

Police, Crime, Sentencing and Courts Bill

AMENDMENTS TO BE MOVED ON REPORT

After Clause 55

THE LORD BISHOP OF ST ALBANS

Insert the following new Clause—

“Poaching of game

- (1) The Game Laws (Amendment) Act 1960 is amended as follows.
- (2) In section 2(1), after “committing” insert “, has committed, or is about to commit”.
- (3) In section 4—
 - (a) in subsection (1)—
 - (i) after “section thirty” insert “or section thirty-two”, and
 - (ii) at the end insert “or any animal, vehicle, or other article belonging to him, or in his possession or under his control at the relevant time.”;
 - (b) in subsection (2), after “gun”, in both places it occurs, insert “, animal,”;
 - (c) at the end insert—
 - “(6) Where a person is convicted of an offence under the Night Poaching Act 1828 or the Game Act 1831, the court may order the offender to reimburse any expenses incurred by the police in connection with the keeping of any animal seized in connection with the offence.”
- (4) In section 4A(1), for “section thirty of the Game Act 1831 as one of five or more persons liable under that section” substitute “section 1 or 9 of the Night Poaching Act 1828, or section 30 or 32 of the Game Act 1831”.
- (5) After section 4A insert—

“4B Disqualification Orders

- (1) Where a person is convicted of an offence under either the Night Poaching Act 1828 or the Game Act 1831, the court may, instead of or in addition to dealing with the person in any other way, make an order disqualifying the person from having custody of a dog for such period as the court thinks fit.

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- (2) A person who is disqualified from having custody of a dog by virtue of an order made under subsection (1) may, at any time after the end of the period of one year beginning with the day on which the order was made, apply to the court that made it for a direction terminating the disqualification.
- (3) On an application under subsection (2) the court may –
 - (a) having regard to the applicant’s character, conduct since the disqualification was imposed, and any other circumstances of the case, grant or refuse the application, and
 - (b) order the applicant to pay all or any part of the costs of the application,
 and where an application in respect of an order is refused no further application in respect of that order may be made before the end of the period of one year beginning with the day on which the application was rejected.
- (4) Where a court decides not to make an order under subsection (1) in relation to an offender, it must –
 - (a) give reasons for the decision in open court, and
 - (b) if it is a magistrates’ court, cause the reasons to be entered in the register of proceedings.
- (5) Any person who has custody of a dog in contravention of an order under subsection (1), is guilty of an offence.
- (6) Disqualification from having custody of a dog under this section includes disqualifying a person –
 - (a) from owning dogs;
 - (b) from keeping dogs;
 - (c) from participating in the keeping of dogs;
 - (d) from being party to an arrangement under which they are entitled to control or influence the way in which dogs are kept;
 - (e) from dealing in dogs;
 - (f) from transporting dogs;
 - (g) from arranging for the transport of dogs.”

Member’s explanatory statement

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

Insert the following new Clause –

“Trespassing in pursuit of game

- (1) The Game Act 1831 is amended as follows.
- (2) In section 30 (trespassing in search or pursuit of game) –
 - (a) for “level 3” substitute “level 5 on the standard scale or imprisonment up to six months, or both”;

After Clause 55 - continued

- (b) omit “and if any persons to the number of five or more together shall commit any trespass, by entering or being in the daytime upon any land in search or pursuit of game, or woodcocks, snipes, or conies, each of such persons shall, on conviction thereof before a justice of the peace, forfeit and pay such sum of money, not exceeding level 4 on the standard scale as to the said justice shall seem meet.”
- (3) In section 32 (penalty on persons found armed using violence), omit “, to the number of five or more together.”
- (4) In section 41 (time for proceedings etc), for “three” substitute “six”.

Member’s explanatory statement

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

Clause 56

LORD ROSSER
LORD DUBS

Page 48, line 29, leave out subsections (2) and (3)

LORD PADDICK

Leave out Clause 56

Clause 57

LORD ROSSER
LORD DUBS

Page 50, line 4, leave out subsection (2)

Page 50, line 23, leave out “, impact”

Page 50, line 32, leave out subsection (5)

LORD PADDICK

Leave out Clause 57

Clause 58

LORD PADDICK

Leave out Clause 58

Clause 59

LORD PADDICK

Leave out Clause 59

Clause 60

LORD PADDICK

Leave out Clause 60

Clause 61

LORD PADDICK

Leave out Clause 61

Clause 62

LORD PADDICK

Leave out Clause 62

After Clause 172

EARL ATTLEE

Insert the following new Clause—

“Facilitation of Potting

- (1) A person commits an offence of facilitation of potting if the person—
 - (a) is in custody and causes or permits their own urine or excrement to be intercepted without lawful reason or excuse, or
 - (b) is in custody and causes or permits their own ejaculate to be intercepted without lawful reason or excuse.
- (2) For the purposes of subsection (1)(a), only in exceptional circumstances may the court accept a defence of “lawful reason or excuse” in the absence of evidence of a prior direction by a clinically qualified person.
- (3) A person guilty of an offence to which this section applies is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.”

Member’s explanatory statement

This amendment aims to establish a specific offence of “facilitating potting”, potting being the practice of throwing urine, excrement or ejaculate at prison staff.

LORD COAKER

Insert the following new Clause—

“Offence of assaulting a retail worker

- (1) It is an offence for a person to assault, threaten or abuse another person—
 - (a) who is a retail worker, and
 - (b) who is engaged, at the time, in retail work.
- (2) No offence is committed under subsection (1) unless the person who assaults, threatens or abuses knows or ought to know that the other person—

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- (a) is a retail worker, and
 - (b) is engaged, at the time, in retail work.
- (3) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for a term not exceeding 12 months, a fine, or both.
- (4) Evidence from a single source is sufficient to establish, for the purposes of this section—
 - (a) whether a person is a retail worker, and
 - (b) whether the person is engaged, at the time, in retail work.
- (5) The offence under subsection (1) of threatening or abusing a retail worker is committed by a person only if the person—
 - (a) behaves in a threatening or abusive manner towards the worker, and
 - (b) intends by the behaviour to cause the worker or any other person fear or alarm or is reckless as to whether the behaviour would cause such fear or alarm.
- (6) Subsection (5) applies to—
 - (a) behaviour of any kind including, in particular, things said or otherwise communicated as well as things done,
 - (b) behaviour consisting of—
 - (i) a single act, or
 - (ii) a course of conduct.
- (7) Subsections (8) to (10) apply where, in proceedings for an offence under subsection (1), it is—
 - (a) specified in the complaint that the offence is aggravated by reason of the retail worker’s enforcing a statutory age restriction, and,
 - (b) proved that the offence is so aggravated.
- (8) The offence is so aggravated if the behaviour constituting the offence occurred because of the enforcement of a statutory age restriction.
- (9) Evidence from a single source is sufficient to prove that the offence is so aggravated.
- (10) Where this section applies, the court must—
 - (a) state on conviction that the offence is so aggravated,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) take the aggravation into account in determining the appropriate sentence, and
 - (d) state—
 - (i) where the sentence imposed in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
 - (ii) otherwise, the reasons for there being no such difference.
- (11) In this section—
 - “enforcement”, in relation to a statutory age restriction, includes—

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- (a) seeking information as to a person's age,
 - (b) considering information as to a person's age,
 - (c) refusing to sell or supply goods or services,

for the purposes of complying with the restriction (and "enforcing" is to be construed accordingly),

"statutory age restriction" means a provision in an enactment making it an offence to sell or supply goods or services to a person under an age specified in that or another enactment.
- (12) In this section, "retail worker" –
 - (a) means a person –
 - (i) whose usual place of work is retail premises, or
 - (ii) whose usual place of work is not retail premises but who does retail work,
 - (b) includes, in relation to a business that owns or occupies any premises in which the person works, a person who –
 - (i) is an employee of the business,
 - (ii) is an owner of the business, or
 - (iii) works in the premises under arrangements made between the business and another person for the provision of staff,
 - (c) also includes a person who delivers goods from retail premises.
- (13) For the purposes of subsection (12), it is irrelevant whether or not the person receives payment for the work.
- (14) In proceedings for an offence under subsection (1), it is not necessary for the prosecutor to prove that the person charged with the offence knew or ought to have known any matter falling within subsection (12)(b) in relation to the person against whom the offence is alleged to have been committed.
- (15) In this section, "retail premises" means premises that are used wholly or mainly for the sale or supply of goods, on a retail basis, to members of the public.
- (16) In this section, "retail work" means –
 - (a) in the case of a person whose usual place of work is retail premises, any work in those retail premises,
 - (b) in the case of a person whose usual place of work is not retail premises, work in connection with –
 - (i) the sale or supply of goods, on a retail basis, to members of the public, or
 - (ii) the sale or supply of services (including facilities for gambling) in respect of which a statutory age restriction applies,
 - (c) subject to subsection (17), in the case of a person who delivers goods from retail premises, work in connection with the sale or supply of goods, on a retail basis, to members of the public.
- (17) A person who delivers goods from retail premises is doing retail work only during the period beginning when the person arrives at a place where delivery of goods is to be effected and ending when the person leaves that place (whether or not goods have been delivered).

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- (18) In this section, references to working in premises includes working on any land forming part of the premises.”

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25 November 2021
