

Public Order Bill

SECOND MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Instruction of 11th January 2023, as follows –

Clauses 1 to 18
Schedule

Clauses 19 to 35
Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 10

LORD PADDICK
BARONESS CHAKRABARTI
THE LORD BISHOP OF MANCHESTER
BARONESS MEACHER

46 Leave out Clause 10

Clause 11

LORD COAKER
LORD PADDICK
BARONESS CHAKRABARTI
THE LORD BISHOP OF MANCHESTER

47 Leave out Clause 11

Before Clause 15

LORD SHARPE OF EPSOM

48 Before Clause 15, insert the following new Clause –

“Imposing conditions on public processions: serious disruption

- (1) Section 12 of the Public Order Act 1986 (imposing conditions on public processions) is amended as follows.
- (2) After subsection (2) insert –
 - “(2ZA) In considering for the purposes of subsection (1)(a) whether a public procession in England and Wales may result in serious disruption to the life of the community, the senior police officer may have regard to the cumulative disruption to the life of the community resulting from –
 - (a) the procession,
 - (b) any public procession in England and Wales within subsection (2ZB), and
 - (c) any public assembly in England and Wales within subsection (2ZE).
 - (2ZB) A public procession (“Procession A”) is within this subsection if it was held, is being held or is intended to be held in the same area as the area in which the procession mentioned in subsection (2ZA)(a) (“Procession B”) is being held or is intended to be held.
 - (2ZC) In subsection (2ZB) “area” means such area as the senior police officer considers appropriate, having regard to the nature and extent of the disruption that may result from Procession A and Procession B.
 - (2ZD) For the purposes of subsection (2ZB), it does not matter whether or not –
 - (a) Procession A and Procession B are organised by the same person,
 - (b) any of the same persons take part in Procession A and Procession B,
 - (c) Procession A and Procession B are held or are intended to be held at the same time, or
 - (d) directions are given under subsection (1) in relation to Procession A.
 - (2ZE) A public assembly is within this subsection if it was held, is being held or is intended to be held in the same area as the area in which the procession mentioned in subsection (2ZA)(a) is being held or is intended to be held.
 - (2ZF) In subsection (2ZE) “area” means such area as the senior police officer considers appropriate, having regard to the nature and extent of the disruption that may result from the assembly and the procession.
 - (2ZG) For the purposes of subsection (2ZE) it does not matter whether or not –
 - (a) the assembly and the procession are organised by the same person,
 - (b) any of the same persons take part in the assembly and the procession,

- (c) the assembly and the procession are held or are intended to be held at the same time, or
 - (d) directions are given under section 14(1A) (imposing conditions on public assemblies) in relation to the assembly.
- (2ZH) In considering for the purposes of subsection (1)(a) whether a public procession in England and Wales may result in serious disruption to the life of the community –
- (a) all disruption to the life of the community –
 - (i) that may result from the procession, or
 - (ii) that may occur regardless of whether the procession is held (including in particular normal traffic congestion),is to be taken into account, and
 - (b) “the community” means any group of persons that may be affected by the procession, and it does not matter whether or not all or any of those persons live or work in the vicinity of the procession.”
- (3) In subsection (2A) (examples of serious disruption) –
- (a) before paragraph (a) insert –
 - “(za) it may, by way of physical obstruction, result in the prevention of, or a hindrance that is more than minor to, the carrying out of daily activities (including in particular the making of a journey),”
 - (b) in paragraph (a), for “a significant delay to” substitute “the prevention of, or a delay that is more than minor to,” and
 - (c) in paragraph (b), for “a prolonged disruption” substitute “the prevention, or a disruption that is more than minor,”.
- (4) After subsection (3) insert –
- “(3A) Subsection (3B) applies where –
- (a) a public procession is being held or is intended to be held in England and Wales,
 - (b) it appears to the senior police officer that there is a connection between the procession and –
 - (i) one or more other public processions that are being held or that are intended to be held in England and Wales, or
 - (ii) one or more public assemblies that are being held or that are intended to be held in England and Wales,
 - (c) the senior police officer reasonably believes that one of the conditions in subsection (1)(a) to (b) is met in relation to the procession mentioned in paragraph (a), and
 - (d) the senior police officer reasonably believes –
 - (i) in relation to a procession mentioned in paragraph (b)(i), that one of the conditions in subsection (1)(a) to (b) is met in relation to the procession, or

- (ii) in relation to an assembly mentioned in paragraph (b)(ii), that one of the conditions in section 14(1)(a) to (b) is met in relation to the assembly.
- (3B) The senior police officer may –
 - (a) give directions under subsection (1) in relation to –
 - (i) the procession mentioned in subsection (3A)(a), and
 - (ii) any procession mentioned in subsection (3A)(b)(i) in relation to which the condition in subsection (3A)(d)(i) is met, and
 - (b) give directions under section 14(1A) in relation to any assembly mentioned in subsection (3A)(b)(ii) in relation to which the condition in subsection (3A)(d)(ii) is met.
- (3C) Directions given in accordance with subsection (3B) may impose the same or different conditions in relation to different processions and assemblies.
- (3D) In subsections (3A) and (3B) “the senior police officer” means –
 - (a) where the public procession mentioned in subsection (3A)(a) is being held, the police officer responsible for managing the police response to the procession, and
 - (b) where the public procession mentioned in subsection (3A)(a) is intended to be held, the chief officer of police.
- (3E) A direction given by a chief officer of police by virtue of subsection (3D)(b) must be given in writing.”

Member's explanatory statement

This new Clause amends section 12 of the Public Order Act 1986 (imposing conditions on public processions) to make provision about when a public procession in England and Wales may result in serious disruption to the life of the community. The amendments also allow for conditions to be imposed in relation to connected processions and assemblies.

LORD SHARPE OF EPSOM

49 Before Clause 15, insert the following new Clause –

“Imposing conditions on public assemblies: serious disruption

- (1) Section 14 of the Public Order Act 1986 (imposing conditions on public assemblies) is amended as follows.
- (2) In subsection (2) (meaning of senior police officer), for “this section” substitute “subsections (1) and (1A)”.
- (3) Before subsection (2A) insert –
 - “(2ZA) In considering for the purposes of subsection (1)(a) whether a public assembly in England and Wales may result in serious disruption to the life of the community, the senior police officer may have regard to the cumulative disruption to the life of the community resulting from –
 - (a) the assembly,

- (b) any public assembly in England and Wales within subsection (2ZB), and
 - (c) any public procession in England and Wales within subsection (2ZE).
- (2ZB) A public assembly (“Assembly A”) is within this subsection if it was held, is being held or is intended to be held in the same area as the area in which the assembly mentioned in subsection (2ZA)(a) (“Assembly B”) is being held or is intended to be held.
- (2ZC) In subsection (2ZB) “area” means such area as the senior police officer considers appropriate, having regard to the nature and extent of the disruption that may result from Assembly A and Assembly B.
- (2ZD) For the purposes of subsection (2ZB), it does not matter whether or not—
 - (a) Assembly A and Assembly B are organised by the same person,
 - (b) any of the same persons take part in Assembly A and Assembly B,
 - (c) Assembly A and Assembly B are held or are intended to be held at the same time, or
 - (d) directions are given under subsection (1A) in relation to Assembly A.
- (2ZE) A public procession is within this subsection if it was held, is being held or is intended to be held in the same area as the area in which the assembly mentioned in subsection (2ZA)(a) is being held or is intended to be held.
- (2ZF) In subsection (2ZE) “area” means such area as the senior police officer considers appropriate, having regard to the nature and extent of the disruption that may result from the procession and the assembly.
- (2ZG) For the purposes of subsection (2ZE) it does not matter whether or not—
 - (a) the procession and the assembly are organised by the same person,
 - (b) any of the same persons take part in the procession and the assembly,
 - (c) the procession and the assembly are held or are intended to be held at the same time, or
 - (d) directions are given under section 12(1) (imposing conditions on public processions) in relation to the procession.
- (2ZH) In considering for the purposes of subsection (1)(a) whether a public assembly in England and Wales may result in serious disruption to the life of the community—
 - (a) all disruption to the life of the community—
 - (i) that may result from the assembly, or
 - (ii) that may occur regardless of whether the assembly is held (including in particular normal traffic congestion),is to be taken into account, and

- (b) “community” means any group of persons that may be affected by the assembly, and it does not matter whether or not all or any of those persons live or work in the vicinity of the assembly.”
- (4) In subsection (2A) (examples of serious disruption) –
- (a) before paragraph (a) insert –
- “(za) it may, by way of physical obstruction, result in the prevention of, or a hindrance that is more than minor to, the carrying out of daily activities (including in particular the making of a journey),”
- (b) in paragraph (a), for “a significant delay to” substitute “the prevention of, or a delay that is more than minor to,” and
- (c) in paragraph (b), for “a prolonged disruption” substitute “the prevention, or a disruption that is more than minor,”.
- (5) After subsection (3) insert –
- “(3A) Subsection (3B) applies where –
- (a) a public assembly is being held or is intended to be held in England and Wales,
- (b) it appears to the senior police officer that there is a connection between the assembly and –
- (i) one or more other public assemblies that are being held or that are intended to be held in England and Wales, or
- (ii) one or more public processions that are being held or that are intended to be held in England and Wales,
- (c) the senior police officer reasonably believes that one of the conditions in subsection (1)(a) to (b) is met in relation to the assembly mentioned in paragraph (a), and
- (d) the senior police officer reasonably believes –
- (i) in relation to an assembly mentioned in paragraph (b)(i), that one of the conditions in subsection (1)(a) to (b) is met in relation to the assembly, or
- (ii) in relation to a procession mentioned in paragraph (b)(ii), that one of the conditions in section 12(1)(a) to (b) is met in relation to the procession.
- (3B) The senior police officer may –
- (a) give directions under subsection (1A) in relation to –
- (i) the assembly mentioned in subsection (3A)(a), and
- (ii) any assembly mentioned in subsection (3A)(b)(i) in relation to which the condition in subsection (3A)(d)(i) is met, and
- (b) give directions under section 12(1) in relation to any procession mentioned in subsection (3A)(b)(ii) in relation to which the condition in subsection (3A)(d)(ii) is met.
- (3C) Directions given in accordance with subsection (3B) may impose the same or different conditions in relation to different assemblies and processions.

- (3D) In subsections (3A) and (3B) “the senior police officer” means –
- (a) where the public assembly mentioned in subsection (3A)(a) is being held, the police officer responsible for managing the police response to the assembly, and
 - (b) where the public assembly mentioned in subsection (3A)(a) is intended to be held, the chief officer of police.
- (3E) A direction given by a chief officer of police by virtue of subsection (3D)(b) must be given in writing.””

Member's explanatory statement

This new Clause amends section 14 of the Public Order Act 1986 (imposing conditions on public assemblies) to make provision about when a public assembly in England and Wales may result in serious disruption to the life of the community. The amendments also allow for conditions to be imposed in relation to connected assemblies and processions.

After Clause 16

LORD SHARPE OF EPSOM

50 After Clause 16, insert the following new Clause –

“Wilful obstruction of highway

In section 137 of the Highways Act 1980 (penalty for wilful obstruction), after subsection (1) insert –

- “(1ZA) Subsection (1ZB) applies where –
- (a) a person wilfully obstructs the free passage along a highway, and
 - (b) the obstruction causes or is capable of causing serious disruption to two or more individuals or an organisation.
- (1ZB) The fact that the person wilfully obstructed the free passage along the highway as part of or in furtherance of a protest on an issue of current debate does not constitute a lawful excuse for the purposes of subsection (1).
- (1ZC) For the purposes of subsection (1ZA) an obstruction causes “serious disruption” if it prevents, or would hinder to more than a minor degree, the individuals or the organisation from carrying out their daily activities.””

Member's explanatory statement

This new Clause amends section 137 of the Highways Act 1980 (penalty for wilful obstruction of the highway) to provide that where a person wilfully obstructs the free passage along a highway and that obstruction causes or is capable of causing serious disruption, the fact that they did so as part of or in furtherance of a protest on an issue of current debate does not constitute a lawful excuse.

LORD SHARPE OF EPSOM

51 After Clause 16, insert the following new Clause –

“Public nuisance

In section 78 of the Police, Crime, Sentencing and Courts Act 2022 (intentionally or recklessly causing public nuisance), after subsection (3) insert –

“(3A) The fact that a person’s act or omission mentioned in subsection (1)(a) was done as part of or in furtherance of a protest on an issue of current debate does not constitute a reasonable excuse for the act or omission.””

Member's explanatory statement

This new Clause amends section 78 of the Police, Crime, Sentencing and Courts Act 2022 (intentionally or recklessly causing public nuisance) to provide that where an act or omission that causes a public nuisance is done as part of or in furtherance of a protest on an issue of current debate, that does not constitute a reasonable excuse for the act or omission.

Clause 17

BARONESS CHAKRABARTI

52 Clause 17, page 20, line 7, at end insert –

“(5A) The Secretary of State must publish –

- (a) the reasons for any decision not to consult under subsection (5);
- (b) the results of any consultation under subsection (5);
- (c) any representations made to the Secretary of State as to a proposed exercise of the power to bring proceedings;
- (d) an assessment of why proceedings should be brought by the Secretary of State at public expense rather than by any other person.”

Member's explanatory statement

This amendment and another at page 20, line 13, require the Secretary of State to publish the reasons for any decision not to consult, the results of any consultation, any representations made to the Secretary of State as to a proposed exercise of the power, an assessment of why other parties should not finance their own proceedings and an annual report including all of the above in relation to the use of this power in the previous year.

BARONESS CHAKRABARTI

53 Clause 17, page 20, line 13, at end insert –

“(7A) Within the period of one year beginning with the day on which this section comes into force and every year thereafter, the Secretary of State must publish a report on the exercise of this power to bring proceedings.

(7B) This report must set out –

- (a) every consultation under subsection (5),

- (b) every decision not to consult,
 - (c) results of consultation,
 - (d) representations made to the Secretary of State as to a proposed exercise of the power to bring proceedings, and
 - (e) assessments of why proceedings have been brought by the Secretary of State at public expense rather than by any other person.
- (7C) The report must set out a schedule of the costs of bringing proceedings under this section in relation to the preceding year.”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Baroness Chakrabarti at page 20, line 7.

After Clause 18

BARONESS CHAKRABARTI
BARONESS BOYCOTT
LORD PADDICK
LORD HOPE OF CRAIGHEAD

54 After Clause 18, insert the following new Clause –

“Protection for journalists and others monitoring protests

A constable may not exercise any police power for the principal purpose of preventing a person from observing or otherwise reporting on a protest or the exercise of police powers in relation to –

- (a) a protest-related offence,
- (b) a protest-related breach of an injunction, or
- (c) activities related to a protest.”

Member's explanatory statement

This new Clause would protect journalists, legal observers, academics, and bystanders who observe or report on protests or the police's use of powers related to protests.

LORD SANDHURST

55 After Clause 18, insert the following new Clause –

“Conduct which does not constitute a lawful excuse

- (1) This section applies to any offence that makes conduct unlawful unless there is an excuse for it, where the provision defining that offence, or caselaw, specifies either that the excuse must be a lawful excuse or that it must be a reasonable one.
- (2) It is not a lawful or reasonable excuse for the conduct that –
 - (a) it is intended to influence the Government or public opinion by intimidating, provoking, inconveniencing or otherwise harming members

- of the public by interrupting or disrupting their freedom to carry on a lawful activity, or
- (b) it is designed to influence the Government or public opinion by subjecting members of the public, or their property, or the property of a public body, to a risk, or increased risk, of loss or damage.
- (3) In this section “conduct” includes any act or omission.
- (4) For the purposes of the Human Rights Act 1998, this section must be treated as necessary in a democratic society for the protection of the rights and freedoms of others.”

Member's explanatory statement

This amendment reverses the decision of the Supreme Court in DPP v Ziegler and others, [2021] UKSC 23, in relation to any offence that has a “no lawful excuse” requirement. It will include the offence of locking on and other offences.

Clause 19

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD
LORD THOMAS OF CWMGIEDD

- 56 Clause 19, page 22, line 20, leave out sub-paragraphs (iii) to (v)

Member's explanatory statement

This amendment would limit the trigger events for an SDPO to the commission of a protest-related offence and the breach of a protest-related injunction.

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD
LORD THOMAS OF CWMGIEDD

- 57 Clause 19, page 22, line 32, at end insert “, and –
have not already been taken into account when imposing a previous serious disruption prevention order in respect of P.”

Member's explanatory statement

This would ensure that a second or subsequent SDPO made in respect of any person is founded on trigger events that have not already been taken into account for the purposes of the imposition of a previous SDPO.

LORD SHARPE OF EPSOM

- 58 Clause 19, page 22, line 33, leave out “5” and insert “3”

Member's explanatory statement

This amendment provides for the “relevant period” in Clause 19 of the Bill (serious disruption prevention orders made on conviction) to be reduced to three years.

LORD PONSONBY OF SHULBREDE
LORD PADDICK
LORD ANDERSON OF IPSWICH
BARONESS CHAKRABARTI

59 Leave out Clause 19

Clause 20

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD
LORD THOMAS OF CWMGIEDD

60 Clause 20, page 24, line 19, leave out sub-paragraphs (iii) to (v)

Member's explanatory statement

This amendment would limit the trigger events for an SDPO to the commission of a protest-related offence and the breach of a protest-related injunction.

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD
LORD THOMAS OF CWMGIEDD

61 Clause 20, page 24, line 31, at end insert “, and –

has not already been taken into account when imposing a previous serious disruption prevention order in respect of P.”

Member's explanatory statement

This would ensure that a second or subsequent SDPO made in respect of any person is founded on trigger events that have not already been taken into account for the purposes of the imposition of a previous SDPO.

LORD SHARPE OF EPSOM

62 Clause 20, page 24, line 32, leave out “5” and insert “3”

Member's explanatory statement

This amendment provides for the “relevant period” in Clause 20 of the Bill (serious disruption prevention orders made otherwise than on conviction) to be reduced to three years.

LORD PONSONBY OF SHULBREDE
LORD PADDICK
LORD ANDERSON OF IPSWICH
BARONESS CHAKRABARTI

63 Leave out Clause 20

Clause 21

LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD
LORD THOMAS OF CWMGIEDD

64 Clause 21, page 26, line 8, leave out “, in particular,”

Member's explanatory statement

This amendment would limit the requirements that may be imposed by an SDPO to those that are specified in clause 21(2).

LORD SHARPE OF EPSOM

65 Clause 21, page 26, line 12, leave out paragraph (c)

Member's explanatory statement

This amendment omits the provision in Part 2 of the Bill that provided for a serious disruption prevention order to include a requirement for a person to submit to electronic monitoring of their compliance with such an order.

Clause 22

LORD SHARPE OF EPSOM

66 Clause 22, page 27, line 17, leave out subsection (5)

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom at page 26, line 12.

Clause 23

LORD SHARPE OF EPSOM

67 Leave out Clause 23

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom at page 26, line 12.

Clause 25

LORD SHARPE OF EPSOM

68 Clause 25, page 30, line 17, leave out subsections (6) and (7)

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom at page 26, line 12.

Clause 28

LORD SHARPE OF EPSOM

69 Clause 28, page 32, line 32, at end insert –

“(8A) The court may not renew a serious disruption prevention order more than once.”

Member's explanatory statement

This amendment provides that a serious disruption prevention order may not be renewed under Clause 28 more than once.

LORD SHARPE OF EPSOM

70 Clause 28, page 32, line 33, leave out subsection (9)

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom at page 26, line 12.

LORD ANDERSON OF IPSWICH
LORD THOMAS OF CWMGIEDD

71 Clause 28, page 32, line 34, leave out from “period” to end of line 36 and insert “of such an order beyond two years from the day on which it was made.”

Member's explanatory statement

This would limit the total maximum duration of any SDPO to two years.

Clause 30LORD ANDERSON OF IPSWICH
LORD HOPE OF CRAIGHEAD
LORD THOMAS OF CWMGIEDD

72 Clause 30, page 34, line 25, leave out paragraph (b)

Member's explanatory statement

This amendment would remove the reference to guidance issued by the Secretary of State about identifying persons in respect of whom it may be appropriate for the police to make applications for SDPOs.

Clause 32

LORD SHARPE OF EPSOM

73 Leave out Clause 32

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom at page 26, line 12.

Clause 33

LORD SHARPE OF EPSOM

74 Clause 33, page 35, leave out lines line 22 to 24

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom at page 26, line 12.

Clause 35

LORD SHARPE OF EPSOM

75 Clause 35, page 36, line 22, leave out “, 13 and 23” and insert “and 13”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Sharpe of Epsom that leaves out Clause 23.

BARONESS CHAKRABARTI
THE LORD BISHOP OF MANCHESTER

76 Clause 35, page 36, line 25, at end insert —

“(4A) No other provisions of this Act may be brought into force until a report by His Majesty’s Chief Inspectorate of Constabulary and Fire Services on improvements to the vetting, recruitment and discipline of specialist protest police officers is laid before and debated in each House of Parliament.”

Member's explanatory statement

This amendment, and another in the name of Baroness Chakrabarti, require parliamentary debate of a report by HMCI on improvements to the vetting, recruitment and discipline of specialist protest police officers before most provisions of the legislation may be brought into force.

BARONESS CHAKRABARTI
THE LORD BISHOP OF MANCHESTER

77 Clause 35, page 36, line 26, leave out “and (4)” and insert “, (4) and (4A)”

Member's explanatory statement

This amendment, and another in the name of Baroness Chakrabarti, require parliamentary debate of a report by HMCI on improvements to the vetting, recruitment and discipline of specialist protest police officers before most provisions of the legislation may be brought into force.

Public Order Bill

SECOND MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

3 February 2023

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