

Crime and Policing Bill

AMENDMENTS TO BE MOVED ON REPORT

[Supplementary to the Marshalled List]

Clause 133

LORD STRASBURGER

Clause 133, page 176, line 10, leave out subsection (2) and insert –

- “(2) It is a defence for a person charged with an offence under this section to show that they had a reasonable excuse for wearing or otherwise using the item at the material time.”

Member's explanatory statement

This amendment would provide a defence of reasonable excuse to the offence of concealing identity at protests, thereby putting the burden of proof on police officers to justify why they believe that wearing a face covering at a protest made the suspect arrestable.

After Clause 167

BARONESS O'LOAN

After Clause 167, insert the following new Clause –

“Police disciplinary proceedings: use of force

- (1) Schedule 2 of The Police (Conduct) Regulations 2020 (S.I. 2020/4) (standards of professional behaviour) is amended as follows.
- (2) In the “Use of Force” standard, at end insert –

“Where a police officer uses force on the basis of an honestly held but mistaken belief, they can rely on that belief as justification for the use of force only if the mistake was an objectively reasonable one to have made.”

Member's explanatory statement

This amendment seeks to (1) codify the decision in W(80) UKSC 24, that in police disciplinary proceedings involving use of force, an officer may rely on a mistaken belief only if that belief was

both honestly held and objectively reasonable, and (2) and enable parliamentary consideration of the appropriate test in this context.

After Clause 182

BARONESS SMITH OF LLANFAES

After Clause 182, insert the following new Clause –

Policing: devolution to Wales

- (1) Schedule 7A of the Government of Wales Act 2006 is amended as follows.
- (2) In section B5 (crime, public order and policing) –
 - (a) omit “and policing”, and
 - (b) omit line 41 “policing”.
- (3) The Secretary of State may by regulations make further provision under this section.”

Member's explanatory statement

This new clause seeks to devolve policing to Wales, by removing it from the list of reserved matters in the Government of Wales Act 2006.

BARONESS SMITH OF LLANFAES

After Clause 182, insert the following new Clause –

“Youth justice: devolution to Wales

- (1) Schedule 7A of the Government of Wales Act 2006 (reserved matters) is amended as set out in subsection (2).
- (2) In paragraph 175 (prisons and offender management), omit sub-paragraph (2)(b).
- (3) The Secretary of State may by regulations make further provision under this section.”

Member's explanatory statement

This new clause seeks to devolve youth justice to Wales, by removing it from the list of reserved matters in the Government of Wales Act 2006.

After Clause 207

VISCOUNT HAILSHAM

After Clause 207, insert the following new Clause –

“Support for terrorism: intention

- (1) The Terrorism Act 2000 is amended as follows.

- (2) In section 12 (support) after subsection (4), insert –
 - “(4A) A person is not guilty of an offence under this section unless the conduct alleged was done by that person with the intent of encouraging, inciting, facilitating or enabling another to commit an act of terrorism.”
- (3) In section 13 (uniform and publication of images), after subsection (1B), insert –
 - “(1C) A person is not guilty of an offence under this section unless the conduct alleged was done by that person with the intent of encouraging, inciting, facilitating or enabling another to commit an act of terrorism.”
- (4) Subject to subsection (5) a person may not be arrested in respect of an offence alleged to have been committed under sections 12 and 13 of the Terrorism Act 2000, unless that arrest has been authorised by a police officer of the rank of superintendent or above.
- (5) When determining whether to authorise the arrest under subsection (4), that police officer must have regard to the provisions of sections 12(4A) and 13(1C) of that Act.
- (6) Subject to subsection (7), subsections (4) and (5) of this section shall not apply where an arrest has not been authorised by a police officer of the rank of superintendent or above, but a police officer, having regard to the urgency or gravity of the relevant circumstances, reasonably believes that it is necessary to arrest a person in respect of an offence alleged to have been committed under sections 12 and 13 of the Terrorism Act 2000.
- (7) When determining whether to make an arrest under subsection (6), that police officer must have regard to the provisions of sections 12(4A) and 13(1C) of that Act.”

Member's explanatory statement

The amendments are designed to ensure that arrests under sections 12 and 13 of the Terrorism Act are in general confined to cases where a person is reasonably suspected of encouraging, inciting, facilitating or enabling another to commit an act of terrorism.

VISCOUNT HAILSHAM

After Clause 207, insert the following new Clause –

“Proscription process: parliamentary involvement

- (1) Section 3 of the Terrorism Act 2000 (proscription) is amended as follows.
- (2) After subsection (3), insert –
 - “(3A) Subject to subsection (3B) the Secretary of State may not make an order under subsection (3) unless prior to making such an order, the Secretary of State has placed before the Intelligence and Security Committee (the ISC) or any committee which by statute may have replaced the ISC (the replacement committee), a statement of the reasons for making the order

and the ISC or the replacement committee has published a report regarding that order.

- (3B) Subsection (3A) does not apply if the Secretary of State is of the opinion that by reason of urgency the requirements of subsection (3A) cannot reasonably be complied with and the Secretary of State has made a statement to Parliament to that effect.
- (3C) If subsection (3B) applies, the Secretary of State must within seven days of the making of the order, place before the ISC or the replacement committee, a statement of the reasons for making the order and within a reasonable period thereafter, the ISC or the replacement committee must make a report to Parliament.””

Member's explanatory statement

This amendment and another in name of Viscount Hailsham are designed to ensure that the Secretary of State informs the Intelligence and Security Committee of the facts that justify making a proscription order and the Intelligence and Security Committee is in a position to publish a relevant report for the assistance of Parliament.

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