such a requirement, the court must receive evidence about its suitability and enforceability from—
 - (a) the individual to be specified under subsection (1), if an individual is to be specified;
 - (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.
- (4) Before including two or more such requirements, the court must consider their compatibility with each other.
- (5) It is the duty of a person specified under subsection (1)—
 - (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (the “relevant requirements”);
 - (b) to promote P’s compliance with the relevant requirements;

After Clause 61 - continued

- (c) if the person considers that P—
 - (i) has complied with all of the relevant requirements, or
 - (ii) has failed to comply with a relevant requirement, to inform the appropriate chief officer of police.
- (6) In subsection (5)(c) “the appropriate chief officer of police” means—
 - (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that P lives, or
 - (b) if it appears to that person that P lives in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.
- (7) Where P is subject to a requirement in a serious disruption prevention order, other than a notification requirement under section 342P, P must—
 - (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
 - (b) notify that person of any change of P’s home address.
- (8) The obligations mentioned in subsection (7) have effect as if they were requirements imposed on P by the order.

342P Notification requirements in serious disruption prevention order

- (1) A serious disruption prevention order made in respect of a person (“P”) must impose on P the notification requirements in subsections (2) and (4).
- (2) P must be required to notify the information in subsection (3) to the police within the period of 3 days beginning with the day on which the order takes effect.
- (3) That information is—
 - (a) P’s name on the day that the notification is given and, where P uses one or more other names on that day, each of those names,
 - (b) P’s home address on that day, and
 - (c) the address of any other premises at which, on that day, P regularly resides or stays.
- (4) P must be required to notify the information mentioned in subsection (5) to the police within the period of 3 days beginning with the day on which P—
 - (a) uses a name which has not been previously notified to the police in accordance with the order,
 - (b) changes their home address, or
 - (c) decides to live for a period of one month or more at any premises the address of which has not been previously notified to the police in accordance with the order.
- (5) That information is—
 - (a) in a case within subsection (4)(a), the name which has not previously been notified,
 - (b) in a case within subsection (4)(b), the new home address, and
 - (c) in a case within subsection (4)(c), the address of the premises at which P has decided to live.

After Clause 61 - continued

- (6) A serious disruption prevention order must provide that P gives a notification of the kind mentioned in subsection (2) or (4) by –
- (a) attending at a police station in a police area in which P lives, and
 - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.

342Q Duration of serious disruption prevention order

- (1) A serious disruption prevention order takes effect on the day it is made, subject to subsections (3) and (4).
- (2) A serious disruption prevention order must specify the period for which it has effect, which must be a fixed period of not less than 1 week and not more than 2 years.
- (3) Subsection (4) applies in relation to a serious disruption prevention order made in respect of a person (“P”) if –
 - (a) P has been remanded in or committed to custody by an order of a court,
 - (b) a custodial sentence has been imposed on P or P is serving or otherwise subject to a such a sentence, or
 - (c) P is on licence for part of the term of a custodial sentence.
- (4) The order may provide that it does not take effect until –
 - (a) P is released from custody,
 - (b) P ceases to be subject to a custodial sentence, or
 - (c) P ceases to be on licence.
- (5) A serious disruption prevention order may specify periods for which particular requirements or prohibitions have effect.
- (6) Where a court makes a serious disruption prevention order in respect of a person and the person is already subject to such an order, the earlier order ceases to have effect.
- (7) In this section “custodial sentence” includes a pre-Code custodial sentence (see section 222(4)).

342R Other information to be included in serious disruption prevention order

A serious disruption prevention order made in respect of a person must specify –

- (a) the reasons for making the order, and
- (b) the penalties which may be imposed on the person for breaching the order.

*Offences***342S Offences relating to a serious disruption prevention order**

- (1) Where a serious disruption prevention order has effect in respect of a person (“P”), P commits an offence if P –
 - (a) fails without reasonable excuse to do anything P is required to do by the order,
 - (b) without reasonable excuse does anything P is prohibited from doing by the order, or
 - (c) notifies to the police, in purported compliance with the order, any information which P knows to be false.

After Clause 61 - continued

- (2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or a fine or both.
- (3) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (2) to 51 weeks is to be read as a reference to 6 months.

*Variation, renewal or discharge of serious disruption prevention order***342T Variation, renewal or discharge of serious disruption prevention order**

- (1) Where a serious disruption prevention order has been made in respect of a person (“P”), a person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging the order.
- (2) Those persons are –
 - (a) P;
 - (b) the chief officer of police for the police area in which P lives;
 - (c) a chief officer of police who believes that P is in, or is intending to come to, the chief officer’s police area;
 - (d) if the application for the order was made by a chief officer of police other than one within paragraph (b) or (c), the chief officer by whom the application was made;
 - (e) the chief officer of police for a police area in which P committed an offence on the basis of which the order was made;
 - (f) where the order was made following an application by a constable within subsection (3), that constable.
- (3) Those constables are –
 - (a) the chief constable of the British Transport Police Force;
 - (b) the chief constable of the Civil Nuclear Constabulary;
 - (c) the chief constable of the Ministry of Defence Police.
- (4) An application under this section must be made –
 - (a) where the appropriate court is a magistrates’ court, by complaint;
 - (b) in any other case, in accordance with rules of court.
- (5) Before making a decision on an application under this section, the court must hear –
 - (a) the person making the application, and
 - (b) any other person within subsection (2) who wishes to be heard.
- (6) Subject to subsection (7), on an application under this section the court may make such order varying, renewing or discharging the serious disruption prevention order as it thinks appropriate.
- (7) The court may renew a serious disruption prevention order, or vary such an order so as to lengthen its duration or to impose an additional prohibition or requirement on P, only if it considers that to do so is necessary –
 - (a) to prevent P from committing a protest-related offence or a protest-related breach of an injunction,

After Clause 61 - continued

- (b) to prevent P from carrying out activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales,
 - (c) to prevent P from causing or contributing to—
 - (i) the commission by any other person of a protest-related offence or a protest-related breach of an injunction, or
 - (ii) the carrying out by any other person of activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales, or
 - (d) to protect two or more individuals, or an organisation, in England and Wales from the risk of serious disruption arising from—
 - (i) a protest-related offence,
 - (ii) a protest-related breach of an injunction, or
 - (iii) activities related to a protest.
- (8) Sections 342N, 342O, 342P (other than subsections (2) and (3)), 342Q and 342R have effect in relation to the renewal of a serious disruption prevention order, or the variation of such an order so as to lengthen its duration or to impose a new requirement or prohibition, as they have effect in relation to the making of such an order.
- (9) On making an order under this section varying or renewing a serious disruption prevention order, the court must in ordinary language explain to P the effects of the serious disruption prevention order (as varied or renewed).
- (10) Section 127 of the Magistrates' Courts Act 1980 does not apply to a complaint under this section.
- (11) In this section “the appropriate court” means—
- (a) where the Crown Court or the Court of Appeal made the order, the Crown Court;
 - (b) where a magistrates' court made the order and the application is made by P or a constable within subsection (3)—
 - (i) that magistrates' court, or
 - (ii) a magistrates' court for the area in which P lives;
 - (c) where a magistrates' court made the order and the application is made by a chief officer of police—
 - (i) that magistrates' court,
 - (ii) a magistrates' court for the area in which P lives, or
 - (iii) a magistrates' court acting for a local justice area that includes any part of the chief officer's police area.

*Appeals***342U Appeal against serious disruption prevention order**

- (1) Where a serious disruption prevention order is made under section 342L (order on conviction) in respect of a person (“P”), P may appeal against the making of the order as if the order were a sentence passed on P for the offence.

After Clause 61 - continued

- (2) Where a serious disruption prevention order is made under section 342M (order otherwise than on conviction) in respect of a person (“P”), P may appeal to the appropriate court against the making of the order.
- (3) A person who applied under section 342M (order otherwise than on conviction) for a serious disruption prevention order to be imposed in respect of a person may appeal to the appropriate court against a refusal to make the order.
- (4) Where an application is made under section 342T for an order varying, renewing or discharging a serious disruption prevention order made in respect of a person (“P”) –
 - (a) the person who made the application may appeal to the appropriate court against a refusal to make an order under that section;
 - (b) P may appeal to the appropriate court against the making of an order under that section which was made on the application of a person other than P;
 - (c) a person within subsection (2) of that section (other than P) may appeal to the appropriate court against the making of an order under that section which was made on the application of P.
- (5) In this section “the appropriate court” means –
 - (a) in relation to an appeal under subsection (2), the Crown Court;
 - (b) in relation to an appeal under subsection (3) or (4) –
 - (i) where the application in question was made to a magistrates’ court, the Crown Court;
 - (ii) where the application in question was made to the Crown Court, the Court of Appeal.
- (6) On an appeal under this section to the Crown Court, the court may make –
 - (a) such orders as may be necessary to give effect to its determination of the appeal, and
 - (b) such incidental and consequential orders as appear to it to be appropriate.

*General***342V Guidance**

- (1) The Secretary of State may issue guidance to –
 - (a) chief officers of police,
 - (b) the chief constable of the British Transport Police Force,
 - (c) the chief constable of the Civil Nuclear Constabulary, and
 - (d) the chief constable of the Ministry of Defence Police,
 in relation to serious disruption prevention orders.
- (2) The guidance may in particular include –
 - (a) guidance about the exercise by chief officers of police and the chief constables mentioned in subsection (1) of their functions under this Chapter,
 - (b) guidance about identifying persons in respect of whom it may be appropriate for applications for serious disruption prevention orders to be made, and

After Clause 61 - continued

- (c) guidance about providing assistance to prosecutors in connection with applications for serious disruption prevention orders.
- (3) The Secretary of State may revise any guidance issued under this section.
- (4) The Secretary of State must arrange for any guidance issued under this section to be published.
- (5) A chief officer of police or a chief constable mentioned in subsection (1) must have regard to any guidance issued under this section.

342W Guidance: Parliamentary procedure

- (1) Before issuing guidance under section 342V, the Secretary of State must lay a draft of the guidance before Parliament.
- (2) If, within the 40-day period, either House of Parliament resolves not to approve the draft guidance, the guidance may not be issued.
- (3) If no such resolution is made within that period, the Secretary of State may issue the guidance.
- (4) In this section “the 40-day period”, in relation to draft guidance, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).
- (5) In calculating the 40-day period, no account is to be taken of any period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) both Houses are adjourned for more than 4 days.

342X Interpretation of Chapter

In this Chapter—

“home address”, in relation to a person (“P”), means—

- (a) the address of P’s sole or main residence, or
- (b) if P has no such residence, the address or location of a place where P can regularly be found and, if there is more than one such place, such one of those places as P may select;

“injunction” means an injunction granted by the High Court, the county court or a youth court;

“protest-related breach”, in relation to an injunction, means a breach which is directly related to a protest;

“protest-related offence” means an offence which is directly related to a protest.”

- (2) In section 3(2) of the Prosecution of Offences Act 1985 (functions of the Director of Public Prosecutions), before paragraph (g) insert—
 - “(fi) to have the conduct of applications for orders under section 342L (1)(b) of the Sentencing Code (serious disruption prevention orders on conviction);”.

Member's explanatory statement

This amendment contains provisions about serious disruption prevention orders. These are orders which can be imposed on a person who has committed two protest-related offences or who has, on at least two occasions, committed protest-related breaches of injunctions or caused or contributed to the commission of such offences or breaches or to activity related to a protest that resulted in serious disruption to two or more individuals or to an organisation.

LORD BEST
 BARONESS THORNHILL
 LORD FALCONER OF THOROTON
 BARONESS BENNETT OF MANOR CASTLE

320

Insert the following new Clause –

“Repeal of Vagrancy Act 1824

- (1) The Vagrancy Act 1824 is repealed.
- (2) In this section –
 - “the 2014 Act” means the Anti-social Behaviour, Crime and Policing Act 2014;
 - “begging” means asking for gifts on streets or in other public places (for which purpose it is immaterial whether gifts are of money or in kind, whether they are expressed as gifts or as loans, and whether a person asks expressly or impliedly, by displaying receptacles for donations or otherwise; but “begging” does not include soliciting donations to a registered-charity with the express written authority of that charity);
 - “registered charity” means a charity registered under section 30 of the Charities Act 2011, or exempted or excepted from registration under or by virtue of that section; and
 - “sleeping rough” means sleeping (or making preparations to sleep, or possessing bedding or other equipment for the purpose of sleeping) on streets or in other public places, or in places or structures not designed for human habitation.
- (3) The following principles are to be applied in the exercise of powers under the 2014 Act –
 - (a) begging or sleeping rough does not in itself amount to action causing alarm or distress (in the absence of other factors);
 - (b) policing and other enforcement action should balance protection of the community with sensitivity to the problems that cause people to engage in begging or sleeping rough; and
 - (c) powers under the 2014 Act should not in general be used in relation to people sleeping rough, and should be used in relation to people begging only where no other approach is reasonably available.
- (4) A constable or other person exercising functions under the 2014 Act, or considering whether to exercise functions under that Act, in connection with a person who has been, or may have been, involved in begging or sleeping rough, must consider whether the person could be referred to public authorities, or charitable or other persons, for help in addressing the problems that cause them to be involved in begging or sleeping rough.
- (5) The Secretary of State must issue guidance to local authorities and police forces about the implementation of subsections (3) and (4).

After Clause 61 - continued

- (6) Local authorities and police forces must –
 - (a) have regard to the guidance; and
 - (b) take reasonable steps to provide education and training designed to ensure consistent and effective implementation of subsections (3) and (4).
- (7) Before issuing (or revising) the guidance the Secretary of State must consult –
 - (a) representatives of police forces;
 - (b) representatives of local authorities; and
 - (c) persons representing the interests of homeless persons.
- (8) The following enactments are repealed (in consequence of subsection (1)) –
 - (a) the Vagrancy Act 1898;
 - (b) the Vagrancy Act 1935;
 - (c) sections 20(1)(g) and 24(1)(f) of the Sentencing Act 2020;
 - (d) section 55(2)(b) of the Violent Crime Reduction Act 2006;
 - (e) paragraph 18 of Schedule 8 to the Serious Organised Crime and Police Act 2005;
 - (f) paragraphs 3(3)(b) and 7(3) of Schedule 3C to the Police Reform Act 2002;
 - (g) paragraph 2(3)(aa) of Schedule 5 to that Act;
 - (h) paragraph 4 of Schedule 6 to the Criminal Justice and Court Services Act 2000;
 - (i) section 43(5) of the Mental Health Act 1983;
 - (j) section 70 of the Criminal Justice Act 1982;
 - (k) section 20 of the Criminal Justice Act 1967;
 - (l) in section 48(2) of the Forestry Act 1967, the words “or against the Vagrancy Act 1824”;
 - (m) in section 20(4) of the New Towns Act (Northern Ireland) 1965, the words “or against section 4 of the Vagrancy Act 1824”;
 - (n) section 2(3)(c) of the House to House Collections Act 1939; and
 - (o) in section 81 of the Public Health Acts Amendment Act 1907, the words “shall for the purpose of the Vagrancy Act 1824 and of any Act for the time being in force altering or amending the same, be deemed to be an open and public place, and”.
- (9) This section extends to England and Wales only, but applies only in relation to acts done in England.
- (10) This section comes into force at the end of the period of two months beginning with the date of Royal Assent.”

Member's explanatory statement

This new Clause would repeal the Vagrancy Act 1824 and establish that begging or sleeping rough is not itself criminal; it would require police officers to balance protection of the community with sensitivity to the problems that cause people to engage in begging or sleeping rough and ensure that general public order enforcement powers should not in general be used in relation to people sleeping rough, and should be used in relation to people begging only where no other approach is reasonably available.

Schedule 20

LORD WOLFSON OF TREDEGAR

321 Page 297, line 6, at end insert –

- “2A In the table in section 122(1) (standard scale of fines for summary offences) –
- (a) in the heading of the second column, for “1 October 1992” substitute “1 May 1984”;
 - (b) between the second and third columns, insert –

*“Offence committed on or after 1 May
1984 and before 1 October 1992*

£50
£100
£400
£1,000
£2,000”

Member's explanatory statement

This amendment makes a minor amendment to the Sentencing Act 2020 to correct an omission from that Act in relation to the standard scale of fines for historical summary offences.

322 Page 297, line 29, at end insert –

- “(2A) In paragraph 34, in the opening words, for “omit” substitute “in.”

Member's explanatory statement

This amendment corrects an error in paragraph 34 of Schedule 22 to the Sentencing Act 2020, which refers to the omission of subsection (4) of section 257 of that Act rather than providing for the amendment of that subsection.

After Schedule 20

LORD FALCONER OF THOROTON

323 Insert the following new Schedule –

“ASSISTANCE FOR BEREAVED PERSONS AND CORE PARTICIPANTS AT INQUESTS AND PUBLIC INQUIRIES: AMENDMENT OF THE LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

- 1 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

After Schedule 20 - continued

2 After section 9 insert—

“9A Inquest and public inquiry into an incident or failure leading to death or serious injury

- (1) Where an inquest is opened or a public inquiry announced into any incident or failure leading to the death or serious injury of a person or persons, and where one or more public authority, or private entity whose relevant activity falls within subsection (2) of section (*Assistance for bereaved persons and core participants at inquests and public inquiries*) of the Police, Crime, Sentencing and Courts Act 2021, are designated as “interested persons” (IPs) pursuant to section 47 of the Coroners and Justice Act 2009, or “core participants” (CPs) pursuant to Rule 5 of the Inquiry Rules 2006, the bereaved or injured IPs and CPs shall be entitled to publicly-funded legal advice and representation.
- (2) The provision shall be at rates previously applied to CPs under section 40(4) of the Inquiries Act 2005, to be reviewed from time to time.
- (3) In cases falling within this section, public authority rates shall be capped at the rates referred to in subsection (2).
- (4) The number, grades and seniority of legal advisers and advocates, and the number of remunerated hours allowed shall be the same or in proportion to provision made for the relevant public authority.
- (5) Where such provision is not the same, it may be more or less than that provided for the public authority, dependent upon the respective roles and burden of work and where provision is not the same the Director must provide a formal written determination setting out the basis for the disparity and certifying that in his or her view the level of funding is proportionate.
- (6) As soon as practicable after instruction by a bereaved IP or CP where subsection (1) applies, the solicitor shall notify the Director of an intention to apply for funding and within four weeks of such notification the solicitor shall make a provisional application for funding based upon instructions and disclosures made at that date.
- (7) Within seven days of receipt of a notification under subsection (6), the Director shall notify any relevant public authority that it must provide the funding information detailed in subsection (8) within four weeks.
- (8) On receipt of a notification under subsection (7) the public authority shall, within four weeks, furnish the Director with a funding plan setting out the provision it is to make for the said proceedings, to include—
 - (a) the number,
 - (b) grades,
 - (c) seniority of legal advisers, advocates and support staff (to include investigators and administrators), and
 - (d) the estimated number of remunerated hours that will be expended by each relevant person in the proper and reasonable preparation and representation of the case.
- (9) The funding plan at subsection (8) shall—

After Schedule 20 - continued

- (a) make clear where provision for legal advice and representation has been made by the public authority in connected proceedings, and the details of such provision, and
 - (b) be certified as being complete and that it includes all proper and reasonable provision made by the Chief Officer or Chief Executive of the public authority in relation to the case.
- (10) In a case of complexity the solicitor for the bereaved applicant or the solicitor for the public authority may agree with the Director that funding plans can be provided periodically or in stages and any such agreement shall be at the discretion of the Director and as directed by him or her.
- (11) Where any funding plan is amended or finalized the Director must be notified and provided with the amended plan within seven days.
- (12) Where a bereaved IP or CP is entitled to public funding under subsection (1), but there is no public authority IP or CP, then the Director shall have regard to the funding plan of the solicitor for the bereaved applicant and the general circumstances of the case, including the level of representation by other IPs or CPs, in assessing the relevant provision under this section.
- (13) Where a bereaved IP or CP is entitled to public funding under subsection (1), it shall not be means-tested.

9B Application of section 9A in the interests of justice

The Director may apply the provisions in section 9A to other inquiries and investigations insofar as is in the interests of justice.””

Member’s explanatory statement

Combined with the proposed new clause to follow Clause 170, this amendment would ensure that bereaved persons and core participants at inquests and public inquiries received legal aid proportionate to the legal expenditure by any public authorities involved in the inquest or inquiry (so-called “equality of arms”).

Clause 175

LORD WOLFSON OF TREDEGAR

324 Page 194, line 14, at end insert –

“(ca) section (*Expedited procedure for initial regulations about remote observation of proceedings*);”

Member’s explanatory statement

This amendment provides for the new Clause after Clause 170 in the name of Lord Wolfson of Tredegar to extend to England and Wales, Scotland and Northern Ireland.

BARONESS WILLIAMS OF TRAFFORD

324A Page 194, line 22, after “61” insert “, (*Serious disruption prevention orders*)”

Member’s explanatory statement

This amendment is consequential on the new Clause in the name of Baroness Williams of Trafford to be inserted after Clause 61 and relating to “serious disruption prevention orders”.

LORD WOLFSON OF TREDEGAR

325 Page 194, line 29, at end insert –

“(6A) Sections 167 and 168 extend to England and Wales, Scotland and Northern Ireland.”

Member’s explanatory statement

This amendment provides for Clauses 167 and 168 to extend to England and Wales, Scotland and Northern Ireland (in consequence of their expanded scope as brought about by the amendments in the name of Lord Wolfson of Tredegar at page 187, line 17 and page 190, lines 27 and 28).

Clause 176

LORD MOYLAN

LORD PANNICK

LORD MACDONALD OF RIVER GLAVEN

LORD SANDHURST

326 Page 195, line 8, leave out “and (5)” and insert “, (5) and (5A)”.

EARL ATTLEE

327 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.

LORD BEST

BARONESS THORNHILL

LORD YOUNG OF COOKHAM

LORD SANDHURST

328 Page 195, line 13, after “33” insert “(Repeal of the Vagrancy Act 1824),”

Member’s explanatory statement

This amendment is consequential to the new Clause tabled in Lord Best’s name.

LORD WOLFSON OF TREDEGAR

329 Page 195, line 39, leave out paragraph (u) and insert –

“(u) sections 167 and 168;

Clause 176 - continued

(ua) section (*Expedited procedure for initial regulations about remote observation of proceedings*);”

Member’s explanatory statement

This provides for Clauses 167 and 168, and the new Clause after Clause 170 in the name of Lord Wolfson of Tredegar, to come into force on Royal Assent.

LORD MOYLAN
LORD PANNICK
LORD MACDONALD OF RIVER GLAVEN
LORD SANDHURST

330 Page 196, line 21, at end insert –

“(5A) Section (*Retention by the police of personal data relating to non-criminal conduct perceived to be motivated by hostility*) comes into force at the end of the period of six months beginning with the day on which this Act is passed.”

Police, Crime, Sentencing and Courts Bill

TENTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

18 November 2021
