



# House of Commons

Thursday 15 January 2015

## PUBLIC BILL COMMITTEE

*New Amendments handed in are marked thus ★*

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

### SERIOUS CRIME BILL [*LORDS*]

#### NOTE

The Amendments have been arranged in accordance with the Order of the Committee [13 January 2015].

Mr Elfyn Llwyd

Clause 50, page 43, line 35, leave out “on the balance of probabilities” and insert “beyond reasonable doubt”. 37

Mr Elfyn Llwyd

Clause 50, page 44, line 5, leave out “doing anything described in the injunction” and insert “engaging in, or encouraging or assisting, gang-related violence or gang-related drug-dealing activity;”. 38

Mr Elfyn Llwyd

Clause 50, page 44, line 7, leave out “described in the injunction” and insert “which will protect the respondent from gang-related violence or gang-related drug dealing activity”. 39

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 Serious Crime Bill [*Lords*], *continued*

Mr Elfyn Llwyd

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Clause 65, page 53, line 6, at end insert—

“( ) In that subsection, for “under that age” substitute “under 18”.”

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 NEW CLAUSES

Karen Bradley

NC7

To move the following Clause—

**“Exemption from civil liability for money-laundering disclosures**

In section 338 of the Proceeds of Crime Act 2002 (money laundering: authorised disclosures), after subsection (4) insert—

“(4A) Where an authorised disclosure is made in good faith, no civil liability arises in respect of the disclosure on the part of the person by or on whose behalf it is made.””

***Member’s explanatory statement***

*This New Clause makes express statutory provision to protect persons (for example, financial institutions and lawyers) who report in good faith their suspicion that another person is engaged in money laundering activity (in accordance with Part 7 of the Proceeds of Crime Act 2002) from incurring civil liability for doing so.*

Karen Bradley

NC8

To move the following Clause—

**“Sexual communication with a child**

After section 15 of the Sexual Offences Act 2003 insert—

**“15A Sexual communication with a child**

- (1) A person aged 18 or over (A) commits an offence if—
  - (a) for the purpose of obtaining sexual gratification, A intentionally communicates with another person (B),
  - (b) the communication is sexual or is intended to encourage B to make (whether to A or to another) a communication that is sexual, and
  - (c) B is under 16 and A does not reasonably believe that B is 16 or over.
- (2) For the purposes of this section, a communication is sexual if—
  - (a) any part of it relates to sexual activity, or

**Serious Crime Bill [Lords], continued**

- (b) a reasonable person would, in all the circumstances but regardless of any person's purpose, consider any part of the communication to be sexual;
- and in paragraph (a) "sexual activity" means an activity that a reasonable person would, in all the circumstances but regardless of any person's purpose, consider to be sexual.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years."

**Member's explanatory statement**

*This New Clause provides for a new offence where an adult communicates with a child under 16 for the purpose of obtaining sexual gratification and the communication is sexual or intended to encourage a sexual response. The offence would be triable either way with a maximum penalty (on conviction on indictment) of two years' imprisonment.*

Karen Bradley

NC9

To move the following Clause—

**"Controlling or coercive behaviour in an intimate or family relationship**

- (1) A person (A) commits an offence if—
- (a) A repeatedly or continuously engages in behaviour towards another person (B) that is controlling or coercive,
- (b) at the time of the behaviour, A and B are personally connected,
- (c) the behaviour has a serious effect on B, and
- (d) A knows or ought to know that the behaviour will have a serious effect on B.
- (2) A and B are "personally connected" if—
- (a) A is in an intimate personal relationship with B, or
- (b) A and B live together and—
- (i) they are members of the same family, or
- (ii) they have previously been in an intimate personal relationship with each other.
- (3) But A does not commit an offence under this section if at the time of the behaviour in question—
- (a) A has responsibility for B, for the purposes of Part 1 of the Children and Young Persons Act 1933 (see section 17 of that Act), and
- (b) B is under 16.
- (4) A's behaviour has a "serious effect" on B if—
- (a) it causes B to fear, on at least two occasions, that violence will be used against B, or
- (b) it causes B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities.
- (5) For the purposes of subsection (1)(d) A "ought to know" that which a reasonable person in possession of the same information would know.

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**Serious Crime Bill [Lords], continued**

- (6) For the purposes of subsection (2)(b)(i) A and B are members of the same family if—
- (a) they are, or have been, married to each other;
  - (b) they are, or have been, civil partners of each other;
  - (c) they are relatives;
  - (d) they have agreed to marry one another (whether or not the agreement has been terminated);
  - (e) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
  - (f) they are both parents of the same child;
  - (g) they have, or have had, parental responsibility for the same child.
- (7) In subsection (6)—
- “civil partnership agreement” has the meaning given by section 73 of the Civil Partnership Act 2004;
- “child” means a person under the age of 18 years;
- “parental responsibility” has the same meaning as in the Children Act 1989;
- “relative” has the meaning given by section 63(1) of the Family Law Act 1996.
- (8) In proceedings for an offence under this section it is a defence for A to show that—
- (a) in engaging in the behaviour in question, A believed that he or she was acting in B’s best interests, and
  - (b) the behaviour was in all the circumstances reasonable.
- (9) A is to be taken to have shown the facts mentioned in subsection (8) if—
- (a) sufficient evidence of the facts is adduced to raise an issue with respect to them, and
  - (b) the contrary is not proved beyond reasonable doubt.
- (10) The defence in subsection (8) is not available to A in relation to behaviour that causes B to fear that violence will be used against B.
- (11) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both.”

**Member’s explanatory statement**

*This New Clause provides for a new offence criminalising controlling or coercive behaviour in an intimate or family relationship. The new offence would be triable either way with a maximum penalty (on conviction on indictment) of five years’ imprisonment.*

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Karen Bradley

NC10

To move the following Clause—

**“Guidance**

- (1) The Secretary of State may issue guidance about the investigation of offences under section (*Controlling or coercive behaviour in an intimate or family relationship*) to whatever persons the Secretary of State considers appropriate.

**Serious Crime Bill [Lords], continued**

- (2) The Secretary of State may revise any guidance issued under this section.
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published.”

**Member’s explanatory statement**

*This New Clause confers a power on the Secretary of State to issue guidance about the investigation of offences under New Clause (NC9) [Controlling or coercive behaviour in an intimate or family relationship].*

Karen Bradley

NC11

To move the following Clause—

**“Prevention or restriction of use of communication devices by prisoners etc**

- (1) Regulations may make provision conferring power on a court to make a telecommunications restriction order.
- (2) “Telecommunications restriction order” means an order requiring a communications provider to take whatever action the order specifies for the purpose of preventing or restricting the use of communication devices by persons detained in custodial institutions.
- (3) Regulations under this section must—
  - (a) specify who may apply for telecommunications restriction orders;
  - (b) make provision about giving notice of applications;
  - (c) make provision conferring rights on persons to make representations;
  - (d) specify the matters about which the court must be satisfied if it is to make an order;
  - (e) make provision about the duration of orders (which may include provision for orders of indefinite duration);
  - (f) make provision about variation (including extension) and discharge of orders;
  - (g) make provision about appeals.
- (4) Regulations under this section may—
  - (a) make provision for a telecommunications restriction order to specify that a requirement of the order is not to apply in particular circumstances;
  - (b) make provision authorising a court to include in an order a requirement for the person applying for the order to pay any or all of the costs of complying with it;
  - (c) make provision about time limits for complying with orders;
  - (d) make provision about enforcement of orders (which may include provision creating offences);
  - (e) make provision about costs (or, in Scotland, expenses) in respect of legal proceedings;
  - (f) make different provision for different purposes;
  - (g) make incidental, consequential, supplementary or transitional provision, including provision applying any enactment (with or without modifications).
- (5) The power to make regulations under this section is exercisable—
  - (a) in relation to England and Wales, by statutory instrument made by the Secretary of State;

**Serious Crime Bill [Lords], continued**

- (b) in relation to Scotland, by the Scottish Ministers.
- (6) A statutory instrument (other than a Scottish statutory instrument) containing regulations under this section is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Regulations made by the Scottish Ministers under this section are subject to the affirmative procedure.
- (8) In this section—
- “communication device” means an item specified in section 1(3) of the Prisons (Interference with Wireless Telegraphy) Act 2012 (mobile telephones etc);
- “communications provider” means a person providing a service that consists in the provision of access to, and of facilities for making use of, any telecommunication system (whether or not one provided by that person);
- “court” means—
- (a) in relation to England and Wales, the county court;
- (b) in relation to Scotland, the sheriff;
- “custodial institution” means—
- (c) in relation to England and Wales, a prison, young offender institution, secure training centre or secure college;
- (d) in relation to Scotland, a prison or young offenders institution;
- “enactment” includes—
- (e) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
- (f) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- “telecommunication system” means any system (including the apparatus comprised in it) that exists (whether wholly or partly in the United Kingdom or elsewhere) for the purpose of facilitating the transmission of communications by any means involving the use of electrical or electromagnetic energy.”

**Member’s explanatory statement**

*This New Cause enables the Secretary of State and the Scottish Ministers to make regulations, subject to the affirmative procedure, conferring power on the civil courts to make an order requiring a communications provider to take action to prevent or restrict the use of unauthorised mobile telephones etc by prisoners.*

Ann Coffey  
Sarah Champion

NC1

To move the following Clause—

**“Child Sexual Exploitation**

- (1) The Sexual Offences Act 1956 is amended as follows.
- (2) In section 28 (Causing or encouraging prostitution of, intercourse with, or indecent assault on, girls under sixteen)—
- (a) in the title of the section, for “prostitution” substitute “the sexual exploitation”;
- (b) in subsection (1), for “prostitution” substitute “sexual exploitation”; and

**Serious Crime Bill [Lords], continued**

- (c) in subsection (2), for “become a prostitute” substitute “been sexually exploited”.
- (3) In section 29 (Causing or encouraging prostitution of defective), in subsection (1), after “woman”, insert “, aged 18 or over,”.
- (4) In section 1(1) of the Street Offence Offences Act 1959 (Loitering or soliciting for purposes of prostitution), after “female”, insert “, aged 18 or over,”.
- (5) The Sexual Offences Act 2003 is amended as follows.
- (6) In section 48 (Causing or inciting child prostitution or pornography)—
- (a) in the title of the section, for “prostitution” substitute “sexual exploitation”; and
  - (b) in subsection (1)(a), for “become a prostitute” substitute “be sexually exploited”.
- (7) In section 49 (Controlling a child prostitute or a child involved in pornography)—
- (a) in the title of the section, for “prostitute” substitute “sexually exploited child”; and
  - (b) in subsection (1)(a), for “prostitution” substitute “sexual exploitation”.
- (8) In section 50 (Arranging or facilitating child prostitution or pornography)—
- (a) in the title of the section, for “child prostitution or pornography” substitute “the sexual exploitation of a child or child pornography”; and
  - (b) in subsection (1)(a), for “prostitution” substitute “sexual exploitation”.
- (9) In section 51 (Sections 48 to 50: interpretation), in subsection (2), for “prostitute” substitute “sexual exploitation”; for “prostitution” substitute “sexually exploited”.
- (10) All reference in other legislation to the above sections and titles should be treated as referring to the amended titles above.”

Ann Coffey  
Sarah Champion

NC2

To move the following Clause—

**“Child Sexual Exploitation: Consent**

- (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In section 9 (Sexual activity with a child), after subsection (3), insert—
  - “(4) A Court shall presume that a defendant, A, does not believe that B is aged 16 or over if there is evidence to suggest that B is a victim of child sexual exploitation in which A is involved; unless A adduces evidence which raises an issue as to his reasonable belief in whether B was aged 16 or over at the time or immediately before the offence.
  - (5) Child sexual exploitation is any scheme or offence which is calculated or designed to create a position whereby B can be exploited so that B is or might be the subject of a sexual offence.”
- (3) In section 75 (Evidential presumptions about consent), after subsection (2)(f), insert—
  - “(g) the complainant was a victim of child sexual exploitation: or
  - (h) the defendant can be shown to have been directly involved in child sexual exploitation.

**Serious Crime Bill [*Lords*], *continued***

- ( ) In this section, “child sexual exploitation” means any scheme of offence as defined by section 9(5).”
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Mr Elfyn Llwyd

NC3

To move the following Clause—

**“Offences of coercive control and domestic violence**

- (1) Any person who commits an act of or engages in a course of conduct that amounts to coercive control in a domestic setting shall be guilty of an offence.
  - (2) A person guilty of an offence under this section is liable—
    - (a) on summary conviction to a community order or imprisonment for a term not exceeding 12 months or a fine not exceeding level 5 on the standard scale; or
    - (b) on conviction on indictment to a community order or term of imprisonment not exceeding 14 years or a fine not exceeding the statutory maximum.
  - (3) The Secretary of State shall by regulations—
    - (a) set out matters that the court must take into account when determining whether to refer the matter to the Crown Court;
    - (b) require a court, local authority or other public body not to disclose the current address or postcode of the victim of an alleged offence under subsection (1) if, in the court’s view, it would place the victim at risk of harm by the alleged perpetrator or any other person;
    - (c) provide the court with the power to require those convicted of an offence under subsection (1) to successfully complete a domestic violence programme and/or another appropriate counselling programme as ordered by the court; and
    - (d) provide the court with the power to issue domestic violence orders under section 28 of the Crime and Security Act 2010 to those convicted of an offence under subsection (1).
  - (4) Regulations under this section shall be made by statutory instrument and may not be made unless a copy has been laid in draft before, and approved by, both Houses of Parliament.”
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**Serious Crime Bill [*Lords*], *continued***

Mr Elfyn Llwyd

NC4

To move the following Clause—

**“Prosecution of offences of coercive control**

- (1) The prosecution of any person under the terms of New Clause [*Offences of coercive control and domestic violence*] shall not be the subject of statutory time limits.”

Mr Elfyn Llwyd

NC5

To move the following Clause—

**“Definition of domestic violence**

- (1) For the purposes of this Act, “Domestic Violence” means—
  - (a) controlling, coercive or threatening behaviour;
  - (b) physical violence; or
  - (c) abuse, including but not limited to, psychological, physical, sexual, financial or emotional abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality.
- (2) For the purposes of the definition in subsection (1)—

“coercive controlling behaviour” shall mean a course of conduct, knowingly undertaken, making a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

“coercive or threatening behaviour” means a course of conduct that knowingly causes the victim or their child or children to—

  - (g) fear that physical violence will be used against them;
  - (h) experience serious alarm or distress which has a substantial adverse effect on the victim’s day-to-day activities.
- (3) For the purposes of subsection (2) a person shall be deemed to have undertaken a course of conduct knowingly if a reasonable person in possession of the same information would conclude that the individual ought to have known that their course of conduct would have the effect in subsection 2(a) or (b).”

Mr Elfyn Llwyd

NC6

To move the following Clause—

**“Domestic violence: policies, standards and training**

- (1) The Secretary of State shall require every police service in England, Wales and Northern Ireland to develop, adopt, publish and implement written policies and

**Serious Crime Bill [*Lords*], *continued***

standards for officers' responses to coercive control and domestic violence incidents within one year of this Act coming into force.

- (2) The purpose of the policies required under subsection (1) shall be to ensure that police forces prioritise cases of domestic violence involving coercive control as serious criminal offences.
  - (3) The purpose of the standards required under subsection (2) shall be to ensure—
    - (a) a minimum level of information and support for victims of alleged domestic violence; and
    - (b) all police officers involved in domestic violence cases shall have had appropriate training in domestic violence behaviours.
  - (4) In developing these policies and standards each police service shall consult with local domestic violence experts and agencies.”
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Jack Dromey  
Mr Steve Reed  
Seema Malhotra

NC12

To move the following Clause—

**“Proceeds of crime located overseas**

- (1) The Secretary of State shall commission a study of the effectiveness of the methods used by UK authorities and agencies to recover the proceeds of crime from overseas.
  - (2) The study mentioned in subsection (1) shall consider—
    - (a) the legal, financial and economic relationships, with particular reference to existing treaties and agreements, between the UK and those countries in which assets identified for recovery are located, and
    - (b) the statutory powers, and levels of resources available to UK authorities and agencies to enable an assessment of the degree to which such asset recovery is efficient, effective and economic.
  - (3) The Secretary of State shall require this study to report within 12 months of Royal Assent to this Act and shall lay a copy of any report arising before each House of Parliament.”
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**Serious Crime Bill [*Lords*], *continued***

Jack Dromey  
Mr Steve Reed  
Seema Malhotra

NC13

To move the following Clause—

**“Annual reports: cyber-crime strategy**

The Police Reform and Social Responsibility Act 2011 is amended as follows—  
In section 12 (Annual reports), at end insert—

- “(8) A report under this section must include details of the policing body’s strategy for reducing cyber-crime and progress or performance against any targets or equivalent metrics contained therein.””.

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Jack Dromey  
Mr Steve Reed  
Seema Malhotra

NC14

To move the following Clause—

**“Internet service provider duty (protection of children)**

- (1) Internet service providers which provide internet storage facilities to their users such as, but not limited to, cloud content storage, must seek to ensure their service is not used to store, transmit or display indecent images of children, contrary to section 1 of the Protection of Children Act 1978 (indecent photographs of children).
- (2) Where it is evident to an internet service provider that their services or network is being misused as set out in subsection (1), they must take all reasonable steps to mitigate, reduce, eliminate or otherwise disrupt such misuse and restrict access to such images.
- (3) In this section, “internet service provider” has the same meaning as in section 124N of the Communication Act 2003 (interpretation).”.

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Mr Elfyn Llwyd

NC16

To move the following Clause—

**“Offence of abduction of child by other person**

In the Child Abduction Act 1984, in section 2(1) (offence of abduction of child by other person), for “sixteen” substitute “eighteen”.”

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 Serious Crime Bill [*Lords*], *continued*

Mr Elfyn Llwyd

NC17

To move the following Clause—

**“Duty on internet service providers to mitigate against stalking**

- (1) Internet service providers must take steps to monitor the extent to which the services they provide might be used by individuals to harass third parties by means of stalking, as define in section 2A(3) of the Protection from Harassment Act 1997.
  - (2) Where an internet service provider considers that there is a material risk that their network or other facilities could be misused as set out in subsection (1), they must take such reasonable steps as might mitigate, reduce, eliminate or otherwise disrupt said behaviour.
  - (3) In this section, “internet service provider” has the same meaning as in section 124N of the Communication Act 2003 (interpretation).”
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Mr Elfyn Llwyd

NC18

To move the following Clause—

**“Child cruelty: duty on police officers to liaise**

- (1) Where an officer is investigating a potential offence under section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16), as amended by section 62 of this Act, he or she must notify the Safeguarding Children and Adults Board of the relevant local authority.
  - (2) A notification must include details of the child or children who are considered to be the victims of the offence.
  - (3) The Secretary of State may produce further guidance on the form a notification under this section may take.”
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Mr Elfyn Llwyd

NC19

To move the following Clause—

**“Child cruelty: duty on local authorities to liaise**

- (1) Where a local authority’s Safeguarding Children and Adults Board (“the Board”) is notified of the investigation of an offence under section (*Child cruelty: duty on police officers to liaise*) the Board must—
  - (a) facilitate liaison between relevant officials with an interest in the child or children’s well-being, and
  - (b) refer the case to Children and Adolescents Mental Health Services.
- (2) The Secretary of State may, by regulations, define the meaning of “relevant officials” in subsection (1).
- (3) Regulations under subsection (2) must include within the meaning of “relevant officials”—

*Serious Crime Bill [Lords], continued*

- (a) the child's school,
- (b) social services, and
- (c) the police."

Jack Dromey  
Mr Steve Reed  
Seema Malhotra

NC20

To move the following Clause—

**“Dissuasion Panels to prevent gang-related violence and drug-dealing activity**

- (1) The Secretary of State may, by orders, establish Dissuasion Panels in a Police Force area.
- (2) A police officer may refer a person aged 14 or over to a Dissuasion Panel under this section if the following three conditions are met.
- (3) The first condition is that the officer is satisfied on the balance of probabilities that the person has engaged in or has encouraged or assisted—
  - (a) gang-related violence; or
  - (b) gang-related drug-dealing activity.
- (4) The second condition is that the officer thinks it is necessary to make the referral for any of the following purposes—
  - (a) to prevent the person from engaging in, or encouraging or assisting, gang-related violence or gang-related drug-dealing activity;
  - (b) to protect the person from gang-related violence or gang-related drug-dealing activity.
- (5) The third condition is that the conduct that the person has engaged in or has encouraged or assisted—
  - (a) would not be eligible for criminal prosecution where the police officer believes that a custodial sentence of more than six months would be the most likely outcome of any such criminal prosecution; or
  - (b) is an offence listed in orders by the Secretary of State.
- (6) A Dissuasion Panel must be comprised of at least three people from the following backgrounds, with preference given to persons or professionals with prior knowledge of the individual—
  - (a) medical, including mental health;
  - (b) social work;
  - (c) legal;
  - (d) any other person or profession that the court believes will be useful and as it directs.
- (7) The Dissuasion Panel will—
  - (a) assess the individual's personal circumstances,
  - (b) consider whether these have impacted on the activities at subsection (2), and,
  - (c) determine whether interventions are needed to—
    - (i) prevent the person from engaging in, or encouraging or assisting, gang-related violence or gang-related drug-dealing activity;
    - (ii) protect the person from gang-related violence or gang-related drug-dealing activity.

**Serious Crime Bill [Lords], continued**

- (8) Following assessment of a person by a Dissuasion Panel under this section, the Panel may—
- (a) make no further intervention; or
  - (b) require the respondent to do something which they reasonably believe will—
    - (i) prevent the person from engaging in, or encouraging or assisting, gang-related violence or gang-related drug dealing activity;
    - (ii) protect the person from gang-related violence or gang-related drug-dealing activity.
- (9) Requirements may include, but are not limited to—
- (a) treatment for those who are drug dependent;
  - (b) counselling;
  - (c) education;
  - (d) training;
  - (e) reporting to the Panel for review.
- (10) If the person does not agree to the proposed requirements they will be referred to court for alternative action under section 34 of the Policing and Crime Act 2009, as introduced by section 47 of the Serious Crime Act 2014.
- (11) At any review by the Dissuasion Panel, the Panel may—
- (a) permit the contract to continue with its current terms;
  - (b) vary the contract by—
    - (i) adding a requirement;
    - (ii) removing an existing requirement;
    - (iii) amending an existing requirement;
  - (c) cancel the contract and refer the person to court for alternative action under section 34 of the Policing and Crime Act 2009, as introduced by section 47 of the Serious Crime Act 2014.
- (12) If the person breaches the contract, he or she will initially be referred back to the Dissuasion Panel who may—
- (a) permit the contract to continue with its current terms;
  - (b) vary the contract by—
    - (i) adding a requirement;
    - (ii) removing an existing requirement;
    - (iii) amending an existing requirement;
  - (c) cancel the contract and refer the individual to court for alternative action under section 34 of the Policing and Crime Act 2009 as introduced by section 47 of the Serious Crime Act 2014.
- (13) For the purposes of this section, something is “gang-related” if it occurs in the course of, or is otherwise related to, the activities of a group that—
- (a) consists of at least three people, and
  - (b) has one or more characteristics that enable its members to be identified by others as a group.
- (14) In this section “violence” includes a threat of violence.
- (15) In this Part “drug-dealing activity” means the unlawful production, supply, importation or exportation of a controlled drug.
- (16) “Production”, “supply” and “controlled drug” have the meanings given by section 37(1) of the Misuse of Drugs Act 1971.”
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**Serious Crime Bill [*Lords*], continued**

Sarah Champion  
Mr Steve Reed  
Ann Coffey  
Seema Malhotra

NC21

To move the following Clause—

**“Child abduction warning notice**

In the Child Abduction Act 1984, after section 2 (offence of abduction of child by other person) insert—

**“2A Power to issue a child abduction warning notice**

- (1) A member of a police force not below the rank of superintendent (“the authorising officer”) may issue a child abduction warning notice (“a CAWN”) under this section.
- (2) A CAWN may be issued to a person (“A”) aged 18 years or over if the authorising officer has reasonable grounds for believing that—
  - (a) A has without lawful authority or reasonable excuse been found in the company of a child (“C”); and
  - (b) C is reported missing and is found on two or more occasions to be in the company of A; or
  - (c) there is reason to suspect that C’s behaviour is, by reason of association with the defendant, giving significant cause for concern.
- (3) Before issuing a CAWN, the authorising officer must, in particular, consider—
  - (a) any representations made by the person with lawful authority for C; and
  - (b) any representations made by A as to the issuing of the CAWN.
- (4) The authorising officer must take reasonable steps to discover the opinions mentioned in subsection (3).
- (5) A CAWN must prohibit A from being in the company of C.

**2B Contents and service of a child abduction warning notice**

- (1) A CAWN must state—
  - (a) the grounds on which it has been issued;
  - (b) that a constable may arrest A without warrant if the constable has reasonable grounds for believing that A is in breach of the CAWN;
  - (c) that an application for a child abduction warning order under section 2D will be heard within 48 hours of the time of service of the CAWN and a notice of the hearing will be given to A;
  - (d) that the CAWN continues in effect until that application has been determined; and
  - (e) the provision that a magistrates’ court may include in a child abduction warning order.
- (2) A CAWN must be in writing and must be served on A personally by a constable.

**Serious Crime Bill [Lords], continued**

- (3) On serving A with a CAWN, the constable must ask A for an address for the purposes of being given the notice of the hearing of the application for the child abduction warning order.

**2C Breach of a child abduction warning notice**

- (1) A person arrested by virtue of section 2B(1)(b) for a breach of a CAWN must be held in custody and brought before the magistrates' court which will hear the application for the CAWO under section 2D—
  - (a) before the end of the period of 24 hours beginning with the time of the arrest; or
  - (b) if earlier, at the hearing of that application.
- (2) If the person is brought before the court by virtue of subsection (1)(a), the court may remand the person.
- (3) If the court adjourns the hearing of the application by virtue of subsection 2D(8), the court may remand the person.
- (4) In calculating when the period of 24 hours mentioned in subsection (1)(a) ends, Christmas Day, Good Friday, any Sunday and any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 are to be disregarded.

**2D Application for a child abduction warning order**

- (1) If a CAWN has been issued, a constable must apply for a child abduction warning order ("a CAWO").
- (2) The application must be made by complaint to a magistrates' court.
- (3) The application must be heard by the magistrates' court no later than 48 hours after the CAWN was served pursuant to section 2B(2).
- (4) In calculating when the period of 48 hours mentioned in subsection (3) ends, Christmas Day, Good Friday, any Sunday and any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 are to be disregarded.
- (5) A notice of the hearing of the application must be given to A.
- (6) The notice is deemed given if it has been left at the address given by A under section 2B(3).
- (7) But if the notice has not been given because no address was given by A under section 2B(3), the court may hear the application for the CAWO if the court is satisfied that the constable applying for the CAWO has made reasonable efforts to give A the notice.
- (8) The magistrates' court may adjourn the hearing of the application.
- (9) If the court adjourns the hearing, the CAWN continues in effect until the application has been determined.
- (10) On the hearing of an application of a CAWO, section 97 of the Magistrates' Court Act 1980 (summons to witness and warrant for his arrest) does not apply in relation to a person for whose protection the CAWO would be made, except where the person has given oral or written evidence at the hearing.

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*Serious Crime Bill [Lords], continued***2E Conditions for and contents of a child abduction warning order**

- (1) The court may make a CAWO if two conditions are met.
- (2) The first condition is that the court is satisfied on the balance of probabilities that the conditions set out in section 3(2) are satisfied.
- (3) The second condition is that the court thinks that making the CAWO is necessary to protect C from harm as a result of association with A.
- (4) A CAWO must state that a constable may arrest A without warrant if the constable has reasonable grounds for believing A is in breach of the CAWO.
- (5) A CAWO may be in force for—
  - (a) no fewer than 14 days beginning with the day on which it is made; and
  - (b) until the date of the 16th birthday of C.
- (6) A CAWO must state the period for which it is to be in force.

**2F Breach of a child abduction warning order**

- (1) A person arrested by virtue of section 2E(4) for a breach of a CAWO must be held in custody and brought before a magistrates' court within the period of 24 hours beginning with the time of the arrest.
- (2) If the matter is not disposed of when the person is brought before the court, the court may remand the person.
- (3) In calculating when the period of 24 hours mentioned in subsection (1) ends, Christmas Day, Good Friday, any Sunday and any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 are to be disregarded.

**2G Further provision about remand**

- (1) This section applies for the purposes of the remand of a person by a magistrates' court under section 2C(2) or (3) or 2F(2).
- (2) In the application of section 128(6) of the Magistrates' Court Act 1980 for those purposes, the reference to the "other party" is to be read—
  - (a) in the case of a remand prior to the hearing of an application for a CAWO, as a reference to the authorising officer; and
  - (b) in any other case, as a reference to the constable who applied for the CAWO.
- (3) If the court has reason to suspect that a medical report will be required, the power to remand a person may be exercised for the purpose of enabling a medical examination to take place and a report to be made.
- (4) If the person is remanded in custody for that purpose, the adjournment may not be for more than three weeks at a time.
- (5) If the person is remanded on bail for that purpose, the adjournment may not be for more than four weeks at a time.
- (6) If the court has reason to suspect that the person is suffering from a mental disorder within the meaning of the Mental Health Act 1983, the court has the same power to make an order under section 35 of that Act

**Serious Crime Bill [Lords], continued**

(remand to hospital for medical report) as it has under that section in the case of an accused person (within the meaning of that section).

- (7) The court may, when remanding the person on bail, require the person to comply before release on bail or later, with such requirements as appear to the court to be necessary to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice.

**2H Guidance**

- (1) The Secretary of State may issue guidance relating to the exercise by a constable of functions under sections 2A to 2F.
- (2) A constable must have regard to any guidance issued under subsection (1) when exercising a function to which the guidance relates.
- (3) Before issuing guidance under this section, the Secretary of State must consult—
- (a) the Association of Chief Police Officers;
  - (b) the National Crime Agency; and
  - (c) such other persons as the Secretary of State thinks fit.”

**Member’s explanatory statement**

*This amendment establishes child abduction warning notices (CAWNs) on a statutory basis, addressing concerns raised in the House of Lords on the issue, by introducing a two-stage process providing judicial oversight, without compromising the ability of the police to issue a CAWN without delay. The proposed process is similar to that in place for Domestic Violence Prevention Notices/Domestic Violence Prevention Orders (DVPN/DVPO).*

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Seema Malhotra  
Jack Dromey  
Mr Steve Reed  
Phil Wilson

**NC22**

To move the following Clause—

**“Age of child (abductions within England and Wales)**

In the Child Abduction Act 1984, insert—

- “(2A) References to the age of “sixteen” in section 2 are to be interpreted as references to the age of “eighteen” for the purposes of any proceedings relating to abductions within England and Wales.”
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 Serious Crime Bill [*Lords*], *continued*

Seema Malhotra  
 Jack Dromey  
 Mr Steve Reed  
 Phil Wilson

NC23

To move the following Clause—

**“Mandatory reporting of abuse of children and vulnerable adults**

- (1) The Secretary of State must initiate a consultation on the introduction of regulations mandating those working in regulated activities to report evidence of potential abuse of children or vulnerable adults to a relevant authority.
- (2) The consultation in subsection (1) must seek to ascertain the degree to which the introduction of such regulations would—
  - (a) improve best practice in safeguarding children and vulnerable adults;
  - (b) increase information sharing between key agencies;
  - (c) enable earlier safeguarding interventions; and
  - (d) prevent deliberate attempts to cover-up abuse undertaken to safeguard the reputation of an individual or institution.
- (3) For the purpose of this section “relevant authority” means—
  - (a) the local authority with safeguarding responsibilities;
  - (b) the local police force; and
  - (c) the Disclosure and Barring Service.
- (4) The consultation undertaken under subsection (1) must be completed and a summary of the results laid before Parliament within 18 months of the date of Royal Assent.
- (5) Following the completion of the consultation in subsection (1), the Secretary of State may under this section bring forward regulations to amend the Safeguarding Vulnerable Groups Act 2006 to introduce regulations mandating regulated activity providers to report suspicious activity to a relevant authority.”

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Karen Bradley

16

Schedule 4, page 105, line 33, at end insert—

“16A In section 6 of the Proceeds of Crime Act 2002 (making of order) at the end of subsection (5) insert—

“Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the defendant to pay the recoverable amount.””

***Member’s explanatory statement***

*This amendment and amendments 17 and 18 amend provisions of the Proceeds of Crime Act 2002 relating to confiscation orders in England and Wales, Scotland and Northern Ireland, so that the court’s duty to make a confiscation order for the recoverable amount applies only to the extent that it would be proportionate to do so.*

Karen Bradley

17

Schedule 4, page 108, line 3, at end insert—

“31A In section 92 of that Act (making of order), at the end of subsection (6) insert—

“Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the accused to pay the recoverable amount.””

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 Serious Crime Bill [*Lords*], *continued*

Karen Bradley

18

Schedule 4, page 110, line 21, at end insert—

“41A In section 156 of that Act (making of order), at the end of subsection (5) insert—

“Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the defendant to pay the recoverable amount.””

Ann Coffey

Sarah Champion

1

Schedule 4, page 112, line 1, at end insert—

“( ) In section 5 of the Sexual Offences Act 2003 (Rape of a child under 13), after subsection (2) insert—

“(3) For the purposes of this Act, the consent of a child under the age of 13 is irrelevant.

(4) The common law of “ostensible consent” in relation to sexual offences is hereby abolished.

(5) For the purposes of sentencing an offender in connection with offences under this Act in relation to a child, a court shall presume the consent of child to be absent.””

Karen Bradley

19

Schedule 4, page 112, line 1, at end insert—

“ In section 78 of the Sexual Offences Act 2003 (meaning of “sexual”), for “except section 71” substitute “except sections 15A and 71”.

**Member’s explanatory statement**

*This amendment is consequential on New Clause (NC8) [Sexual communication with a child]. It provides that the definition of “sexual” in section 78 of the Sexual Offences Act 2003 does not apply to new section 15A of that Act as inserted by the new clause.*

Karen Bradley

20

Schedule 4, page 112, line 1, at end insert—

“ In Schedule 2 to that Act (sexual offences to which provisions about extra-territorial application apply), in paragraph 1(a), for “sections 5 to 19” substitute “sections 5 to 15, 16 to 19”.

**Member’s explanatory statement**

*This amendment is consequential on New Clause (NC8) [Sexual communication with a child]. Its effect is that the provisions of the Sexual Offences Act 2003 which provide for offences committed outside the United Kingdom to be prosecuted in England and Wales in some circumstances do not apply to the new offence.*

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 Serious Crime Bill [*Lords*], *continued*

Karen Bradley

21

Schedule 4, page 112, line 3, at end insert—

“( ) After paragraph 24 insert—

“24A An offence under section 15A of this Act (sexual communication with a child).”

**Member’s explanatory statement**

*This amendment is consequential on New Clause (NC8) [Sexual communication with a child]. It provides that a conviction for the new offence of sexual communication with a child automatically triggers the notification requirements for sex offenders provided by Part 2 of the Sexual Offences Act 2003.*

Karen Bradley

22

Schedule 4, page 112, line 18, at end insert—

“ In Schedule 15 to that Act (specified offences for purposes of Chapter 5 of Part 12), after paragraph 116 insert—

“116A An offence under section 15A of that Act (sexual communication with a child).”

**Member’s explanatory statement**

*This amendment adds the new offence of sexual communication with a child (see New Clause (NC8) [Sexual communication with a child]) to the offences specified for the purposes of Chapter 5 of Part 12 of the Criminal Justice Act 2003, which makes provision for extended determinate sentences for dangerous offenders.*

Karen Bradley

23

Schedule 4, page 112, line 18, at end insert—

“ ( ) Schedule 34A to that Act (child sex offences for purposes of section 327A) is amended as follows.

( ) In paragraph 7(b), for “15” substitute “15A”.

( ) After paragraph 13A insert—

“13B An offence under section 66 of the Serious Crime Act 2015 (possession of paedophile manual).”

**Member’s explanatory statement**

*This amendment brings the new offence of sexual communication with a child (see New Clause (NC8) [Sexual communication with a child]), and the new offence of possession of a paedophile manual (see clause 66), within the disclosure provisions set out in section 327A of the Criminal Justice Act 2003.*

Karen Bradley

24

Schedule 4, page 114, line 18, at beginning insert “Part 1 of”

**Member’s explanatory statement**

*This is a drafting amendment to make it clear that the amendments made by paragraph 73 of Schedule 4 to the Bill are to Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012.*

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 Serious Crime Bill [*Lords*], *continued*

Karen Bradley

25

Schedule 4, page 114, line 19, at end insert—

“( ) After paragraph 15 insert—

*“Female genital mutilation protection orders*

15A (1) Civil legal services provided in relation to female genital mutilation protection orders under paragraph 1 of Schedule 2 to the Female Genital Mutilation Act 2003.

*Exclusions*

(2) Sub-paragraph (1) is subject to the exclusions in Parts 2 and 3 of this Schedule.””

**Member’s explanatory statement**

*This amendment and amendment 26 amend Part 1 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to provide for civil legal aid to be made available for civil legal services provided in relation to female genital mutilation protection orders (as provided for in clause 70 of the Bill).*

Karen Bradley

26

Schedule 4, page 114, line 23, at end insert—

“( ) Part 3 of that Schedule (advocacy: exclusion and exceptions) is amended as follows.

( ) In paragraph 6—

(a) omit “and” at the end of paragraph (a);

(b) at the end insert “, and

(c) proceedings for the variation or discharge of an order under paragraph 1 of Schedule 2 to the Female Genital Mutilation Act 2003.”

( ) In paragraph 8—

(a) omit “and” at the end of paragraph (c);

(b) at the end insert “, and

(e) proceedings for the variation or discharge of an order under paragraph 1 of Schedule 2 to the Female Genital Mutilation Act 2003.””

Karen Bradley

2

Clause 75, page 79, line 26, at end insert—

“( ) in the Sexual Offences Act 2003, subsection (3)(a) of the section 15A inserted by section (*Sexual communication with a child*) above;”**Member’s explanatory statement**

*This amendment is consequential on New Clause (NC8) [Sexual communication with a child]. It makes transitional provision so that the maximum penalty on summary conviction for the new offence is six months’ imprisonment, rather than 12 months’, pending the coming into force of section 154(1) of the Criminal Justice Act 2003.*

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 Serious Crime Bill [*Lords*], *continued*

Karen Bradley

3

Clause 75, page 79, line 32, at end insert—

“( ) section (*Controlling or coercive behaviour in an intimate or family relationship*)(11)(b).”

**Member’s explanatory statement**

*This amendment is consequential on New Clause (NC9) [Controlling or coercive behaviour in an intimate or family relationship]. It makes transitional provision so that the maximum penalty on summary conviction for the new offence is six months’ imprisonment, rather than 12 months’, pending the coming into force of section 154(1) of the Criminal Justice Act 2003.*

Karen Bradley

4

Clause 75, page 79, line 32, at end insert—

“( ) In relation to an offence committed before section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force—

(a) a reference to a fine in the following provisions is to be read as a reference to a fine not exceeding the statutory maximum—

- (i) section 60(3)(a);
- (ii) in the Sexual Offences Act 2003, subsection (3)(a) of the section 15A inserted by section (*Sexual communication with a child*) above;
- (iii) in the Female Genital Mutilation Act 2003, paragraph (b) of the subsection (2) inserted in section 5 by section 69(4)(b) above;
- (iv) paragraph 4(5)(b) of the Schedule inserted in that Act by section 70(2) above;
- (v) section (*Controlling or coercive behaviour in an intimate or family relationship*)(11)(b) above;
- (vi) in the Prison Act 1952, subsection (4)(b) of the section 40CA inserted by section 71 above;

(b) the reference to a fine in paragraph 2(2)(a) of the Schedule to the Female Genital Mutilation Act 2003, inserted in that Act by section 68(2) above, is to be read as a reference to a fine not exceeding level 5 on the standard scale.”

**Member’s explanatory statement**

*This amendment provides for a transitional provision in respect of the maximum fine that may be imposed on summary conviction in respect of new offences created by the Bill. Pending the coming into force of section 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, the maximum fine in such cases would be the current statutory maximum (£5,000) rather than an unlimited amount.*

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 Karen Bradley

5

Clause 76, page 79, line 45, at end insert—

“( ) section (*Sexual communication with a child*);”

**Member’s explanatory statement**

*This amendment is consequential on New Clause (NC8) [Sexual communication with a child]. It provides that the new clause extends to England and Wales only.*

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 Serious Crime Bill [*Lords*], *continued*

Karen Bradley

6

Clause 76, page 79, line 45, at end insert—

“( ) sections (*Controlling or coercive behaviour in an intimate or family relationship*) and (*Guidance*);”

**Member’s explanatory statement**

*This amendment is consequential on New Clauses (NC9) [Controlling or coercive behaviour in an intimate or family relationship] and (10) [Guidance]. It provides that the new clauses extend to England and Wales only.*

Karen Bradley

7

Clause 76, page 80, line 1, at beginning insert—

“( ) Section (*Prevention or restriction of use of communication devices by prisoners etc*) extends to England and Wales and Scotland (but not Northern Ireland).”

**Member’s explanatory statement**

*This amendment is consequential on New Clause (NC11) [Prevention or restriction of use of communication devices by prisoners etc]. It provides that the new clause extends to England and Wales and Scotland.*

Karen Bradley

8

Clause 77, page 80, line 26, leave out “32” and insert “31A”

**Member’s explanatory statement**

*This amendment and amendment 9 provide for new paragraphs 31A and 41A of Schedule 4, inserted by amendments 17 and 18, to be brought into force by the Scottish Ministers and the Department of Justice in Northern Ireland (following consultation with the Home Secretary) respectively.*

Karen Bradley

9

Clause 77, page 80, line 32, leave out “42” and insert “41A”

Karen Bradley

10

Clause 77, page 80, line 34, leave out “The following provisions” and insert “Sections 67 to 69”

**Member’s explanatory statement**

*This amendment and amendments 11 and 13 provide that clause 72 of the Bill (which is about extra-territorial jurisdiction in respect of certain terrorism-related offences), and a related consequential amendment in Schedule 4, come into force on the day on which the Bill receives Royal Assent rather than two months after Royal Assent as clause 77 currently provides.*

Karen Bradley

11

Clause 77, page 80, line 36, leave out paragraphs (a) and (b)

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 Serious Crime Bill [*Lords*], *continued*

Karen Bradley

Clause 77, page 80, line 40, at end insert—

“( ) section (*Prevention or restriction of use of communication devices by prisoners etc*);”

**Member’s explanatory statement**

*The effect of this amendment is that New Clause (NC11) [Prevention or restriction of use of communication devices by prisoners etc] comes into force on the day on which the Bill receives Royal Assent.*

12

Karen Bradley

Clause 77, page 80, line 40, at end insert—

“( ) section 72 and paragraph 60 of Schedule 4 (and section 74(1) so far as relating to that paragraph);”

13

Karen Bradley

Clause 77, page 81, line 17, at end insert—

“( ) Consultation for the purposes of subsection (2), (3), (6) or (7) may be, or include, consultation before the day on which this Act is passed.”

**Member’s explanatory statement**

*This amendment provides that the obligation on the Secretary of State to consult the Scottish Ministers and Northern Ireland Department of Justice, and vice versa, before bringing into force certain provisions of the Bill, as required by clause 77, may be complied with before the Bill receives Royal Assent.*

14

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 Karen Bradley

Clause 78, page 81, line 26, leave out subsection (2)

**Member’s explanatory statement**

*Subsection (2) of clause 78 was inserted by the Lords to avoid questions of privilege. Its removal by this amendment would be purely procedural.*

15

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 Karen Bradley

Title, line 8, after “children;” insert “to create an offence of communicating sexually with a child;”

27

Karen Bradley

Title, line 8, after “children;” insert “to create an offence in relation to controlling or coercive behaviour in intimate or family relationships;”

28

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*Serious Crime Bill [Lords], continued*

Karen Bradley

29

Title, line 9, after “prison;” insert “to make provision for the prevention or restriction of the use of communication devices by persons detained in custodial institutions;”

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## ORDER OF THE HOUSE [5 JANUARY 2015]

That the following provisions shall apply to the Serious Crime Bill [*Lords*]—

*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 Thursday 22 January 2015.
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 any message from the Lords) may be programmed.
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## ORDER OF THE COMMITTEE [13 JANUARY 2015]

That—

- (1) The Committee shall (in addition to its first meeting at 9.25 am on Tuesday 13 January) meet:
    - (a) at 2.00pm on Tuesday 13 January;
    - (b) at 11.30 am and 2.00 pm on Thursday 15 January;
    - (c) at 9.25 am and 2.00pm on Tuesday 20 January;
    - (d) at 11.30 am and 2.00 pm on Thursday 22 January;
  - (2) the proceedings shall be taken in the following order: Clauses 1 to 45; Schedule 1; Clauses 46 to 53; Schedule 2; Clauses 54 to 66; Schedule 3; Clauses 67 to 73; new Clauses; new Schedules; Clause 74; Schedule 4; Clauses 75 to 78; remaining proceedings on the Bill;
  - (3) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 22 January.
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