
Committee Stage: Monday 20 February 2023

Protection from Sex-based Harassment in Public Bill

(Amendment Paper)

This document lists all amendments tabled to the Protection from Sex-based Harassment in Public Bill. Any withdrawn amendments are listed at the end of the document. The amendments are arranged in the order in which it is expected they will be decided.

★ New amendments.

New Amendments: 1 to 5 and NC1 to NC3

Greg Clark

1

★ Clause 1, page 1, line 6, leave out “in England”

Member's explanatory statement

This amendment extends the application of the offence in new section 4B of the Public Order Act 1986 so that it can be committed in Wales as well as in England.

Stella Creasy

5

★ Clause 1, page 1, line 19, at end insert—

“(c) A considered that carrying out the conduct referred to in section 4A(1) was reasonable because of the relevant person’s sex (or presumed sex).”

Greg Clark

2

★ Clause 2, page 2, line 5, at end insert “, subject to subsection (1A)”

Member's explanatory statement

This amendment is consequential on NC2.

Greg Clark

3

★ Clause 2, page 2, line 5, at end insert—

“(1A) An amendment made by section (*Consequential amendments*) has the same extent as the provision amended.”

Member's explanatory statement

This amendment is consequential on NC2.

Greg Clark

4

★ Clause 2, page 2, line 6, leave out “Section 1 comes” and insert “Sections 1 and (*Consequential amendments*) come”

Member's explanatory statement

This amendment is consequential on NC2.

Greg Clark

NC2

★ To move the following Clause—

“Consequential amendments

(1) In paragraph 1 of Schedule 1 to the Football Spectators Act 1989 (relevant offences for the purposes of Part 2), in each of paragraphs (c), (k) and (q), after “4A” insert “, 4B”.

(2) In Schedule 8B to the Police Act 1997 (offences which are to be disclosed subject to rules), in paragraph 102, after paragraph (e) insert—

“(ea) section 4B (intentional harassment, alarm or distress on account of sex);”.

(3) In Schedule 9 to the Elections Act 2022 (offences for the purposes of Part 5), in paragraph 35, after paragraph (e) insert—

“(ea) section 4B (intentional harassment, alarm or distress on account of sex);”.

Member's explanatory statement

This new clause consequentially amends the Football Spectators Act 1989, the Police Act 1997 and the Elections Act 2022 to include a reference in those Acts to the offence in new section 4B of the Public Order Act 1986 (intentional harassment, alarm or distress on account of sex).

Caroline Nokes

NC1

★ To move the following Clause—

“Intentional harassment, alarm or distress, including reckless public sexual harassment

- (1) A person (A) is guilty of an offence under this section if they—
 - (a) use any form of unwanted conduct of a sexual nature towards another person; and
 - (b) are reckless about whether the conduct causes that other person harassment, alarm or distress, thereby causing that or another person harassment, alarm or distress.
- (2) No offence is committed where the conduct is used by a person inside a dwelling and the person who is harassed, alarmed or distressed is also inside that or another dwelling.
- (3) It is a defence for the accused to prove—
 - (a) that A was inside a dwelling and had no reason to believe that the conduct used would be heard or seen by a person outside that or any other dwelling, or
 - (b) that A’s conduct was reasonable.
- (4) In this section—
 - (a) “conduct” means any behaviour, action or gesture, whether verbal, non-verbal or physical or any combination thereof;
 - (b) “reckless” means using unwanted conduct when the person using it—
 - (i) is aware that a risk exists or will exist that the unwanted conduct will harass, alarm or distress another person; and
 - (ii) continues with the unwanted conduct regardless of the impact, consequences, harm or injury caused to that other person;
 - (c) “sexual” means conduct that a reasonable person would consider—
 - (i) obviously sexual, whatever the circumstances or any person’s purpose in relation to it; or
 - (ii) may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) is sexual;
 - (d) “unwanted conduct” means conduct that is not agreed to by choice, that other person having the freedom and capacity to make that choice.
- (5) For the purposes of subsection (1) it does not matter whether or not A carried out the unwanted sexual conduct for the purposes of sexual gratification. It is for the tribunal of fact to decide what a reasonable person would consider sexual.
- (6) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 1 year or a fine or both.”

Stella Creasy

NC3

★ To move the following Clause—

“Amendment of section 4A of the Public Order Act 1986

- (1) Section 4A of the Public Order Act 1986 is amended as follows.
- (2) In subsection (3)(b), at end insert “subject to the exception in subsection (3A)”.
- (3) After subsection (3), insert—

“(3A) Where a court is considering whether an offence has been committed under this section for the purposes of section 4B, it shall not be a defence for the accused to prove that his conduct was reasonable because of the relevant person’s sex (or presumed sex).”