

Rt Hon Kit Malthouse MP Minister for Crime, Policing and Probation

Tom Pursglove MP
Minister for Justice and
Tackling Illegal Migration



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Dear Naomi,

POLICE, CRIME, SENTENCING AND COURTS BILL: GOVERNMENT AMENDMENTS FOR REPORT

We are writing to advise you of the Government amendments we intend to table at Lords Report Stage which will apply to Northern Ireland. We have previously shared a copy of the relevant amendments with your officials which are set out in further detail below. We would be grateful if you could respond to confirm whether you are content with these amendments as soon as possible.

Extraction of information from electronic devices

In response to a recommendation from the Lords Delegated Powers and Regulatory Reform Committee, we will be tabling an amendment to replace the duty to make regulations about the extraction of confidential information with provision on the face of the Bill.

Pardons and disregards for historical convictions for consensual same sex sexual activity

We will table an amendment to extend the disregard scheme in the Protection of Freedoms Act 2012, and the pardons provisions in the Policing and Crime Act 2017, to enable homosexual individuals with convictions or cautions for any repealed or abolished offence that either expressly regulated consensual same sex sexual activity, or if not expressly, the offence was used to target conduct involving same sex sexual activity, which meet the prescribed legal criteria, to apply to the Secretary of State for a disregard and consequential automatic pardon. The amendment will also enable those who have

died prior to the amendment coming into force, and within six months after the amendment coming into force, to obtain a posthumous pardon.

These measures will extend to England and Wales only, but we note that there is similar legislation in Northern Ireland. We would be grateful to know whether you would want to make equivalent changes in this Bill to the Northern Ireland disregards and pardons regimes. That said, it is only right to flag the timing challenges in terms of making the adaptations required to take account of Northern Ireland law and to secure a legislative consent motion, where required, before the Northern Ireland Assembly rises for Christmas.

Child cruelty offences

We will table an amendment to increase the maximum penalty for the offence of causing or allowing the death of a child or vulnerable adult from 14 years' imprisonment to life imprisonment and the maximum penalty for the offence of causing or allowing a child or vulnerable adult to suffer serious physical harm from 10 to 14 years' imprisonment.

We will also add the offence of causing or allowing the death of a child or vulnerable adult to Schedule 19 to the Sentencing Act 2020 (which sets out a list of offences where, in certain circumstances, a life sentence is mandatory). For consistency, we also intend to increase the maximum penalty for the offence under section 1 of the Children and Young Persons Act 1933 ("the 1933 Act") of cruelty to a person under 16 from 10 to 14 years' imprisonment. (There is significant overlap between that offence and causing or allowing serious physical harm.)

Section 1 of the 1933 Act applies only to England and Wales. Section 5 of the 2004 Act applies also to Northern Ireland but, given that this relates to devolved matters, the increased maximum penalties for that offence would apply only to England and Wales.

Public order

We are also taking this opportunity to inform you of further public order measures which we have now tabled to the Bill or will bring forward at Report. As tabled, these measures apply to England and Wales only and relate to devolved matters in Northern Ireland, but we would be grateful to know whether you would want any of these provisions to apply to Northern Ireland. As I indicated above, the timetable for this would be very challenging (we would need to table amendments for Report on or around 29 November).

The new measures are as follows:

- Increased sentences for obstructing a highway – raising the maximum penalty for the offence under section 137 of the Highways Act 1980 (which applies to England and Wales only) from a £1,000 fine to six months' imprisonment, an unlimited fine, or both. We will also close a loophole which allows protesters to cause further disruption on a road when it has been closed by the police for the purposes of clearing demonstrations and moving people on.
- Introduce a new offence of obstructing the construction of key transport infrastructure carrying a maximum penalty of six months' imprisonment, an unlimited fine, or both.

- Introduce a new offence of interfering with the operation of key infrastructure, namely the strategic road network, railways, seaport and airports, oil infrastructure and printing presses, carrying a maximum penalty of 12 months' imprisonment, an unlimited fine, or both.
- Introduction of a serious disruption prevention order, giving the courts the power to impose restrictions on individuals who repeatedly engage in criminal activity at a protest, breach of the order would be a criminal offence carrying a maximum penalty of six months' imprisonment, an unlimited fine, or both.
- Provide for a new offence to criminalise the act of locking-on (this is, where an individual attaches themselves to something or someone else in order to prevent themselves being moved on) that causes or is likely to cause serious disruption. The maximum penalty would be six months' imprisonment, an unlimited fine, or both.
- Introduce new stop and search powers where an officer has a reasonable suspicion that an individual is carrying items they intend to use to cause serious disruption (amending section 1 of the Police and Criminal Evidence Act 1984 which applies to England and Wales only). In addition, officers would have the power to stop and search a person, in a designated area in which a protest is taking place, without suspicion for items that could be used to cause serious disruption (the use of this power would be authorised by a senior police officer).

We are copying this letter to the Secretary of State for Northern Ireland for information.

With best wishes,

Rt Hon Kit Malthouse MP

Tom Pursglove MP