

## BRIEF GUIDE TO PUBLIC ORDER PROVISIONS OF POLICE CRIME SENTENCING AND COURTS ACT 2022

SECTION	TITLE	ISSUE	COMMENCEMENT
2	<p>Increase in penalty for assaulting an emergency worker</p> <p><i>Amends section 1 of the Assaults on Emergency Workers (Offences) Act 2018</i></p>	<p>Increases the penalty for this offence from 12 months to 24 months</p>	<p>Relates to offences <i>committed</i> after the date that the offence is brought in - no implementation date</p>
50	<p>Increased in penalty where Criminal Damage relates to a “memorial” -</p> <p><i>Amends Criminal Damage Act 1971</i></p>	<p>Memorial is a building or structure or garden that has a commemorative purpose. It includes moveable items left at memorial such as flowers.</p> <p>Increases maximum penalty to 10 years.</p>	<p>Relates to offences committed after the date that the offence is brought in – No Implementation date yet</p>
Section 73	<p>Imposing conditions on Public Processions</p> <p><i>Amends section 12 of Public Order Act 1986</i></p>	<p>Senior Officer can impose conditions if they reasonably believe that the noise generated by persons taking part in the procession may result in</p> <p style="padding-left: 40px;"><i>a) serious disruption to the activities of an organisation which are carried on in the vicinity of the procession .</i></p>	28 June 2022

		<p>This is defined as including where persons connected with the organisation not being reasonably able for a prolonged period of time to carry on in that vicinity.</p> <p><i>Where conditions are imposed on the basis of noise and effect on organisation, care should be taken to scrutinise what the officers says the actual effect is, and the length of time that effect will be for.</i></p> <p>b) <i>or relevant impact on person in vicinity and that impact is serious</i></p> <p>This is further clarified where the noise may result in the intimidation or harassment of persons of reasonable firmness OR where it may cause a person to suffer alarm or distress</p> <p>Further if considering the effect on people, the officer can take into account the number of people who may be effected, the duration of that effect and the “intensity” of that effect.</p> <p>The conditions imposed are those that the officer thinks that appear to him necessary to prevent such disorder, damage, disruption or intimidation (the current test), The new legislation adds the word “impact” Which appears to be a lower test for conditions to be imposed.</p> <p>The “old” test of conditions being imposed because it may cause serious disruption to life of community is still present but it is specified to mean that :</p>	
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Section 73 (4)	<p>Secretary of State can amend what constitutes serious disruption to activities of organisation or serious disruption to life of community by way of regulation</p> <p><i>New provision to allow Secretary of State this power for the first time</i></p>	<p>Rather than amend legislation, this allows Secretary of State to define/give further examples of what constitutes these terms by statutory instrument as long as there is a Resolution of both Houses of Parliament.</p>	
74	<p>Imposing conditions on Assemblies</p> <p><i>Amends section 12 of Public Order Act 1986</i></p>	<p>Under the “old law”, the conditions that could be imposed on Assemblies were limited to i) place at which the assembly may be (or continue to be) held, ii) its maximum duration, iii) the maximum number of persons who may constitute. This has</p>	28 June 2022

		<p>been deleted so it appears that any direction can be given that the officer considers necessary for reasons set out.</p> <p>The definition of serious disruption to life of community that is used for processions is repeated in this section.</p> <p>The noise provisions are repeated</p>	
75	<p>Changes to section 12 and 14</p> <p><i>Amends section 12 and section 14 of Public Order Act 1986</i></p>	<p>Changes “mental element to “Ought to know” rather than “know”</p> <p>Maximum sentence for organiser goes up from 3 months to 51 weeks</p> <p>Maximum sentence for participant goes up from level 3 fine to level 4 fine</p>	28 June 2022
76	<p>Obstruction of vehicular access to Parliament</p> <p><i>Amending Police Reform and Social Responsibility Act 2011</i></p>	<p>The “Palace of Westminster Controlled Zone” is expanded to Canon Street, Parliament Street, Derby Gate, Parliament Square, Victoria Embankment (between Bridge Street and Richmond Terrace junctions) and includes land immediately adjacent to these areas (and the original areas)</p> <p>In all of these areas, there is a prohibition on operating amplified noise equipment, erecting tent, having sleeping equipment).</p>	28 June 2022

		<p>The list of prohibited activities is expanded to include obstructing vehicles in and out of Parliament (within the zone defined above)</p> <p>As before, officer can give a direction to stop a prohibited activity. If this is not complied with, maximum penalty is a level 4 fine.</p>	
<p><b>Section 78</b></p>	<p>Statutory offence of public nuisance, carrying maximum sentence of 10 years.</p> <p><i>NEW OFFENCE (although abolishing the common law offence of public nuisance)</i></p>	<p>This replaces the common law offence of public nuisance. There are a number of elements</p> <ul style="list-style-type: none"> <li>i) Does an act (or omits to do something that they are required to do by law)</li> <li>ii) Which creates a risk of, or causes, serious harm to the public or a section of the public, or</li> <li>iii) obstructs the public or a section of the public in the exercise or enjoyment of a right that may be exercised or enjoyed by the public at large,</li> <li>iv) They must intend or be reckless as to the consequences of ii) or iii) above.</li> <li>v) Serious harm means “death personal injury or disease”, loss of or damage to property, serious distress, serious annoyance, serious inconvenience, or serious loss of amenity</li> <li>vi) There is defence of reasonable excuse</li> </ul>	<p>The act/omission must be after commencement date, and common law nuisance is retained to that date. – 28 June 2022</p>

		<p>vii) Maximum penalty is 12 months in magistrates court or 10 years in crown court</p> <p><u>Issues to note</u></p> <p>i) This is perhaps been specifically designed with XR or IB Protests in mind. – in particular, where there are obstructive protests on main roads etc</p> <p>ii) Note the very low threshold of where there does not need to be serious harm , merely the risk of it</p> <p>iii) Serious harm can mean serious distress</p> <p>iv) Therefore a wide ranging provision that would appear to target protests where there is a greater interference/disruption with other people’s rights</p> <p>v) There is a “reasonable excuse” defence, which was not present for the common law offence for public nuisance and may (subject to further cases being decided), allow for a defence based on article 10 and that a conviction is a disproportionate interference with a defendant’s right to free speech</p>	
79	<p>Imposing conditions on one person protests</p> <p><i>Amending section 14 of Public Order Act 1986</i></p>	<p>Senior office on scene can now impose conditions on “one person” protests on the basis of noise generated by that person.</p>	28 June 2022

		<p>Senior Officer has to reasonably believe that that there is serious disruption / significant impact on an organisation or individual</p> <p>If the one person protest is moving, then conditions can include conditions as to the route , prohibiting the protest from entering any specified public place</p> <p>Can include a protest being intended to be held</p> <p>Noise impact is assessed in the same way as other provisions</p> <p>The Secretary of State can amend what constitutes serious disruption by statutory instrument</p> <p>For failing to comply with such a protest, the maximum penalty is a level 4 fine.</p> <p>For inciting another to commit the offence, the maximum penalty is 12 months imprisonment</p>	
80	<p>Increase in penalty for wilful obstruction of highway</p> <p><i>Amending section 137 Highways Act 1980</i></p>	Increases from fine to 12 months imprisonment	12 May 2022