



# House of Commons

Thursday 13 March 2014

## PUBLIC BILL COMMITTEE

*New Amendments handed in are marked thus ★*

☆ *Amendments which will comply with the required notice period at their next appearance*

### CRIMINAL JUSTICE AND COURTS BILL

#### NOTE

The Amendments have been arranged in accordance with the Order of the Committee [11 March 2014].

Mr Shailesh Vara

1

☆ Clause 1, page 1, leave out lines 12 to 15 and insert ‘, to imprisonment for life’.

***Member’s explanatory statement***

*This amendment provides for the increase in the maximum penalty available for an offence under section 4 of the Explosive Substances Act 1883 from 14 years imprisonment to imprisonment for life to apply in Scotland as well as in England and Wales and Northern Ireland.*

Mr Shailesh Vara

2

☆ Schedule 1, page 66, line 20, at end insert—

*‘Road Traffic Offenders Act 1988 (c. 53)*

10A (1) Section 35A(4) of the Road Traffic Offenders Act 1988 (extension of disqualification where custodial sentence also imposed) is amended as follows.

(2) In paragraph (e), for “that Act” (in the first place) substitute “the Criminal Justice Act 2003”.

(3) After paragraph (f) insert—

“(fa) in the case of a sentence under section 236A of that Act (special custodial sentence for certain offenders of particular concern), a period equal to half of the term imposed pursuant

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**Criminal Justice and Courts Bill, *continued***

to section 236A(2)(a) of that Act calculated after that term has been reduced by any relevant discount;”.’.

***Member’s explanatory statement***

*This amendment is consequential on the new custodial sentence created by clause 5 of, and paragraph 2 of Schedule 1 to, the Bill and means that provision to ensure that a driving ban is extended when a custodial sentence is imposed at the same time will apply to the new sentence as it does to other custodial sentences.*

Mr Shailesh Vara

3

☆ Schedule 1, page 66, line 27, at end insert—

*‘Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

11A (1) Section 147A(4) of the Powers of Criminal Courts (Sentencing) Act 2000 (extension of disqualification where custodial sentence also imposed) is amended as follows.

(2) In paragraph (e), for “that Act” (in the first place) substitute “the Criminal Justice Act 2003”.

(3) After paragraph (f) insert—

“(fa) in the case of a sentence under section 236A of that Act (special custodial sentence for certain offenders of particular concern), a period equal to half of the term imposed pursuant to section 236A(2)(a) of that Act calculated after that term has been reduced by any relevant discount;”.’.

***Member’s explanatory statement***

*This amendment is consequential on the new custodial sentence created by clause 5 of, and paragraph 2 of Schedule 1 to, the Bill and means that provision to ensure that a driving ban is extended when a custodial sentence is imposed at the same time will apply to the new sentence as it does to other custodial sentences.*

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Mr Shailesh Vara

4

☆ Clause 15, page 16, line 16, at end insert—

( ) In section 37B of the Police and Criminal Evidence Act 1984 (consultation with the Director of Public Prosecutions), in subsection (7), after “such a caution” insert “(whether because of section 14 of the Criminal Justice and Courts Act 2014 or for any other reason)”.’.

***Member’s explanatory statement***

*This amendment clarifies that the restriction on giving cautions in clause 14 is one of the reasons why it may not be possible to give a caution following a decision to do so by the Director of Public Prosecutions under section 37B of the Police and Criminal Evidence Act 1984.*

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**Criminal Justice and Courts Bill, *continued***

Robert Neill

5

- ★ Clause 57, page 58, line 3, at end insert ‘or the Court of Appeal’  
*Member’s explanatory statement*  
*This allows the Court of Appeal to grant permission to apply under section 288.*

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**NEW CLAUSES**
*Leave of the court required for Listed Building Act proceedings*

Robert Neill

NC1

- ★ To move the following Clause:—

- (1) Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (proceedings for questioning the validity of other orders, decisions and directions) is amended as follows.
- (2) In subsection (3) after “section”, insert “relating to anything other than an English matter”.
- (3) After subsection (3) insert—
- “(3A) An application under this section relating to an English matter may not be made without the leave of the High Court or the Court of Appeal.
- (3B) An application for leave for the purposes of subsection (3A) must be made within six weeks from (as the case may be)—
- (a) the date on which the order is confirmed; or (in the case of an order under section 23 which takes effect under section 25 without confirmation) takes effect, or
- (b) the date on which the action is taken.”.
- (4) After subsection (5) insert—
- “(5A) When considering whether to grant leave for the purposes of subsection (3A), the High Court may, subject to subsection (6), by interim order suspend the operation of the order or action the validity of which the person or authority concerned wishes to question, until the final determination of—
- (a) the question of whether leave should be granted, or
- (b) where leave is granted, the proceedings on any application under this section made with such leave.”.
- (5) After subsection (6) insert—
- “(6A) In this section “English matter” means—
- (a) an order to which this section applies which is made by—
- (i) a local planning authority in England, or
- (ii) the Secretary of State, or
- (b) action to which this section applies which is on the part of the Secretary of State.”.

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**Criminal Justice and Courts Bill, *continued***

(6) After subsection (7) insert—

“(8) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (3A).”.

***Member’s explanatory statement***

*This New Clause allows leave requirement for section 288 applications to be extended to other similar applications under the Listed Buildings Act.*

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*Leave of the court required for section 287 applications*

Robert Neill

NC2

★ To move the following Clause:—

‘(1) Section 287 of the Town and Country Planning Act 1990 (proceedings for questioning the validity of certain schemes and orders) is amended as follows.

(2) In subsection (4) after “section”, insert “relating to anything other than an English matter”.

(3) After subsection (4) insert—

“(4A) An application under this section relating to an English matter may not be made without the leave of the High Court or the Court of Appeal.

(4B) An application for leave for the purposes of subsection (4A) must be made within six weeks from the relevant date.”.

(4) In subsection (5) leave out “subsection (4)” and insert “subsections (4) and (4A).”.

(5) After subsection (5) insert—

“(6) In this section “English matter” means a scheme or alteration of such a scheme or an order to which this section applies which is made by—

(a) a local planning authority in England, or

(b) the Secretary of State, or

(7) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (4A).”.

***Member’s explanatory statement***

*This New Clause allows leave requirement for section 288 applications to be extended to other similar applications under section 61N of the Town and Country Planning Act 1990.*

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*Leave of the court required for hazardous substances applications*

Robert Neill

NC3

★ To move the following Clause:—

‘(1) Section 22 of the Planning (Hazardous Substances) Act 1990 (Validity of decisions as to applications) is amended as follows.

**Criminal Justice and Courts Bill, *continued***

- (2) In subsection (3) after “section”, insert “relating to anything other than an English matter”.
- (3) After subsection (3) insert—
- “(3A) An application under this section relating to an English matter may not be made without the leave of the High Court or the Court of Appeal.
- (3B) An application for leave for the purposes of subsection (3A) must be made within six weeks from the relevant date.”.
- (4) After subsection (6) insert—
- “(7) In this section “English matter” means a scheme or alteration of such a scheme or an order to which this section applies which is made by—
- (a) a local planning authority in England, or
- (b) the Secretary of State, or
- (8) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (4A).”.

***Member’s explanatory statement***

*This New Clause allows leave requirement for section 288 applications to be extended to other similar applications under the Hazardous Substances Act 1990.*

*Leave of the court required for section 113 applications against development plans*

Robert Neill

NC4

★ To move the following Clause:—

- (1) Section 113 of the Planning and Compulsory Purchase Act 2004 (validity of strategies, plans and documents) is amended as follows.
- (2) In subsection (3) after “document”, insert “relating to anything other than an English matter”.
- (3) After subsection (3) insert—
- “(3A) An application under this section relating to an English matter may not be made without the leave of the High Court or the Court of Appeal.
- (3B) An application for leave for the purposes of subsection (3A) must be made within six weeks from the relevant date.”.
- (4) In subsection (4) after “application”, insert “under subsection (3) or (3A)”.
- (5) After subsection (11) insert—
- “(12) In this section “English matter” means a scheme or alteration of such a scheme or an order to which this section applies which is made by—
- (a) a local planning authority in England, or
- (b) the Secretary of State, or

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**Criminal Justice and Courts Bill, *continued***

- (13) References in this Act to an application under this section do not include an application for leave for the purposes of subsection (4A).”.’.

***Member’s explanatory statement***

*This New Clause allows leave requirement for section 288 applications to be extended to other similar applications under the Planning and Compulsory Purchase Act 2004.*

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*Broadening of remedies in applications to the High Court in planning cases*

Robert Neill

NC5

- ★ To move the following Clause:—

- ‘(1) In section 288(5) of the Town and Country Planning Act 1990, at end add “wholly or in part”.
- (2) In section 63(4) of the Planning (Listed Buildings and Conservation Areas) Act 1990, at end add “, wholly or in part”.
- (3) In section 287 of the Town and Country Planning Act 1990, at end add “wholly or in part”.’.

***Member’s explanatory statement***

*These changes allow a decision to be quashed in part, for example to remove an unlawful part of a condition rather than to quash the whole planning permission because of that mistake.*

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*Broadening of applications to the High Court to include costs decisions*

Robert Neill

NC6

- ★ To move the following Clause:—

- ‘(1) In section 284(3) of the Town and Country Planning Act 1990, at end add—
- “(j) any decision whether any person should pay the costs of the Secretary of State or any other person in respect of the orders under subsection (2) above or any action listed in this subsection.”.
- (2) In section 62(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, at end add—
- “(e) any decision whether any person should pay the costs of the Secretary of State or any other person in respect of the orders or decisions under subsection (1) above or decisions listed in this subsection.”.’.

***Member’s explanatory statement***

*At present, challenges to the award of costs in planning appeals and call-ins have to be brought by judicial review: *Botton v Secretary of State for the Environment* [1992] 1 PLR 1 even if there is a section 288 application being brought at the same time.*

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**Criminal Justice and Courts Bill, continued***Equalisation of six week periods for bringing proceedings*

Robert Neill

NC7

★ To move the following Clause:—

- (1) In section 61N(2) of the Town and Country Planning Act 1990, leave out “beginning with” and insert “from”.
- (2) In section 113(4) of the Planning and Compulsory Purchase Act 2004, leave out “beginning with” and insert “from”.
- (3) Section 13 of the Planning Act 2008 (Legal challenges relating to national policy statements) is amended as follows.
- (4) In section 13(1), leave out “beginning with” and insert “from”.
- (5) In section 13(2), leave out “beginning with” and insert “from”.
- (6) In section 13(3), leave out “beginning with” and insert “from”.
- (7) In section 13(4), leave out “beginning with” and insert “from”.
- (8) In section 13(5), leave out “beginning with” and insert “from”.
- (9) In section 13(6), leave out “beginning with” and insert “from”.
- (10) In section 118(1), leave out “beginning with” and insert “from”.
- (11) In section 118(2), leave out “beginning with” and insert “from”.
- (12) In section 118(3), leave out “beginning with” and insert “from”.
- (13) In section 118(4), leave out “beginning with” and insert “from”.
- (14) In section 118(5), leave out “beginning with” and insert “from”.
- (15) In section 118(6), leave out “beginning with” and insert “from”.
- (16) In section 118(7), leave out “beginning with” and insert “from”.
- (17) Section 106C of the Town and Country Planning Act 1990 is amended as follows.
- (18) In section 106C(1), leave out “beginning with” and insert “from”.
- (19) In section 106C(2), leave out “beginning with” and insert “from”.

**Member’s explanatory statement**

*At present some time periods for bringing proceedings run from the date of the decision (so start the day afterwards) whilst others include the date of the decision. Given the short time limits for these proceedings, cases are often brought at the last minute. This Clause would standardise planning time limits to run Tuesday to Tuesday.*

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*Allowing the grant of permission or consent to be challenged in an enforcement notice challenge and simplification*

Robert Neill

NC8

★ To move the following Clause:—

- (1) In section 289 of the Town and Country Planning Act 1990, leave out subsections (1) and (2) and insert—
  - “(1) If a person is aggrieved by any decision of the Secretary of State in proceedings on an appeal under Part VII against an enforcement notice, including any grant of planning permission or of a lawful development certificate under section 177, and wishes to question the validity of that

**Criminal Justice and Courts Bill, *continued***

decision on a point of law that person may make an application to the High Court under this section.

- (2) If a person is aggrieved by any decision of the Secretary of State in proceedings on an appeal under Part VIII against a notice under section 207, and wishes to question the validity of that decision on a point of law, that person may make an application to the High Court under this section.”.
- (2) In section 289 of the Town and Country Planning Act 1990, leave out subsections (3) and (4).
- (3) In section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990, leave out subsections (1) to (3) and insert—
- “(1) If a person is aggrieved by any decision of the Secretary of State in proceedings on an appeal under section 39 against a listed building enforcement notice, including any grant of listed building consent, and wishes to question the validity of that decision on a point of law, that person may make an application to the High Court under this section.”.’.

***Member’s explanatory statement***

*This set of amendments makes a series of alterations to the procedure for High Court challenges to enforcement appeal decisions.*

## ORDER OF THE HOUSE [24 FEBRUARY 2014]

That the following provisions shall apply to the Criminal Justice and Courts Bill:

*Committal*

1. The Bill shall be committed to a Public Bill Committee.

*Proceedings in Public Bill Committee*

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 1 April 2014.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

*Consideration and Third Reading*

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which those proceedings are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

*Other Proceedings*

7. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.



**Criminal Justice and Courts Bill**, *continued*

## ORDER OF THE COMMITTEE [11 MARCH 2014]

That—

- (1) the Committee shall (in addition to its first meeting at 8.55 am on Tuesday 11 March) meet—
- (a) at 2.00 pm on Tuesday 11 March;
  - (b) at 11.30 am and 2.00 pm on Thursday 13 March;
  - (c) at 8.55 am and 2.00 pm on Tuesday 18 March;
  - (d) at 11.30 am and 2.00 pm on Thursday 20 March;
  - (e) at 8.55 am and 2.00 pm on Tuesday 25 March;
  - (f) at 11.30 am and 2.00 pm on Thursday 27 March;
  - (g) at 8.55 am and 2.00 pm on Tuesday 1 April;
- (2) the Committee shall hear oral evidence in accordance with the following Table:

**TABLE**

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Tuesday 11 March	Until no later than 9.30 am	Office of the Children's Commissioner
Tuesday 11 March	Until no later than 10.30 am	Magistrates' Association; Howard League for Penal Reform; Criminal Justice Alliance
Tuesday 11 March	Until no later than 11.25 am	Civitas; Standing Committee for Youth Justice; Education Links; John D'Abbro, New Rush Hall School
Tuesday 11 March	Until no later than 2.30 pm	Public and Commercial Services Union; Trades Union Congress
Tuesday 11 March	Until no later than 3.15 pm	Prison Reform Trust; Prisoners' Education Trust
Tuesday 11 March	Until no later than 3.45 pm	Victims' Services Alliance
Tuesday 11 March	Until no later than 4.30 pm	Survivors Trust; Shelter
Tuesday 11 March	Until no later than 5.00 pm	Law Commission
Tuesday 11 March	Until no later than 6.00 pm	Law Society; Bar Council
Thursday 13 March	Until no later than 12.30 pm	Liberty; JUSTICE; Public Law Project
Thursday 13 March	Until no later than 1.00 pm	British Board of Film Classification
Thursday 13 March	Until no later than 2.30 pm	Criminal Bar Association; Constitutional and Administrative Law Bar Association

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**Criminal Justice and Courts Bill, *continued***

<i>Date</i>	<i>Time</i>	<i>Witness</i>
Thursday 13 March	Until no later than 3.00 pm	Professor Cheryl Thomas, University College London
Thursday 13 March	Until no later than 4.00 pm	Nick Armstrong, Matrix Chambers; Nicola Mackintosh, Mackintosh Law; Adam Wagner, One Crown Office Row; Michael Fordham QC, Blackstone Chambers
Thursday 13 March	Until no later than 4.45 pm	Angus Walker, Bircham Dyson Bell; Taylor Wimpey; Campaign to Protect Rural England

- (3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 5; Schedule 1; Clause 6; Schedule 2; Clauses 7 to 17; Schedule 3; Clause 18; Schedule 4; Clauses 19 to 28; Schedule 5; Clause 29; Schedule 6; Clauses 30 to 46; Schedule 7; Clause 47; Schedule 8; Clauses 48 to 57; new Clauses; new Schedules; Clauses 58 to 63; remaining proceedings on the Bill;
- (4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 1 April.
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