

COURTS (REMOTE HEARINGS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Courts (Remote Hearings) Bill as introduced in the House of Commons on 11 December 2023 (Bill 59).

- These Explanatory Notes have been prepared by the Ministry of Justice, with the consent of Andy Carter MP, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 This Bill will amend existing legislation to enable certain cases heard in the magistrates', county, and family courts to be heard remotely by live audio link or live video link rather than in person in court.

Policy background

- 2 Changes are required to current legislation in respect of two broad categories of cases. Firstly, county and family courts have a power to make (respectively) anti-social behaviour and gang/drug dealing injunctions, and non-molestation orders and occupation orders. If these orders are breached, the police have power to arrest the defendant and bring them before the nearest court within 24 hours. The defendant must appear in person.
- 3 The second category is hearings for persistent offenders against court orders to pay council tax and business rates which must be heard in person in a magistrates' court. Where a defendant has failed to pay either council tax or non-domestic rates, magistrates' courts may issue a summons for them to be brought before for the court to consider imprisonment. In most cases appearance follows arrest on warrant, the defendant having failed to appear voluntarily. Following arrest, the defendant must appear in person.
- 4 At present, under the relevant legislation, the defendant/debtor must attend the hearings in person. The lack of legal power to order that these cases are heard by remote link means that all arrested defendants must be transported from the police station to court (in the case of the magistrates' courts procedure), or the judge must travel to the nearest court to the defendant in the case of injunctions. This leads to delay in dealing with the case and is not an effective way of using resources. In relation to out of hours hearings, the current system relies on judges volunteering for this work and their goodwill. There is no way of guaranteeing that judges will be available, sometimes at short notice, which puts justice and the public at risk.
- 5 The measures in the Bill will give power to magistrates as well as civil and family judges to order these hearings be heard remotely where appropriate. This Bill will remove the need to move people from police cells to courts and for judges/magistrates to travel to attend courts in person to hear cases at the weekend or on public holidays. A judge will still be able to decide that the case should be heard in person.
- 6 Remote links in these proceedings would provide for better and more timely access to justice and enhance public safety by ensuring that potentially dangerous individuals (in the case of breaches of injunctions) are not released due to the lack of physical court premises to hear their case, especially when that is done out of regular court hours.
- 7 The use of remote link in criminal proceedings is relatively common and has delivered significant benefits. It is also common in civil and family proceedings. In those proceedings, the appearance of a defendant by remote link is permitted at the direction of the court, including cases of far greater sensitivity or gravity.

Legal background

- 8 The following primary legislation currently requires a defendant or debtor to be physically present at a court hearing:
 - a. Section 47(7)(a) and (10) of the Family Law Act 1996 require that a person in breach of an occupation order (where that order contains a power of arrest), non-molestation

order, or an occupation order with no power of arrest, must be “brought before” a court following arrest;

- b. Section 9(3) of the Anti-social Behaviour, Crime and Policing Act 2014 requires that a person who is arrested following a breach of an anti-social behaviour injunction (where that injunction contains a power of arrest) must be “brought before” a court within 24 hours of the arrest;
 - c. Section 43(4) of the Policing and Crime Act 2009 requires that a person who is arrested following a breach of a gang-related violence/drug-dealing injunction must be “brought before” a court within 24 hours of the arrest; and
 - d. Paragraph 8(1)(b) of Schedule 4 to Local Government Finance Act 1992 provides that secondary legislation may be laid in relation to recovering sums owed to local authorities and that the court must in those cases make certain inquiries in the “presence” of that person.
- 9 In relation to the Family Law Act 1996, the Anti-social Behaviour, Crime and Policing Act 2014 and the Policing and Crime Act 2009, both the Government and judiciary have understood the words “brought before” to mean that a person must physically appear in court.
- 10 As a result, legislative changes are required to permit the defendant/debtor to join proceedings remotely. The changes in this Bill will allow the defendant/debtor to join via live audio link or live video link, both of which are defined in section 56 of the Criminal Justice Act 2003.

Territorial extent and application

- 11 The Bill extends and applies to England and Wales.
- 12 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: Amendments to legislation about court hearings

- 13 Clause 1(1) amends section 47 of the Family Law Act 1996 (arrest for breach of order). It inserts new subsection (13) which provides that the defendant may appear before the court either by way of live audio link or live video link.
- 14 Clause 1(2) amends section 9 of the Anti-social Behaviour, Crime and Policing Act 2014 (arrest without warrant). It inserts new subsection (7) which provides that the defendant may appear before the court either by way of live audio link or live video link.
- 15 Clause 1(3) amends section 43 of the Policing and Crime Act 2009 (arrest without warrant). It inserts new subsection (8) which provides that the defendant person may appear before the court either by way of live audio link or live video link.
- 16 Clause 1(4) amends paragraph 8(1A) of Schedule 4 to the Local Government Finance Act 1992 (enforcement: England and Wales). It inserts new sub-paragraph (b) which provides that regulations may provide that the debtor subject to an application under paragraph 8(1)(a) may appear before the court either by way of live audio link or live video link.

Clause 2: Commencement and short title

- 17 Clause 2(1) provides that the Bill will come into force at the end of the period of two months following Royal Assent.
- 18 Clause 2(2) sets out the Bill may be referred to as the Courts (Remote Hearings) Act 2024 once in force.

Commencement

- 19 Clause 2(1) provides that the Bill will come into force at the end of the period of two months following Royal Assent.

Financial implications of the Bill

- 20 We do not anticipate that the measures in this Bill will cause any additional costs for government.

Parliamentary approval for financial costs or for charges imposed

- 21 As any additional expenditure arising from this Bill will be minimal, this Bill is not subject to a money resolution.

Compatibility with the European Convention on Human Rights

- 22 This is a Private Member's Bill and there is no requirement for a statement of compatibility with the European Convention on Human Rights ("ECHR") in accordance with section 19(1)(a) of the Human Rights Act 1998.
- 23 The Ministry of Justice has, nevertheless, considered the question of compatibility and has concluded that the Bill is compatible with the ECHR.

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	No	No	No	No	No
Clause 2	Yes	Yes	No	No	No	No	No

Subject matter and legislative competence of devolved legislatures

- 24 This Bill concerns ‘civil and criminal proceedings’ which are reserved matters in relation to the devolution settlement for Wales. On that basis, a legislative consent motion is not required.
- 25 This Bill does not extend to Scotland or Northern Ireland.

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