



House of Commons

NOTICES OF AMENDMENTS

given on

Thursday 31 January 2013

For other Amendment(s) see the following page(s):
Crime and Courts Bill Committee 82-90

PUBLIC BILL COMMITTEE

CRIME AND COURTS BILL [*LORDS*]

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson
Emily Thornberry

82

Schedule 16, page 275, line 33, at end insert—

- ‘() The Director of Public Prosecutions and the Director of the Serious Fraud Office must publish the new code as a draft code.
- () The Director of Public Prosecutions and the Director of the Serious Fraud Office must consult the following persons about the amended code—
 - (a) the Secretary of State;
 - (b) such persons as the Secretary of State may direct;
 - (c) such other persons as the Director of Public Prosecutions and the Director of the Serious Fraud Office consider appropriate.
- () Before the code is permitted to come into effect, it shall be laid before Parliament.’.

Enforcement by taking control of goods

Mr Jeremy Browne

NC8

To move the following Clause:—

- ‘(1) Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (procedure for taking control of goods) is amended as follows.
- (2) In paragraph 17 (enforcement agent may use reasonable force to enter etc where paragraph 18 or 19 applies) for “or 19” substitute “, 18A, 19 or 19A”.
- (3) After paragraph 18 insert—

Crime and Courts Bill [*Lords*], *continued*

“18A(1) This paragraph applies if these conditions are met—

- (a) the enforcement agent has power to enter the premises under paragraph 14;
- 10 (b) the enforcement agent reasonably believes that the debtor carries on a trade or business on the premises;
- (c) the enforcement agent is acting under a writ or warrant of control issued for the purpose of recovering a sum payable under a High Court or county court judgment;
- (d) the sum so payable is not a traffic contravention debt.

15 (2) “Traffic contravention debt” has the meaning given by section 82(2) of the Traffic Management Act 2004.”

(4) After paragraph 19 insert—

“19A(1) This paragraph applies if these conditions are met—

- 20 (a) the enforcement agent has power to enter the premises under paragraph 16;
- (b) the premises are not premises on which the enforcement agent reasonably believes that the debtor carries on a trade or business;
- 25 (c) the enforcement agent has taken control of the goods by entering into a controlled goods agreement with the debtor;
- (d) the debtor has failed to comply with any provision of the controlled goods agreement relating to the payment by the debtor of the debt;
- 30 (e) the debtor has been given notice of the intention of the enforcement agent to enter the premises to inspect the goods or to remove them for storage or sale;
- (f) paragraph 18 does not apply.

(2) For the purposes of a notice under sub-paragraph (1)(e), regulations must state—

- 35 (a) the minimum period of notice;
- (b) the form of the notice;
- (c) what it must contain;
- (d) how it must be given;
- (e) who must give it.

40 (3) The enforcement agent must keep a record of the time when a notice under sub-paragraph (1)(e) is given.

(4) If regulations authorise it, the court may order in prescribed circumstances that the notice given may be less than the minimum period.

45 (5) The order may be subject to conditions.”

(5) In paragraphs 24(2) and 31(5) (no power to use force against persons except to extent provided in regulations) omit “, except to the extent that regulations provide that it does”.

50 (6) Omit paragraph 53(2) (controlled goods to be treated as abandoned if unsold after a sale).

(7) Omit paragraph 56(2) (securities to be treated as abandoned if not disposed of in accordance with notice of disposal).

Crime and Courts Bill [Lords], continued

- 55 (8) In consequence of the repeals in subsection (5), in section 90 of the Tribunals, Courts and Enforcement Act 2007 (regulations under Part 3)—
- (a) omit subsection (4) (procedure for regulations under paragraphs 24(2) and 31(5) of Schedule 12), and
- (b) in subsection (5) omit “In any other case”.
- 60 (9) In Schedule 13 to that Act (taking control of goods: amendments)—
- (a) in paragraph 37 (repeal in section 66(2) of the Criminal Justice Act 1972) for the words after “etc.,” substitute “omit subsection (2).”,
- (b) in paragraph 74 (repeal of sections 93 to 100 of the County Courts Act 1984) after “93 to” insert “98 and”,
- (c) in paragraph 85 (amendment of section 436 of the Insolvency Act 1986) for “436” substitute “436(1)”,
- 65 (d) in paragraph 125 (amendment of section 15 of the Employment Tribunals Act 1996) for ““by execution issued from the county court”” substitute “the words from “by execution”, to “court” in the first place after “by execution”,”, and
- 70 (e) in paragraph 134 (which amends Schedule 17 to the Financial Services and Markets Act 2000) for “paragraph 16(a)” substitute “paragraphs 16(a) and 16D(a)”.

As Amendments to Mr Jeremy Browne’s proposed New Clause (*Enforcement by taking control of goods*) (NC8):—

Mr Jeremy Browne

Line 21, leave out paragraph (b).

(a)

Mr Jeremy Browne

Line 32, leave out ‘paragraph 18 does not apply’ and insert ‘neither paragraph 18 nor paragraph 19 applies.’.

(b)

Jenny Chapman
Mr David Hanson
Phil Wilson
Stella Creasy

83

Clause 34, page 33, line 42, at end insert—

‘(6A) After section 50(2)(c) (Procedure) of the 2006 Act insert—

“(2A) In respect of any application or claim in connection with immigration (whether or not under the rules referred to in subsection (1) or any other enactment) the Secretary of State may make provision for the communication of an immigration officer with the applicant before a decision is taken in respect of that application or claim.

(2B) Provisions under (2A) may include communication with the individual so as to obtain additional information relevant to their application or claim.”.

(6B) Before the coming into force of this section, the Secretary of State must make provision for communication between an immigration officer and the applicant for the purposes of obtaining further necessary information not included in the

Crime and Courts Bill [*Lords*], *continued*

original application, as provided for under sections 50(2A) and (2B) of the 2006 Act.’.

Jenny Chapman
Mr David Hanson
Phil Wilson
Stella Creasy

84

Clause 36, page 34, line 29, after ‘2000’, insert ‘who is working in Criminal and Financial Investigation’.

Jenny Chapman
Mr David Hanson
Phil Wilson
Stella Creasy

85

Clause 36, page 34, line 41, leave out subsections (4) and (5).

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

86

Schedule 15, page 262, line 2, at end insert—
‘(za) have regard to the need to promote rehabilitation,’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

87

Schedule 15, page 262, line 8, leave out ‘exceptional’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

88

Schedule 15, page 263, line 37, before ‘an electronic’, insert ‘in a case where the court also imposes a supervision requirement,’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

89

Schedule 15, page 264, line 17, before ‘an electronic’, insert ‘in a case where the court also imposes a supervision requirement,’.

Crime and Courts Bill [*Lords*], continued

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

90

Schedule 15, page 269, line 16, leave out ‘with probation trusts’ and insert ‘for the provision of supervision of offenders’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

91

Schedule 15, page 269, line 16, leave out ‘require each probation trust to’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

92

Schedule 15, page 262, line 19, at end insert—

- ‘5 (1) The Secretary of State shall periodically publish the outcomes of community orders awarded by each criminal court in England and Wales, where “outcomes” is defined as the number and classification of re-offences recorded for each offender sentenced by the court, following their sentence.’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

93

Schedule 15, page 269, line 22, at end insert—

- ‘(3) The Secretary of State shall in each year publish a strategy for the delivery of appropriate and effective services for female offenders in the criminal justice system.’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson
Emily Thornberry

94

Schedule 16, page 274, line 27, at end insert—

‘Sentencing guidelines for DPAs

- 4A (1) The Sentencing Council must produce a guideline on the financial penalties and remedial measures appropriate for a DPA.
- (2) The Coroners and Justice Act 2009 is amended as follows—
- (a) at the end of section 120(1) insert “and corporate bodies, partnerships and unincorporated associations who have been charged with an offence but whose prosecution has been deferred under Schedule 16 to the Crime and Courts Act 2013”
- (3) Where the Council has prepared guidelines under subsection (1), it must publish them as draft guidelines.

Crime and Courts Bill [*Lords*], *continued*

- (4) The Council must consult the following persons about the draft guidelines—
- (a) the Secretary of State;
 - (b) such persons as the Secretary of State may direct;
 - (c) such other persons as the Council considers appropriate.
- (5) Before the guideline is permitted to come into effect, it shall be laid before Parliament, which shall have the opportunity of debating it.
- 4B (1) If the guideline is amended or replaced, the Sentencing Council must publish the new guideline as a draft guideline.
- (2) The Sentencing Council must consult the following persons about the new guideline—
- (a) the Secretary of State;
 - (b) such persons as the Secretary of State may direct;
 - (c) such other persons as the designated prosecutors consider appropriate.’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson
Emily Thornberry

95

Schedule 16, page 275, line 9, at end insert—

- ‘(6) A DPA must not contain a term granting a blanket indemnity for prosecution for undisclosed criminal acts committed in the past.
- (7) A DPA must have regard to the DPA guideline issued by the Sentencing Council.’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

96

Schedule 16, page 275, line 27, at end insert—

- ‘() Where the Director of Public Prosecutions and the Director of the Serious Fraud Office have produced a code under Clause 6(1), they must publish it as a draft code.
- () The Director of Public Prosecutions and the Director of the Serious Fraud Office must consult the following persons about the draft code—
- (a) the Secretary of State;
 - (b) such persons as the Secretary of State may direct;
 - (c) such other persons as the Director of Public Prosecutions and the Director of the Serious Fraud Office consider appropriate.
- () Before the code is permitted to come into effect, it shall be laid before Parliament.’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

97

Schedule 16, page 280, line 25, leave out ‘or to disgorge profits made from the alleged offence’.

Crime and Courts Bill [*Lords*], *continued*

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

98

Schedule 16, page 280, line 26, at end insert—

- (i) Any money that is received by a prosecutor under a term of a DPA that required for P to disgorge profits from the alleged offence is to be distributed according to the Home Office’s Asset Recovery Incentive Scheme.’.

Jenny Chapman
Mr David Hanson
Stella Creasy
Phil Wilson

99

Clause 42, page 43, line 17, at end insert—

- (4A) The provisions under Schedule 16 shall cease to have effect at the end of a five-year period beginning with the day the provisions come into force.
- (4B) Before the end of the five-year period detailed in subsection (4A), the Secretary of State must—
- (a) provide for a review of these provisions, in consultation with the Director of Public Prosecutions and the Director of the Serious Fraud Office;
 - (b) set out the conclusions of the review; and
 - (c) lay a Report on the review before both Houses of Parliament.’.

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

100

Schedule 15, page 262, line 24, leave out ‘activities’.

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

101

Schedule 15, page 262, line 27, leave out ‘restorative justice requirements’ and insert ‘participation in a restorative conference’.

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

102

Schedule 15, page 262, line 28, leave out ‘justice’ and insert ‘conference’.

Crime and Courts Bill [*Lords*], *continued*

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

103

Schedule 15, page 262, line 29, leave out ‘an activity’ and insert ‘a meeting or series of meetings’.

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

104

Schedule 15, page 262, line 33, leave out ‘and’.

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

105

Schedule 15, page 262, line 36, at end insert ‘and
(d) which is facilitated by a restorative justice practitioner whose role is to prepare for, facilitate and follow up the meeting.’.

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

106

Schedule 15, page 262, leave out lines 37 to 42 and insert—

‘(3) The victim is entitled to participate in any meeting which constitutes or forms part of a restorative conference.

(4) The restorative justice practitioner may allow any other person or persons—

(a) to participate in any meeting which constitutes or forms part of a restorative conference, or

(b) to attend any such meeting for any purpose specified by him including to provide additional information or to act as a supporter of the victim or the offender if he considers that their participation or attendance for that purpose would assist the process of restorative justice.

(4A) Participation by any person in a restorative conference shall require the consent of that person.

(4B) The Secretary of State may make rules about the procedure of restorative conferences.

(4C) Without prejudice to the generality of subsection (4B), rules made under this section may, in particular, make provision—

Crime and Courts Bill [Lords], continued

- (a) specifying the circumstances under which the court should consider deferral and imposition of a restorative conference requirement,
 - (b) specifying which persons may act as restorative justice practitioners,
 - (c) specifying what training and accreditation is required for the registration of restorative justice practitioners and the standards they will work to,
 - (d) conferring or imposing functions on restorative conference facilitators (which may include power to exclude from a meeting constituting or forming part of a restorative conference persons otherwise entitled to participate in it),
 - (e) about the period within which restorative conferences must be completed, and
 - (f) about the information that must be returned to the court including the participation of the offender, a report on the restorative conference, its outcome and any action which the offender has agreed to undertake.
- (4D) Rules made under this section are subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument, and accordingly section 5 of the Statutory Instruments Act 1946 (c.36) applies to such rules.
- (4E) Without prejudice to the generality of section 1(5)(a), where the passing of sentence has been deferred the court may include in a community order or in a youth rehabilitation order an activity requirement—
- (a) requiring the offender to undertake any action to which he has agreed in a restorative conference, or
 - (b) where the victim has agreed to participate in a meeting constituting or forming part of a restorative conference at a subsequent time, requiring the offender to participate in that meeting.’

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

107

Schedule 15, page 262, line 43, leave out ‘justice’ and insert ‘conference’.

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

108

Schedule 15, page 263, line 1, leave out ‘activity concerned’ and insert ‘conference’.

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

109

Schedule 15, page 263, line 2, at end insert—

Crime and Courts Bill [*Lords*], *continued*

- ‘(5A) A restorative conference requirement may be imposed whether or not the court considers that there is a real prospect that the defendant will be sentenced to a custodial sentence in the proceedings.
- (5B) A restorative conference requirement may not be imposed unless the offender entered a plea of guilty to the offence.’

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

110

Schedule 15, page 263, line 4, at end insert—

- ‘(7) In this section “participation” may include a victim’s entitlement to participate by teleconference, video conference, or having another person represent their views to the offender on their behalf.’

Paul Goggins
Mr David Burrowes
Valerie Vaz
Andy McDonald
Ian Paisley
Steve McCabe

111

Schedule 15, page 262, line 8, leave out ‘exceptional’.

Mr David Hanson
Stella Creasy
Jenny Chapman
Phil Wilson

112

Clause 37, page 40, line 31, at end insert—

- ‘(8) A review of the implementation of section 37 shall be undertaken within 12 months of Royal Assent and a report laid before both Houses of Parliament.’
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