Police, Crime, Sentencing and Courts Act 2022

A Public Order Public Safety (POPS) supplementary guide to elements of the Act taking effect on 28 June 2022
Important information

This information has been produced for reference and as an aid to assist with elements of the Police, Crime, Sentencing and Courts Act 2022 (PCSC) that come into effect on 28 June 2022.

This supplementary guide is not intended to replace an officer’s requirement to apply the legislation as they see appropriate to the circumstances, in line with their training, and to seek legal advice if required.

The College of Policing are unable to be prescriptive regarding this legislation due to the vast array of circumstances that officers may face. The officer’s application of the legislation should form the rationale for any decision, rather than any reference to these materials.
Jurisdiction and dates

England and Wales only

- 12 May 2022
  - Amendment Section 137 Highways Act 1980
- 28 June 2022
  - Section 73(1) to (5)
  - Section 74(1) to (7)
  - Section 75 (Public Order)
  - Sections 76 to 79, 82 and Schedule 7 (Public Order)
PCSC Act – POPS overview

The Act contains a vast array of new powers and offences, which should be understood by operational officers. However, we would highlight these three significant areas to POPS policing.

- **Increases the maximum penalty** from 12 months to two years in prison for anyone who assaults or commits an offence of battery against an emergency worker. **Extends mandatory life sentences** to those convicted of the unlawful act manslaughter of an emergency worker who was acting in the exercise of their functions.

- Strengthens the police’s power to tackle disruptive protests and protect the public by increasing the range of **conditions police can impose on public assemblies**, increasing the sentences for obstructing a highway and introducing **new conditions that police can set based on the noise generated by protests**.

- Introduces a **statutory offence of public nuisance**, which will cover the same conduct as the existing common law offence.
Useful links

Police, Crime, Sentencing and Courts Act 2022 (legislation.gov.uk)

Criminal damage to memorials: Police, Crime, Sentencing and Courts Act 2022 factsheet - GOV.UK


Criminal damage to memorials

- Mode of trial will not be determined by the monetary value of the damage caused. The maximum sentence of imprisonment will be ten years’ imprisonment.

- The Act defines a ‘memorial’ as a building or other structure, or any other thing that is erected or installed on land (or in, or on, any building or other structure on land). A memorial can include a moveable object, a garden or any other thing planted or grown on land. At least one of the memorial’s purposes is to commemorate an individual or animal – whether living or deceased, or capable of being identified – or an event or a series of events (such as an armed conflict).

- Flowers or a wreath that are temporarily placed at a structure, such as a gravestone or The Cenotaph, for the purposes of commemoration (as defined), would be treated in the same way as the memorial itself.
Noise-related provisions

- The Act will allow police to place conditions on public processions, public assemblies and one-person protests where it is reasonably believed that the noise generated may result in serious disruption to the activities of an organisation carried out in the vicinity of the protest, or may have a significant impact on people in the vicinity of the protest.

- This measure has nothing to do with the content of the noise generated by a protest, just the level of the noise.

- The power to set noise-related conditions will only be used in the most exceptional of circumstances, where police assess the noise from protests to be unjustifiable and damaging to others.

- For an upcoming protest, this power is held by the chief constable (or assistant chief constable if delegated). For a protest already taking place, it is held by the most senior officer at the scene.
Protection of the police

The Act:

- doubles the **maximum penalty for common assault or battery committed against an emergency worker** from 12 months to two years’ imprisonment
- imposes **mandatory life sentences for the unlawful act manslaughter of an emergency worker** who is exercising their functions as such a worker, unless there are exceptional circumstances
Protest powers

‘Protests are an important part of our vibrant and tolerant democracy. Under human rights law, we all have the right to gather and express our views. But these rights are not absolute rights. That fact raises important questions for the police and wider society to consider about how much disruption is tolerable, and how to deal with protesters who break the law. A fair balance should be struck between individual rights and the general interests of the community.

‘Having reviewed the evidence, our conclusion is that the police do not strike the right balance on every occasion. The balance may tip too readily in favour of protesters when – as is often the case – the police do not accurately assess the level of disruption caused, or likely to be caused, by a protest.

‘These and other observations led us to conclude that a modest reset of the scales is needed.’

Her Majesty’s Inspector of Constabulary, Matt Parr CB, 2021
Protest powers

The Act:

- widens the **range of conditions** that the police can impose on public assemblies to match existing police powers to impose conditions on public processions
- broadens the **range of circumstances** in which police may impose conditions on a protest
- increases the **maximum penalty for the offence of wilful obstruction of a highway**
- amends the **offence relating to the breaching of conditions**
- restates the **common law offence of public nuisance** in statute
- ensures that **vehicular entrances to the Parliamentary Estate remain unobstructed**
- introduces **expedited Public Spaces Protection Orders (PSPOs)**
Questions

- **Will these measures ban protests?**
  No, these measures will not grant the police, local authorities or any other body powers to ban protests.

- **Will these measures ban protests for being too noisy?**
  No, the police will only be able to impose *conditions on unjustifiably noisy protests that cause harm to others or prevent an organisation from operating*.

- **Will these measures ban protests outside Parliament?**
  No, the ability to protest outside the heart of our democracy is a fundamental right that this government will not erode.

- **Will these measures ban protests that are annoying?**
  No. The Police, Crime, Sentencing and Courts Act does not introduce any new powers to ban protests.

- **Will the Home Secretary be able to decide what constitutes ‘serious disruption’?**
  No. Deciding whether to place *conditions on an assembly or procession to prevent serious disruption* is an *operational matter* for the police.
Imposing conditions

- **Section 73(1) to (5) Public processions**
  
  Section 12 of the Public Order Act 1986 is amended. Persons taking part in a procession and making noise may cause serious disruption to activities of an organisation.

  Subsection 2A looks at the disruption caused to communities, in particular delivery of time-sensitive products.

- **Section 74(1) to (7) Public assemblies**
  
  Section 14 is amended. In the case of an assembly, the noise generated by persons taking part may result in serious disruption to activities of an organisation that is in the vicinity.

- **Section 75 Offences under section 12 and 14 of the Public Order Act 1986**
  
  Section 12 and 14 are amended. Persons who take part in a public procession or assembly are guilty of an offence if they fail to comply with the condition and they know, or ought to know, that the condition has been imposed.
Palace of Westminster, Parliament Square

- **Section 76 Obstruction of vehicular access to Parliament**
  - In section 142A (other controlled areas in vicinity of the Palace of Westminster), insert ‘(i) (ia) Canon Row, (ib) Parliament Street, (ic) Derby Gate, (id) Parliament Square’.
  - In section 143 (prohibited activities in controlled area of Parliament Square or in Palace of Westminster controlled area), insert ‘obstructing, by the use of any item or otherwise, the passage of a vehicle of any description into or out of an entrance into or exit from the Parliamentary Estate, where that entrance or exit is within, or adjoins, the Palace of Westminster controlled area’.
Section 77 Power to specify other areas as controlled areas

(3) Regulations under subsection (1) may be made only if:

(a) House of Parliament is, or is proposed to be, located somewhere other than the Palace of Westminster as a result of the Parliamentary building works or for any other reason

(b) as a result of that relocation, or proposed relocation, the Secretary of State considers that it is reasonably necessary for activities that are prohibited in relation to the controlled area of Parliament Square or the Palace of Westminster controlled area to be prohibited in relation to the area specified in the regulations

(4) In subsection (3)(a), ‘the Parliamentary building works’ has the meaning given by section 1(1) of the Parliamentary Buildings (Restoration and Renewal) Act 2019.
Public nuisance and one-person protests

- **Section 78 Intentionally or recklessly causing public nuisance**
  A person commits an offence if the person’s act or omission creates a risk, or causes serious harm, to the public. This is inclusive of obstruction in the exercise of enjoyment.

- **Section 79 Conditions on one-person protests**
  Amends section 14 of the Public Order Act 1986 by inserting a condition. The condition is applied if a senior police officer reasonably believes the noise may result in serious disruption to the activities of an organisation, or the noise generated will have a significant impact on persons in the vicinity.

  If the protest is moving, or intended to move, the senior police officer must have regard to the proposed route and may impose conditions to prohibit carrying on or entering any public place.

- **Note**: the senior police officer must have consideration for the number of people affected, the duration of the impact and the likely intensity.
Wilful obstruction of highway

- **Section 80 Wilful obstruction of highway**

- The Highways Act 1980 is amended under section 137. The imprisonment term is amended to exceed 51 weeks, or level 43 on the standard scale. For the purposes of the offence, it does not matter whether free passage has been restricted or temporarily prohibited.