



Violent Crime Reduction Bill

Suggested amendments for House of Commons Committee Stage 2005

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Introduction

1. JUSTICE is an all-party law reform and human rights organisation, whose purpose is to advance justice, human rights and the rule of law. It is the British section of the International Commission of Jurists.
2. We suggest the following amendments to the text of the Violent Crime Reduction Bill as brought forward for Committee stage. The suggested amendments reflect some of the major concerns raised by us about the Bill in our submission to the Parliamentary Joint Committee on Human Rights. Further consequential amendments will be required if some of these amendments are enacted.

Clause 1 – Drinking banning orders

Page 1, line 9 – before ‘Such’ insert ‘Subject to subsection (7) below,’

Page 1, line 9 – after ‘is’ insert ‘appropriate in all the circumstances, and’

Page 1, line 10 – delete ‘or disorderly’

Page 1, line 12 – replace ‘must’ with ‘may’

Page 1, line 13 – after ‘considers’ insert ‘appropriate and’

Page 1, line 13 – delete ‘that’ insert ‘the’; after ‘purpose’ insert ‘mentioned in subsection (2)’

Page 2, line 17 – after ‘tribunal.’ Insert

- (5) Before making a drinking banning order, a court must receive a report from an appropriate officer about the proposed subject of the order, which contains information about the subject and, in particular, about whether there is any reason to suspect that he may be -
 - (a) suffering from substance addiction (including alcohol dependence);
 - (b) a person falling within section 1 of the Mental Health Act 1983; or
 - (c) suffering from any other recognised physical or mental illness or condition which could either:
 - (i) affect his ability to restrict his intake of alcohol;
 - (ii) cause him to engage in criminal conduct while under the influence of alcohol; or
 - (iii) affect his ability to comply with a drinking banning order.
- (6) In subsection (5) above “an appropriate officer” means -
 - (a) where the proposed subject is aged 18 or over, an officer of the National Offender Management Service or a social worker of a local authority social services department;
 - (b) where the proposed subject is aged under 18, a social worker of a local authority social services department or a member of a youth offending team.
- (7) If the court determines that the proposed subject of a drinking banning order may be a person falling within subsection 5(a) to (c) above, the court shall not make a drinking banning order unless satisfied, on receipt of medical evidence, that:
 - (a) his ability to understand and comply with the order will not be significantly restricted by reason of his being a person falling within subsection (5)(a) to (c) above; and
 - (b) compliance with the order, either alone or in combination to any other order or sentence to which he is subject, would not have a deleterious effect upon his mental or physical health.’

Clause 2 – Orders on an application to a magistrates’ court

Page 2, line 35 – delete ‘or disorderly’

Clause 3 – Orders in country court proceedings

Page 3, line 40 – delete ‘or disorderly’

Clause 4 – Variation or discharge of orders under section 2 or 3

Page 4, lines 14 to 16 – delete. Replace with

- ‘(a) the court is satisfied that there has been a change in circumstances such that either the order is no longer necessary or that it is no longer appropriate, or both; or’

Page 4, line 18 – delete ‘earlier’

Clause 6 – Supplementary provision about orders on conviction

Page 5, lines 15 to 23 – delete.

Clause 7 – Variation or discharge of orders under section 5

Page 6, line 2 – delete ‘or disorderly’

Page 6, lines 17 to 19 – delete. Replace with

- ‘(a) the court is satisfied that there has been a change in circumstances such that the order is no longer necessary; or’

Page 6, line 20 – delete ‘earlier’

Clause 8 – Interim orders

Page 6, line 44 – add

- ‘(4) But an interim order shall not take effect until the subject of the order has been served with a copy of the order.’

Page 7, line 23 – insert

- ‘(8) Before renewing an interim order under this section, the court must be satisfied that it is just to do so. In considering whether it is just to do so, the court must consider:
 - (a) The seriousness of the conduct alleged;
 - (b) Any evidential or other difficulties experienced by the applicant; and
 - (c) Whether the effect of the renewal will be to rob the final proceedings of their significance.’

Clause 10 – Breach of drinking banning orders

Page 8, line 1 – after ‘person’ insert ‘of 18 years and above’

Page 8, line 4 – insert

- ‘(3) A person of 16 or 17 years of age guilty of an offence under subsection (1) shall be liable, on conviction in the youth court, to a fine not exceeding level 4 on the standard scale.’

Page 8, lines 12-14 – delete.

Page 8, lines 26-41 – delete.

Page 8, lines 42-44 – delete.

Clause 11 – Interpretation of Chapter 1

Page 9, line 43 – delete ‘or disorderly’

Page 9, line 46-48 – delete.

Page 10, lines 1-12 – delete.

Clause 12 – Power to impose charges on licence holders etc. in zones

Page 11, Line 13 – delete full stop. Insert

‘; or

(c) the sale of alcohol has not contributed to alcohol-related disorder in the relevant alcohol disorder zone

Clause 18 – Power of police to require review of premises licence

Page 18, lines 21-22 – delete ‘(who is not also a responsible authority)’

Clause 20 – Offence of persistently selling alcohol to children

Page 20, line 1 – delete ‘nobody could reasonably’; replace with ‘a reasonable person would not’

Page 20, line 47 – delete ‘may’; replace with ‘must’

Page 20, line 48 – delete ‘an’; replace with ‘any’

Clause 22 – Directions to individuals who represent a risk of disorder

Delete

Clause 24 – Using someone to mind a weapon

Page 26, line 13 – insert ‘intentionally’ before ‘uses’

Page 26, lines 23 – 24 – delete ‘or be likely to involve or to lead to’.

Page 26, line 25 – after ‘offence’ insert ‘, or is intended by him to be used in the course of the commission of an offence.’

Page 27, line 7 to page 27, line 44 – delete.

Clause 27 – Firing an air weapon beyond premises

Page 29, line 19 – after uses insert ‘, intentionally or recklessly,’

Clause 28 – Restriction on sale and purchase of primers

Page 30, line 1 – after ‘a person’ insert ‘knowingly’

Page 30, line 21 – after ‘a person’ insert ‘knowingly’

Or

Page 30, line 40 – insert

- ‘(7) On prosecution for an offence under subsection 28(2), it shall be a defence for a person to show that:
 - (a) he did not know that what he was selling was an object of a description falling within section 28(2)(a) or (b); or
 - (b) he believed, on reasonable grounds, that the person to whom he sold the object was a person falling within section 28(3).

- (8) On prosecution for an offence under subsection 28(4), it shall be a defence for a person to show that:
 - (a) he did not know that what he was buying was an object of a description falling within section 28(2)(a) or (b); or
 - (b) he reasonably believed that he was a person falling within section 28(5).

[Repeat for clause 29]

SALLY IRELAND
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