



Home Office



Ministry
of Justice

Rt Hon Chris Philp MP
**Minister of State for Crime, Policing
and Fire**

2 Marsham Street
London SW1P 4DF

www.gov.uk/home-office

Laura Farris MP
**Minister for Victims and
Safeguarding**

102 Petty France
London SW1H 9AJ

Sir Graham Brady MP, Hannah Bardell MP, Dame Angela Eagle MP and Mrs
Pauline Latham MP
Co-Chairs
Public Bill Committee, Criminal Justice Bill
House of Commons
SW1A 0AA

By Email Only

19 December 2023

Dear Sir Graham, Hannah, Dame Angela and Pauline,

CRIMINAL JUSTICE BILL: GOVERNMENT AMENDMENTS FOR COMMITTEE

We are writing to provide members of the Public Bill Committee with details of a first tranche of Government amendments we have tabled today for Committee stage.

The amendments cover the following issues.

Articles used in serious crime (amendments to clauses 1 to 3, 32 and 77 and Schedule 4)

Clauses 1 to 4 of the Bill provide for new offences to criminalise the importation, making, modifying, supplying, offering to supply and possession of specific articles for use in serious crime (such as templates to 3D-print firearms components and pill presses), and the possession, importation, making, adapting, supplying or offering to supply an electronic device (such as a signal jammer) for use in theft of a vehicle or theft of anything in a vehicle. These offences currently apply to England and Wales only. Following discussions with the Northern Ireland Department of Justice and with the agreement of the Scottish Cabinet Secretary for Justice and Home Affairs, the amendments to clauses 1 to 3 and 77 apply these provisions, with the necessary modifications, to Northern Ireland and Scotland.

The amendments to Schedule 4 and clause 32 add the new offences in clauses 1 and 3 of the Bill to the list of lifestyle offences in Schedules 2 (which applies to England Wales) and 5 (which applies to Northern Ireland) to the Proceeds of Crime Act 2002 respectively. This list recognises specific types of crime associated with professional criminals, organised crime and racketeering. It is appropriate to define these new

offences as criminal lifestyle offences, as they aim to target both serious criminals and the professional enablers who profit from supplying these articles for use in serious criminality.

The practical effect of these amendments is that a person found guilty of one of these new offences will automatically be considered to have a criminal lifestyle. It will be for the courts to then decide if the person has benefited from their general criminal conduct, and make a confiscation order accordingly under the Proceeds of Crime Act. Ultimately this will result in a higher amount of assets potentially subject to confiscation, which reflects the serious nature of this type of offending.

SIM farms (amendment to Schedule 1)

Clauses 5 and 6 provide for criminal offences relating to the possession and supply of a SIM farm. Schedule 1 then makes provision for powers of entry, search and seizure in relation to these offences. Paragraph 11(1) makes it an offence for a person, without reasonable excuse, to intentionally obstruct a constable in the performance of a function conferred by Schedule 1. Paragraph 11(3) defines a constable for the purposes of paragraph 11(1) as including a person authorised under paragraph 7(2) (for example, a police community support officer) to accompany a person who is executing a search warrant. This technical amendment to paragraph 11(3) further provides that the definition of a constable includes a person who has the powers of a constable (for example, a designated National Crime Agency officer).

Encouraging or assisting serious self-harm (amendments to clauses 11 and 77)

The Online Safety Act 2023 created a new offence of intentionally encouraging or assisting non-fatal self-harm by means of communication. This applies UK-wide. This new offence will be expanded in the Criminal Justice Bill to encouraging or assisting non-fatal self-harm by means of communication and in any other way.

Following discussions with the Department of Justice and Department of Health in Northern Ireland, these amendments would apply the reforms to Northern Ireland. The Scottish Government has confirmed that they do not wish to extend the measure to Scotland.

Drug testing on arrest (amendments to clauses 15, 16 and 78 and new clause “Testing of persons outside of police detention for presence of controlled drugs”)

Clauses 15 to 17 extend the powers of the police to drug test individuals on arrest and on charge for the presence of specified Class A drugs to include specified Class B and Class C drugs. At present, drug testing on arrest and on charge can only take place in police detention within the meaning of the Police and Criminal Evidence Act 1984 (PACE).

In the *Anti-Social Behaviour Action Plan*, published in March 2023, the Government committed to consulting on expanding these powers to include locations outside of the custody suite, and this was included in the *Community Safety Partnerships Review and Anti-Social Behaviour Powers consultation*. The most popular response (44%) was in support of extending drug testing powers to outside the custody suite. (see the consultation outcome published on 14 November available at: [Community safety partnerships review and antisocial behaviour powers: government response - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/community-safety-partnerships-review-and-antisocial-behaviour-powers)). This expansion will ensure police have the necessary powers to drug

test on arrest without delay, to identify those whose drug use may be associated with their criminality and refer to treatment and support services. The new clause accordingly provides for testing of controlled drugs upon arrest at a place other than a police station; the amendments to clause 16 have the effect that Part 3 of the Drugs Act 2005 (relating to the assessment of the misuse of controlled drugs) applies where controlled drugs are tested for upon arrest at a place other than a police station and make consequential changes.

The technical amendments to clause 15 ensure that procedural provisions in respect of regulations made under new section 63CA of PACE operate as intended.

These amendments apply to England and Wales only.

Application of provisions to the service justice system (amendments to clauses 18, 23 and 77 and Schedule 2 and new clauses “*Power to seize bladed articles etc: armed forces*”, “*Stolen goods on premises (entry, search and seizure without warrant): armed forces*” and “*Powers to compel attendance at sentencing hearing: armed forces*”)

Clause 18 confers powers on the police to seize bladed articles while lawfully on any premises where they have reasonable grounds for suspecting that the relevant article would be likely to be used in connection with unlawful violence. Clause 19 confers powers on the police to enter premises without a warrant for the purpose of searching for stolen goods. Paragraph 19 of Schedule 2 makes a consequential amendment to the Sentencing Code arising from the new offences relating to the taking or recording of intimate images without consent. Clause 22 confers powers to compel certain offenders to attend sentencing hearings and clause 23 provides for a statutory aggravating factor at sentencing that will capture those involved in grooming behaviour, including grooming gangs. In each case, these amendments and new clauses make equivalent provision for the service police and the service justice system.

These amendments apply UK-wide.

The technical amendment to clause 18 clarifies that for the purposes of clause 18(8)(b), the final determination of an application includes the determination of any appeal.

Driver licence records (amendments to clause 21)

Clause 21 clarifies those law enforcement agencies which can access the Driver and Vehicle Licensing Agency’s driver licence records for policing and law enforcement purposes. These technical amendments do two things. First, they specify in more detail the relevant chief officers of bodies to which the provisions will apply. Second, they ensure that, in the event that the list of bodies to which the new provisions apply is amended by the regulations (as provided for in new section 71(5) of the Criminal Justice and Court Services Act 2000), any necessary consequential amendments (for example, to the definition of a “chief officer” in new section 71(10)) may also be made by the regulations.

These amendments apply UK wide.

Management of terrorist offenders (amendments to clauses 31 and 77, new clause “*Terrorist offenders*” and new Schedule “*Notification orders*”)

Clause 31 of the Bill as introduced extended polygraph testing as a licence condition, following a designation by the Lord Chancellor, to an existing cohort of individuals who committed non-terrorism offences, such as conspiracy to murder, that we believe would have been determined by the court as having a ‘terrorist connection’ had this option been available at their time of sentencing. The power for the courts to apply this sentence aggravation was only available from 2009 onwards.

These amendments build on clause 31 by expanding the post-release risk management tools beyond polygraph testing to include the powers of urgent arrest and personal search that were introduced by the Police, Crime, Sentencing and Courts Act 2022. The amendments also introduce a new Schedule “*Notification orders*” which provides for orders applying the notification requirements in Part 4 of the Counter-Terrorism Act 2008 to this historic cohort of offenders. The power to apply these additional offender management tools will sit with the courts following an application by the Secretary of State or the police.

There are also some minor and technical amendments to clause 31 to ensure the measures operate properly on service offenders and offenders sentenced in Scotland.

These amendments apply UK-wide.

We attach a supplementary ECHR memorandum and Delegated Powers memorandum.

We will write again in the New Year when we table further amendments to later parts of the Bill.

We are copying this letter and enclosures to all members of the Public Bill Committee and Harriet Harman KC MP (Chair, Human Rights Committee).

Yours sincerely



Rt Hon Chris Philp MP

Laura Farris MP