

Police, Crime, Sentencing and Courts Bill

COMMONS DISAGREEMENT, AMENDMENTS TO CERTAIN LORDS AMENDMENTS, AMENDMENTS IN LIEU AND TO WORDS RESTORED, AND REASONS

[The page and line references are to HL Bill 40, the bill as first printed for the Lords, or to the Lords amendment]

After Clause 49

LORDS AMENDMENT 58

58 Insert the following new Clause –

“Application of Police and Criminal Evidence Act 1984 to National Food Crime Unit of Food Standards Agency

In the Police and Criminal Evidence Act 1984, after section 114B insert –

“114C Application to National Food Crime Unit of Food Standards Agency

The Secretary of State may by regulations apply any provisions of this Act to investigation of offences conducted by officers of the National Food Crime Unit in respect of search and seizure.”

COMMONS REASON

The Commons disagree to Lords Amendment 58 for the following Reason –

58A *Because it is premature to confer new search and seizure powers on the Food Standards Agency until the accompanying accountability arrangements, including in respect of the handling of complaints about the exercise of such powers, have been determined.*

After Clause 54

LORDS AMENDMENT 70

70 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 –
 - (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) reoffending 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.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 70 but propose Amendments 70A and 70B as amendments in lieu –

70A Page 46, line 35, at end insert the following new Clause –

“Administering a substance with intent to cause harm

- (1) The Secretary of State must, before the end of the relevant period –
 - (a) prepare and publish a report –
 - (i) about the nature and prevalence of the conduct described in subsection (2), and
 - (ii) setting out any steps Her Majesty’s Government has taken or intends to take in relation to the matters referred to in sub-paragraph (i), and
 - (b) lay the report before Parliament.
- (2) The conduct referred to in subsection (1)(a)(i) is a person intentionally administering a substance to, or causing a substance to be taken by, another person –
 - (a) without the consent of that other person, and

(b) with the intention of causing harm (whether or not amounting to an offence) to that other person.

(3) In subsection (1), the “relevant period” means the period of 12 months beginning with the day on which this Act is passed.”

70B Page 195, line 27, at end insert –

“(ka) section (*Administering a substance with intent to cause harm*);”

LORDS AMENDMENT 71

71 Insert the following new Clause –

“Accountability of public authorities: duties on police workforce

- (1) Members of the police workforce have a duty at all times to act within their powers –
 - (a) in the public interest, and
 - (b) with transparency, candour and frankness.
- (2) Members of the police workforce have a duty to assist court proceedings, official inquiries and investigations –
 - (a) relating to their own activities, or
 - (b) where their acts or omissions are or may be relevant.
- (3) In discharging the duty under subsection (2), members of the police workforce must –
 - (a) act with proper expedition,
 - (b) act with transparency, candour and frankness,
 - (c) act without favour to their own position,
 - (d) make full disclosure of relevant documents, material and facts,
 - (e) set out their position on the relevant matters at the outset of the proceedings, inquiry or investigation, and
 - (f) provide further information and clarification as ordered by a court or inquiry.
- (4) In discharging their duty under subsection (2), members of the police workforce must have regard to the pleadings, allegations, terms of reference and parameters of the relevant proceedings, inquiry or investigation, but are not limited by them, in particular where they hold information which might change the ambit of the proceedings, inquiry or investigation.
- (5) The duties in subsections (1) and (2) are subject to existing laws relating to privacy, data protection and national security.
- (6) The duties in subsections (1) and (2) are enforceable –
 - (a) by application to the relevant court or inquiry chairperson by any person affected by the alleged breach, or
 - (b) by the court or inquiry of its own motion, or
 - (c) where there are no extant court or inquiry proceedings, by judicial review proceedings in the High Court.”

COMMONS REASON

The Commons disagree to Lords Amendment 71 for the following Reason –

- 71A** *Because police officers are already subject to a duty to cooperate during investigations, inquiries and formal proceedings and it would be premature to add to such provision pending further consideration by the Government.*

LORDS AMENDMENT 72

- 72** Insert the following new Clause –

“Offences motivated by hostility towards the sex or gender of the victim

- (1) In this section –
 “relevant crime” means a reported crime in which –
 (a) the victim or any other person perceived the alleged offender, at the time of or immediately before or after the offence, to demonstrate hostility or prejudice based on sex, or
 (b) the victim or any other person perceived the crime to be motivated (wholly or partly) by hostility or prejudice towards persons who are of a particular sex;
 “sex” has the same meaning as in section 11 of the Equality Act 2010 (sex).
- (2) The Secretary of State must make regulations requiring the chief officer of police of any police force to provide information relating to –
 (a) the number of relevant crimes reported to the police force, and
 (b) the number of those crimes which, in the opinion of the chief officer of police, would be subject to subsection (4).
- (3) A court considering the seriousness of an offence arising from a relevant crime not included in subsection (4) must treat the fact that the offence is aggravated by hostility or prejudice towards sex or gender as an aggravating factor when determining a sentence.
- (4) Subsection (3) does not apply to –
 (a) an offence under the law of England and Wales which is for the time being specified in Schedule 3 to the Sexual Offences Act 2003, other than the offence specified in paragraph 14 of that Schedule (fraudulent evasion of excise duty),
 (b) an offence under the law of England and Wales which is for the time being specified in Part 6 of the Domestic Abuse Act 2021, or
 (c) an offence under the law of England and Wales which is defined in section 1 of the Domestic Abuse Act 2021 as “domestic abuse”.”

COMMONS REASON

The Commons disagree to Lords Amendment 72 for the following Reason –

- 72A** *Because pending the Government’s full consideration of the Law Commission’s review of hate crime legislation, the Law Commission has identified adding sex or gender to this legislation could prove detrimental to efforts to tackle violence against women and girls.*

Clause 55

LORDS AMENDMENT 73

- 73** Page 47, line 1, leave out subsections (2) and (3)

COMMONS REASON

The Commons disagree to Lords Amendment 73 for the following Reason –

- 73A** *Because it is appropriate for the police to be able to attach conditions to a public procession where the noise generated by persons taking part in the procession may result in serious disruption to the activities of an organisation which are carried out in the vicinity of the procession or may have a significant relevant impact on persons in the vicinity of the procession.*

LORDS AMENDMENT 74

- 74** Page 47, line 15, at end insert –

- 2 “(2) After subsection (2) insert –

“(2ZA) For the purposes of subsection (1)(a), the cases in which a public procession in England and Wales may result in serious disruption to the life of the community include, in particular, where –

- (a) it may result in a significant delay to the delivery of a time-sensitive product to consumers of that product, or
- (b) it may result in a prolonged disruption of access to any essential goods or any essential service, including, in particular, access to –
 - (i) the supply of money, food, water, energy or fuel,
 - (ii) a system of communication,
 - (iii) a place of worship,
 - (iv) a transport facility,
 - (v) an educational institution, or
 - (vi) a service relating to health.

(2ZB) In subsection (2ZA)(a) “time-sensitive product” means a product whose value or use to its consumers may be significantly reduced by a delay in the supply of the product to them.

(2ZC) For the purposes of subsection (1)(aa), the cases in which the noise generated by persons taking part in a public procession may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the procession include, in particular, where it may result in persons connected with the organisation not being reasonably able, for a prolonged period of time, to carry on in that vicinity the activities or any one of them.””

COMMONS AMENDMENT

The Commons agree with the Lords in their Amendment 74 and propose Amendment 74A as an amendment thereto –

- 74A** Leave out line 2

Clause 56

LORDS AMENDMENT 80

- 80** Leave out Clause 56

COMMONS DISAGREEMENT AND AMENDMENTS TO THE WORDS SO RESTORED TO THE BILL

The Commons disagree to Lords Amendment 80 and propose the following amendments to the words so restored to the Bill –

80A Page 48, line 40, at end insert –

“(2ZA) For the purposes of subsection (1)(a), the cases in which a public assembly in England and Wales may result in serious disruption to the life of the community include, in particular, where –

- (a) it may result in a significant delay to the supply of a time-sensitive product to consumers of that product, or
- (b) it may result in a prolonged disruption of access to any essential goods or any essential service, including, in particular, access to –
 - (i) the supply of money, food, water, energy or fuel,
 - (ii) a system of communication,
 - (iii) a place of worship,
 - (iv) a transport facility,
 - (v) an educational institution, or
 - (vi) a service relating to health.

(2ZB) In subsection (2ZA)(a) “time-sensitive product” means a product whose value or use to its consumers may be significantly reduced by a delay in the supply of the product to them.

(2ZC) For the purposes of subsection (1)(aa), the cases in which the noise generated by persons taking part in a public assembly may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the assembly include, in particular, where it may result in persons connected with the organisation not being reasonably able, for a prolonged period of time, to carry on in that vicinity the activities or any one of them.”

80B Page 49, line 13, leave out “make” and insert “amend any of subsections (2ZA) to (2ZC) for the purposes of making”

80C Page 49, line 18, after “particular” insert “, amend any of those subsections for the purposes of”

80D Page 49, line 19, leave out “define” and insert “defining”

80E Page 49, line 21, leave out “give” and insert “giving”

80F Page 49, line 31, at end insert “, including provision which makes consequential amendments to this Part.”

Clause 58

LORDS AMENDMENT 81

81 Page 52, line 18, at end insert “unless permission for such obstruction has been given by the relevant person”

COMMONS REASON

The Commons disagree to Lords Amendment 81 for the following Reason –

81A *Because it is not appropriate to enable authorisation to be given for obstruction of access to the Parliamentary Estate.*

LORDS AMENDMENT 82

82 Page 52, line 38, at end insert –

“(3A) After section 143 insert –

“143A Authorisation

- (1) The responsible person for any land in the Palace of Westminster controlled area may authorise a person to carry out in accordance with this section an activity that will obstruct the passage of a vehicle of any description into or from the Parliamentary Estate while on or adjoining the Palace of Westminster controlled area.
- (2) An application for the authorisation must be made by or on behalf of the person (or persons) seeking the authorisation.
- (3) The responsible person may –
 - (a) determine the form in which and the manner in which an application is to be made;
 - (b) specify the information to be provided in connection with an application;
 - (c) require a fee to be paid for determining the application.
- (4) If an application is made to a responsible person, the person must –
 - (a) determine the application, and
 - (b) give notice in writing to the applicant of the person’s decision within the period of 21 days beginning with the day the person receives the application.
- (5) The notice must specify –
 - (a) the person or persons authorised (whether by name or description),
 - (b) the nature of the activity that is to be permitted,
 - (c) the period to which the authorisation applies, and
 - (d) any conditions to which the authorisation is subject.
- (6) The responsible person may at any time withdraw an authorisation if the conditions to which it is subject are not being observed by giving notice in writing to the applicant.””

COMMONS REASON

The Commons disagree to Lords Amendment 82 for the following Reason –

82A *Because it is not appropriate to enable authorisation to be given for obstruction of access to the Parliamentary Estate.*

Clause 61

LORDS AMENDMENT 87

87 Leave out Clause 61

COMMONS DISAGREEMENT AND AMENDMENTS TO THE WORDS SO RESTORED TO
THE BILL

The Commons disagree to Lords Amendment 87 and propose the following amendments to the words so restored to the Bill –

- 87A** Page 55, line 21, at end insert –
- “(5A) For the purposes of subsection (1)(a), the cases in which the noise generated by a person taking part in a one-person protest may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the protest include, in particular, where it may result in persons connected with the organisation not being reasonably able, for a prolonged period of time, to carry on in that vicinity the activities or any one of them.”
- 87B** Page 56, line 15, leave out “make” and insert “amend subsection (5A) for the purposes of making”
- 87C** Page 56, line 19, after “particular” insert “, amend that subsection for the purposes of”
- 87D** Page 56, line 20, leave out “define” and insert “defining”
- 87E** Page 56, line 22, leave out “give” and insert “giving”
- 87F** Page 56, line 29, at end insert “, including provision which makes consequential amendments to this Part.”

After Clause 61

LORDS AMENDMENT 88

- 88** 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.
- 5 (2) After subsection (1) insert –
- “(1ZA) If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway which is part of the Strategic Road Network he is guilty of an offence and liable to imprisonment for a term not exceeding 51 weeks or a fine or both.”
- 9 (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).”

COMMONS AMENDMENT

The Commons agree with the Lords in their Amendment 88 and propose amendment 88A as an amendment thereto –

88A Leave out lines 5 to 9 and insert –

- “(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”.

LORDS AMENDMENT 89

89 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).
- (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.
- (10) This section comes into force at the end of the period of two months beginning with the date of Royal Assent.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 89 but propose Amendments 146A and 146B as amendments in lieu.

Clause 139

LORDS AMENDMENT 107

107 Page 128, line 22, at end insert –

“(8) A local authority may establish and maintain a secure 16 to 19 Academy.”

COMMONS REASON

The Commons disagree to Lords Amendment 107 for the following Reason –

107A *Because the amendment is unnecessary as there is no legal barrier to local authorities setting up and running academies.*

Clause 141

LORDS AMENDMENT 114

114 Page 136, line 40, leave out “and (3)” and insert “to (3A)”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 114 but propose Amendments 116A and 116B as amendments in lieu.

LORDS AMENDMENT 115

115 Page 137, line 5, at end insert –

“(3A) The condition in this subsection is that the Secretary of State has laid before Parliament a response addressing any issues identified in the report produced under subsection (3).

(3B) A statutory instrument containing regulations under section 178(1) for the purposes mentioned in subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 115 but propose Amendments 116A and 116B as amendments in lieu.

LORDS AMENDMENT 116

116 Page 137, line 5, at end insert—

- “(3A) Before making the report under subsection (3), the Secretary of State must obtain, record and publish all reasonably available data, which is relevant to the effect of the operation of Chapter 1A of Part 11 of the Sentencing Code (inserted by section 140) under subsection (2) over a period of no less than 12 months, including—
- (a) its impact on the extent to which knives or weapons are carried;
 - (b) its impact on the rate of serious violence;
 - (c) the age, race, and sex (within the meaning of section 5, 9 and 11 of the Equality Act 2010) of each person—
 - (i) in respect of whom an application is made under section 342A(1)(b) of the Sentencing Code;
 - (ii) in respect of whom a serious violence reduction order is made by a court;
 - (iii) in respect of whom an application is made under section 342A(1) of the Sentencing Code and the court has adjourned proceedings pursuant to section 342A(8A) or (8B);
 - (iv) in respect of whom action is taken pursuant to section 342C, 342E, 342F, or 342H of the Sentencing Code; and
 - (v) who is convicted of an offence within section 342G of the Sentencing Code;
 - (d) any action which was taken pursuant to sections 342C, 342E, 342F, or 342H of the Sentencing Code, by reference to the age, race and sex of the offender;
 - (e) the nature of, and reasons recorded for, any such action;
 - (f) any complaint arising from the exercise of powers under section 342E of the Sentencing Code, the nature and outcome of that complaint, and the age, race and sex of the person who made it;
 - (g) the offence within section 342G of the Sentencing Code for which any person was convicted and the sentence imposed, by reference to the age, race and sex of that person;
 - (h) for each serious violence reduction order made—
 - (i) the offence identified under section 342A(1)(a) of the Sentencing Code;
 - (ii) whether the order was imposed under subsection 342A(3)(a), (3)(b), (4)(a) or (4)(b) of the Sentencing Code; and
 - (iii) if the order was imposed under subsection 342A(4)(a) or (4)(b), whether the order was made on the basis that the offender knew that a bladed article or offensive weapon was used by another person; or whether the offender ought to have known that this would be the case;
 - (i) whether that operation of Chapter 1A of the Sentencing Code had a discriminatory, disproportionate or other adverse impact on people sharing the protected characteristic of age, race or sex;
 - (j) the number of survivors and victims of domestic abuse, including women who have experienced or are experiencing criminal exploitation, coercive control, or other forms of abuse, who are given such orders, broken down by ethnicity, age, and policing borough.

- (3B) The report under subsection (3) must include—
- (a) an analysis of the effect described in subsection (3A), by reference to the data identified in subsection (3A);
 - (b) an equality impact assessment of the operation of Chapter 1A of the Sentencing Code as described in subsection (3A);
 - (c) a description of any guidance or codes of practice, to which the operation of Chapter 1A described in subsection (3A) was subject;
 - (d) analysis of data assessing the extent to which the pilot has reduced serious violent crime and reoffending by comparison with other areas;
 - (e) analysis of what evidence is relied on to justify the imposition of serious violence reduction orders, and whether there is any bias in the decision-making process;
 - (f) analysis of information on the reason for each breach of a serious violence reduction order, any defence pleaded, and the result of the breach proceedings;
 - (g) analysis of any impacts, including equalities impacts, of other positive requirements or conditions imposed on individuals pursuant to section 342C(1) of the Sentencing Code;
 - (h) analysis of any impacts, including equalities impacts, of adjournment of proceedings on individuals where the court adjourns proceedings under section 342A(8A) or (8B); and
 - (i) analysis of any impacts of serious violence reduction orders on survivors and victims of domestic abuse, including women who have experienced or are experiencing criminal exploitation, coercive control, or other forms of abuse, who are given such orders.
- (3C) Statistical information collected for the purposes of section (3B) from different pilot areas must be collected and presented in a form which enables direct comparison between those areas.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 116 but propose Amendments 116A and 116B as amendments in lieu –

116A Page 137, line 5, at end insert—

- “(3A) A report under subsection (3) must in particular include—
- (a) information about the number of offenders in respect of whom serious violence reduction orders have been made;
 - (b) information about the offences that were the basis for applications as a result of which serious violence reduction orders were made;
 - (c) information about the exercise by constables of the powers in section 342E of the Sentencing Code (serious violence reduction orders: powers of constables);
 - (d) an assessment of the impact of the operation of Chapter 1A of Part 11 of the Sentencing Code on people with protected characteristics (within the meaning of the Equality Act 2010);
 - (e) an initial assessment of the impact of serious violence reduction orders on the reoffending rates of offenders in respect of whom such orders have been made;

- (f) an assessment of the impact on offenders of being subject to a serious violence reduction order;
- (g) information about the number of offences committed under section 342G of the Sentencing Code (offences relating to a serious violence reduction order) and the number of suspected offences under that section that have been investigated.”

116B Page 137, line 22, after “section” insert –

“serious violence reduction order” has the same meaning as in Chapter 1A of Part 11 of the Sentencing Code (see section 342B of the Sentencing Code);”

After Clause 170

LORDS AMENDMENT 141

141 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.”

COMMONS REASON

The Commons disagree to Lords Amendment 141 for the following Reason –

141A *Because conduct requiring or arranging sexual relations as a condition of accommodation may already constitute an offence under the Sexual Offences Act 2003 and the Government is committed to undertaking a consultation on whether the law in respect of such conduct needs to be strengthened.*

142 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 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.”

COMMONS REASON

The Commons disagree to Lords Amendment 142 for the following Reason –

142A *Because conduct requiring or arranging sexual relations as a condition of accommodation may already constitute an offence under the Sexual Offences Act 2003 and the Government is committed to undertaking a consultation on whether the law in respect of such conduct needs to be strengthened.*

143 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 conditions under subsections (2) or (3) are met.
- (2) The conditions under this subsection are –
 - (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; and
 - (c) 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.
- (3) The conditions under this subsection are –
 - (a) the public space to which the order will be applied is a venue providing NHS vaccination services to the public;

- (b) activities have been carried on, or are likely to be carried on, in the vicinity of the venue with the intent of—
 - (i) harassing or intimidating members of the public using the service, or staff or volunteers providing the service, or
 - (ii) impeding members of the public from accessing the service, or staff or volunteers from providing the service; and
 - (c) consent for the order to be applied has been granted by—
 - (i) the NHS body with responsibility for provision of the service to which the order will apply,
 - (ii) a chief officer of police of the police area in which the venue to which the order will apply is located, and
 - (iii) the leader of the local authority which will make the order.
- (4) A public spaces protection order granted under this section may come into effect immediately on the fulfilment of the requirements in subsection (2) or (3).
 - (5) Restrictions in section 72(3), that consultation must take place before an order is made, do not apply to public spaces protection orders made under this section.
 - (6) The local authority must carry out the necessary consultation, as defined in section 72, following the making of an order under this section.
 - (7) A fast-track public spaces protection order may not have effect for a period of more than 6 months unless extended under this section.
 - (8) 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.
 - (9) A fast-track public spaces protection order under this section may not be extended for a period of more than 6 months.””

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 143 but propose Amendments 143A, 143B and 143C as amendments in lieu –

143A Page 56, line 32, at end insert—

“Expedited public spaces protection orders

- (1) The Anti-social Behaviour, Crime and Policing Act 2014 is amended as follows.

- (2) After section 59 insert –

“59A Power to make expedited public spaces protection orders

- (1) A local authority may make an expedited public spaces protection order (an “expedited order”) in relation to a public place within the local authority’s area if satisfied on reasonable grounds that three conditions are met.
- (2) The first condition is that the public place is in the vicinity of –
- (a) a school in the local authority’s area, or
 - (b) a site in the local authority’s area where, or from which –
 - (i) vaccines are provided to members of the public by, or pursuant to arrangements with, an NHS body, or
 - (ii) test and trace services are provided.

The reference in paragraph (b)(i) to arrangements includes arrangements made by the NHS body in the exercise of functions of another person by virtue of any provision of the National Health Service Act 2006.

- (3) The second condition is that activities carried on, or likely to be carried on, in the public place by one or more individuals in the course of a protest or demonstration have had, or are likely to have, the effect of –
- (a) harassing or intimidating members of staff or volunteers at the school or site,
 - (b) harassing or intimidating persons using the services of the school or site,
 - (c) impeding the provision of services by staff or volunteers at the school or site, or
 - (d) impeding access by persons seeking to use the services of the school or site.
- (4) The third condition is that the effect or likely effect mentioned in subsection (3) –
- (a) is, or is likely to be, of a persistent or continuing nature,
 - (b) is, or is likely to be, such as to make the activities unreasonable, and
 - (c) justifies the restrictions imposed by the order.
- (5) An expedited order is an order that identifies the public place referred to in subsection (1) (“the restricted area”) and –
- (a) prohibits specified things being done in the restricted area,
 - (b) requires specified things to be done by persons carrying on specified activities in that area, or
 - (c) does both of those things.
- (6) The only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order –
- (a) to prevent the harassment, intimidation or impediment referred to in subsection (3) from continuing, occurring or recurring, or
 - (b) to reduce that harassment, intimidation or impediment or to reduce the risk of its continuance, occurrence or recurrence.

- (7) A prohibition or requirement may be framed—
- (a) so as to apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories;
 - (b) so as to apply at all times, or only at specified times, or at all times except those specified;
 - (c) so as to apply in all circumstances, or only in specified circumstances, or in all circumstances except those specified.
- (8) An expedited order must—
- (a) identify the activities referred to in subsection (3);
 - (b) explain the effect of section 63 (where it applies) and section 67;
 - (c) specify the period for which the order has effect.
- (9) An expedited order may not be made in relation to a public place if that place (or any part of it) is or has been the subject of an expedited order (“the earlier order”), unless the period specified in subsection (11) has expired.
- (10) In subsection (9) the second reference to “an expedited order” is to be read as including a reference to a public spaces protection order (made after the day on which this section comes into force) which neither prohibited nor required anything that could not have been prohibited or required by an expedited order.
- (11) The period specified in this subsection is the period of a year beginning with the day on which the earlier order ceased to have effect.
- (12) An expedited order must be published in accordance with regulations made by the Secretary of State.
- (13) For the purposes of subsection (2), a public place that is coextensive with, includes, or is wholly or partly within, a school or site is regarded as being “in the vicinity of” that school or site.
- (14) In this section references to a “school” are to be read as including a 16 to 19 Academy.
- (15) In this section “test and trace services” means—
- (a) in relation to England, services of the programme known as NHS Test and Trace;
 - (b) in relation to Wales, services of the programme known as Test, Trace, Protect.”
- (3) After section 60 insert—
- “60A Duration of expedited orders**
- (1) An expedited order may not have effect for a period of more than 6 months.

- (2) Subject to subsection (1), the local authority that made an expedited order may, before the time when the order is due to expire, extend the period for which the order 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.
 - (3) Where a local authority has made an expedited order, the authority may, at any time before the order is due to expire, reduce the period for which the order is to have effect if satisfied on reasonable grounds that the reduced period will be sufficient having regard to the degree of risk of an occurrence, recurrence or increase such as is mentioned in subsection (2)(a) or (b).
 - (4) An extension or reduction under this section of the period for which an order has effect must be published in accordance with regulations made by the Secretary of State.
 - (5) An expedited order may be extended or reduced under this section more than once.”
- (4) After section 72 insert –

“72A Expedited orders: Convention rights and consents

- (1) A local authority, in deciding –
 - (a) whether to make an expedited order (under section 59A) and if so what it should include,
 - (b) whether to extend or reduce the period for which an expedited order has effect (under section 60A) and if so by how much,
 - (c) whether to vary an expedited order (under section 61) and if so how, or
 - (d) whether to discharge an expedited order (under section 61), must have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the Convention.
- (2) In subsection (1) “Convention” has the meaning given by section 21(1) of the Human Rights Act 1998.
- (3) A local authority must obtain the necessary consents before –
 - (a) making an expedited order,
 - (b) extending or reducing the period for which an expedited order has effect, or
 - (c) varying or discharging an expedited order.
- (4) If the order referred to in subsection (3) was made, or is proposed to be made, in reliance on section 59A(2)(a), “the necessary consents” means the consent of –
 - (a) the chief officer of police for the police area that includes the restricted area, and
 - (b) a person authorised (whether in specific or general terms) by the appropriate authority for the school or 16 to 19 Academy.

- (5) If the order referred to in subsection (3) was made, or is proposed to be made, in reliance on section 59A(2)(b), “the necessary consents” means the consent of –
- (a) the chief officer of police for the police area that includes the restricted area, and
 - (b) a person authorised by the appropriate NHS authority.
- (6) In this section –
- “appropriate authority” means –
- (a) in relation to a school maintained by a local authority, the governing body;
 - (b) in relation to any other school or a 16 to 19 Academy, the proprietor;
- “appropriate NHS authority” means –
- (a) if the order was made, or is proposed to be made, in reliance on sub-paragraph (i) of section 59A(2)(b), the NHS body mentioned in that sub-paragraph;
 - (b) if the order was made, or is proposed to be made, in reliance on sub-paragraph (ii) of section 59A(2)(b) and the site is in England, the UK Health Security Agency;
 - (c) if the order was made, or is proposed to be made, in reliance on that sub-paragraph and the site is in Wales, the Local Health Board for the area in which the site is located.
- (7) In this section “proprietor”, in relation to a school or a 16 to 19 Academy, has the meaning given in section 579(1) of the Education Act 1996.

72B Consultation and notifications after making expedited order

- (1) A local authority must carry out the necessary consultation as soon as reasonably practicable after making an expedited order.
- (2) In subsection (1) “necessary consultation” means consulting with the following about the terms and effects of the order –
- (a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;
 - (b) whatever community representatives the local authority thinks it appropriate to consult;
 - (c) the owner or occupier of land within the restricted area.
- (3) A local authority must carry out the necessary notification (if any) as soon as reasonably practicable after –
- (a) making an expedited order,
 - (b) extending or reducing the period for which an expedited order has effect, or
 - (c) varying or discharging an expedited order.
- (4) In subsection (3) “necessary notification” means notifying the following of the extension, reduction, variation or discharge –
- (a) the parish council or community council (if any) for the area that includes the restricted area;

- (b) in the case of an expedited order made by a district council in England, the county council (if any) for the area that includes the restricted area;
 - (c) the owner or occupier of land within the restricted area.
- (5) The requirement to notify the owner or occupier of land within the restricted area –
- (a) does not apply to land that is owned or occupied by the local authority;
 - (b) applies only if, and to the extent that, it is reasonably practicable to notify the owner or occupier of the land.”
- (5) Schedule (*Expedited public spaces protection orders*) contains amendments relating to subsections (1) to (4).”

143B Page 220, line 15, at end insert the following new Schedule –

“SCHEDULE

EXPEDITED PUBLIC SPACES PROTECTION ORDERS

- 1 The Anti-social Behaviour, Crime and Policing Act 2014 is amended as follows.
- 2 In the heading of Chapter 2 of Part 4, at the end insert “and expedited orders”.
- 3 In the italic heading before section 59, at the end insert “and expedited orders”.
- 4 In the heading of section 59 (power to make orders), before “orders” insert “public spaces protection”.
- 5 In the heading of section 60 (duration of orders), after “of” insert “public spaces protection”.
- 6 (1) Section 61 (variation and discharge of orders) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a), after “protection order” insert “or expedited order”.
- (3) In subsection (2), for “make a variation under subsection (1)(a)” substitute “under subsection (1)(a) make a variation to a public spaces protection order”.
- (4) After subsection (2) insert –
- “(2A) A local authority may under subsection (1)(a) make a variation to an expedited order that results in the order applying to an area to which it did not previously apply only if the conditions in section 59A(2) to (4) are met as regards that area.”
- (5) In subsection (3), after “59(5)” insert “or 59A(6) (as the case may be)”.
- (6) In subsection (4), after “order” insert “or expedited order”.
- 7 (1) Section 62 (premises etc to which alcohol prohibition does not apply) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a), after “order” insert “or expedited order”.

- (3) In subsection (2), in the words before paragraph (a), after “order” insert “or an expedited order”.
- 8 In section 63 (consumption of alcohol in breach of prohibition order), in subsection (1) –
- (a) in paragraph (a), after “order” insert “or an expedited order”;
 - (b) in the words after paragraph (b) omit “public spaces protection”.
- 9 (1) Section 64 (orders restricting public right of way over highway) is amended as follows.
- (2) In subsection (1), in the words before paragraph (a), after “order” insert “or expedited order”.
- (3) After subsection (1) insert –
- “(1A) Before making a public spaces protection order that restricts the public right of way over a highway, a local authority must take the prior consultation steps (see subsection (2)).
- (1B) A local authority may not make an expedited order that restricts the public right of way over a highway unless it –
- (a) takes the prior consultation steps before making the order, or
 - (b) takes the subsequent consultation steps (see subsection (2A)) as soon as reasonably practicable after making the order.”
- (4) In subsection (2), for the words from “Before” to “must” substitute “To take the “prior consultation steps” in relation to an order means to”.
- (5) After subsection (2) insert –
- “(2A) To take the “subsequent consultation steps” in relation to an expedited order means to –
- (a) notify potentially affected persons of the order,
 - (b) invite those persons to make representations within a specified period about the terms and effects of the order,
 - (c) inform those persons how they can see a copy of the order, and
 - (d) consider any representations made.
- The definition of “potentially affected persons” in subsection (2) applies to this subsection as if the reference there to “the proposed order” were to “the order”.
- (6) After subsection (3) insert –
- “(3B) Where a local authority proposes to make an expedited order restricting the public right of way over a highway that is also within the area of another local authority it must, if it thinks appropriate to do so, consult that other authority before, or as soon as reasonably practicable after, making the order.”
- (7) In subsections (4), (5), (6), (7) and (8), after “order” insert “or expedited order”.
- 10 In section 65 (categories of highway over which public right of way may not be restricted), in subsection (1), in the words before paragraph (a), after “order” insert “or an expedited order”.

- 11 (1) Section 66 (challenging validity of orders) is amended as follows.
 - (2) In subsections (1) and (6), after “public spaces protection order”, in each place it occurs, insert “or an expedited order”.
 - (3) In subsection (7), in the words before paragraph (a) –
 - (a) after “order”, in the first place it occurs, insert “or an expedited order”;
 - (b) for “a public spaces protection”, in the second place it occurs, substitute “such an”.
- 12 (1) Section 67 (offence of failing to comply with order) is amended as follows.
 - (2) In subsections (1) and (4), after “order”, in each place it occurs, insert “or an expedited order”.
 - (3) In subsection (3), after “order” insert “or expedited order”.
- 13 (1) Section 68 (fixed penalty notices) is amended as follows.
 - (2) In subsection (1), at the end insert “or an expedited order”.
 - (3) In subsection (3), at the end insert “or expedited order”.
- 14 In section 70 (byelaws), after “protection order” insert “or an expedited order”.
- 15 (1) Section 71 (bodies other than local authorities with statutory functions in relation to land) is amended as follows.
 - (2) In subsections (3) to (5), after “public spaces protection order”, in each place it occurs, insert “or an expedited order”.
 - (3) In subsection (6) –
 - (a) in paragraph (a), after “order” insert “or expedited order”;
 - (b) in paragraph (b)(i), after “order” insert “, or an expedited order,”.
- 16 In the heading of section 72 (Convention rights, consultation, publicity and notification), at the beginning insert “Public spaces protection orders:”
- 17 (1) Section 74 (interpretation of Chapter 2 of Part 4) is amended as follows.
 - (2) In subsection (1) –
 - (a) at the appropriate places insert –
 - ““16 to 19 Academy” has the meaning given by section 1B of the Academies Act 2010;”;
 - ““expedited order” has the meaning given by section 59A(1);”;
 - ““Local Health Board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;”;
 - ““NHS body” has the meaning given in section 275 of the National Health Service Act 2006;”;
 - ““school” has the meaning given by section 4 of the Education Act 1996.”;

- (b) for the definition of “restricted area” substitute –
 ““restricted area” –
 (a) in relation to a public spaces protection order, has the meaning given by section 59(4);
 (b) in relation to an expedited order, has the meaning given by section 59A(5).”

(3) After subsection (2) insert –

- “(3) For the purposes of this Chapter, an expedited order “regulates” an activity if the activity is –
 (a) prohibited by virtue of section 59A(5)(a), or
 (b) subjected to requirements by virtue of section 59A(5)(b), whether or not for all persons and at all times.””

143C Page 195, line 27, at end insert –

- “(ka) section (*Expedited public spaces protection orders*) for the purposes of making regulations;”

Clause 176

LORDS AMENDMENT 146

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

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 146 but propose Amendments 146A and 146B as amendments in lieu –

146A Page 56, line 32, at end insert the following new Clause –

“Repeal of the Vagrancy Act 1824 etc

- (1) The Vagrancy Act 1824 is repealed.
- (2) Subsections (3) to (7) contain amendments and repeals in consequence of subsection (1).
- (3) The following are repealed –
 - (a) the Vagrancy Act 1935;
 - (b) section 2(3)(c) of the House to House Collections Act 1939 (licences);
 - (c) section 20 of the Criminal Justice Act 1967 (power of magistrates’ court to commit on bail for sentence);
 - (d) in the Criminal Justice Act 1982 –
 - (i) section 70 and the italic heading immediately before that section (vagrancy offences), and
 - (ii) paragraph 1 of Schedule 14 and the italic heading immediately before that paragraph (minor and consequential amendments);
 - (e) section 43(5) of the Mental Health Act 1983 (power of magistrates’ courts to commit for restriction order);
 - (f) section 26(5) of the Criminal Justice Act 1991 (alteration of certain penalties);

- (g) in the Criminal Justice Act 2003 –
 - (i) paragraphs 1 and 2 of Schedule 25 and the italic heading immediately before those paragraphs (summary offences no longer punishable with imprisonment), and
 - (ii) paragraphs 145 and 146 of Schedule 32 and the italic heading immediately before those paragraphs (amendments relating to sentencing);
 - (h) paragraph 18 of Schedule 8 to the Serious Organised Crime and Police Act 2005 (powers of accredited persons).
- (4) In section 81 of the Public Health Acts Amendment Act 1907 (extending definition of public place and street for certain purposes), omit the words from “shall”, in the first place it occurs, to “public place, and”.
- (5) In section 48(2) of the Forestry Act 1967 (powers of entry and enforcement), omit “or against the Vagrancy Act 1824”.
- (6) In the Police Reform Act 2002 –
- (a) in Schedule 3C (powers of community support officers and community support volunteers) –
 - (i) omit paragraph 3(3)(b),
 - (ii) omit paragraph 7(3),
 - (iii) in paragraph 7(4), omit “or (3)”, and
 - (iv) in paragraph 7(7)(a), omit “or (3)”, and
 - (b) in Schedule 5 (powers exercisable by accredited persons), omit paragraph 2(3)(aa).
- (7) In the Sentencing Code –
- (a) in section 20(1) (committal in certain cases where offender committed in respect of another offence) –
 - (i) at the end of paragraph (e), insert “or”, and
 - (ii) omit paragraph (g) (and the “or” immediately before it), and
 - (b) omit section 24(1)(f) (further powers to commit offender to the Crown Court to be dealt with).
- (8) The amendments and repeals made by this section do not apply in relation to an offence committed before this section comes into force.”

Police, Crime, Sentencing and Courts Bill

COMMONS DISAGREEMENT, AMENDMENTS TO CERTAIN LORDS
AMENDMENTS, AMENDMENTS IN LIEU AND TO WORDS RESTORED, AND
REASONS

1st March 2022

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS