

Committee:	Date:
Police Authority Board	19 July 2023
Subject: Public Order Act	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1, 6, 12
Does this proposal require extra revenue and/or capital spending?	No
Report of: Remembrancer Report author: Kiki Hausdorff, Assistant Parliamentary Affairs Counsel	For Information

Summary

This report follows a Remembrancer's report to the Police Authority Board in July 2022. The Public Order Act received Royal Assent in May 2023; some provisions came into force by in May and July 2023, and others will come into force by commencement regulations which have not yet been drafted. The Act strengthens police powers to address protests by establishing new offences of locking on and going equipped to lock on, obstructing major transport works, and interfering with 'key national infrastructure'. It introduces new powers for police to stop and search individuals, both on suspicion and without suspicion, for articles related to protest offences, and to seize articles found. The Act also establishes a new Serious Disruption Prevention Order, aimed at disrupting the protest activities of repeat offenders. In the later stages of the Bill's progression through Parliament, further provisions were added to protect journalists who observe protests, and to establish a new offence of "interference with access to or provision of abortion services."

Recommendation

Members are asked to note the contents of this report.

Main Report

Parliamentary proceedings

1. The Public Order Act was introduced in the House of Commons in May 2022 and received Royal Assent in May 2023. It underwent a lengthy process of parliamentary "ping pong" between the House of Commons and the House of Lords, following attempts by peers to place additional duties on police officers who exercise powers under the Bill to stop and search without suspicion. MPs repeatedly rejected House of Lords amendments, while peers argued that the Government was "missing an opportunity" to respond to the findings in the

Baroness Casey Review of institutional racism, misogyny, and homophobia in the Metropolitan Police.

2. The Act follows the Police, Crime Sentencing and Courts Act 2022, which encountered controversy directed at its public order provisions to enhance police powers to restrict public processions and assemblies. It was the subject of reports to this Board on 23 September 2021 during its passage and on 25 May 2022 after receiving Royal Assent.
3. Many provisions of the Public Order Act 2023 were originally tabled by the Government as amendments to the 2022 Act and rejected in the Lords. Opposition members called the 2023 Act “a rehash” of the protest provisions which did not make it into the 2022 Act. Shadow Ministers criticised that MPs were being made to consider “a new raft of proposals” before the public order provisions of the 2022 Act had come into force. Passing further measures before the effects of the 2022 Act were known was “illogical”, said the opposition, with “no evidence base that further measures are needed.”

Aims of the Act

4. The purpose of the Act, in the words of the explanatory note issued with it, is to “strengthen police powers to tackle dangerous and highly disruptive tactics employed by a minority of protesters.” The Government have argued that the police need additional powers to address changes in protesters’ tactics in recent years. The Act was “not about clamping down on free speech,” said the Home Secretary, but about “protecting the public from serious disruption.” New stop and search powers under the Act aim to “prevent the disruption from happening in the first place.” Home Office Minister at the time Kit Malthouse told MPs that “those who call themselves protesters, but are in many cases trying to effect a mass blackmail on the British public, must face the consequences.”

Commencement

5. Several key provisions of the Act relating to the policing of protests were brought into effect on 3 May 2023, in time for the King’s Coronation. These included the definition of serious disruption under the Act, the offences of locking on and going equipped to lock on, and the offence of interference with key national infrastructure. The exercise of some of these powers during the Coronation weekend was met with controversy, and the Metropolitan Police has expressed “regret” at arrests that it made.
6. Further provisions were brought into force on 2 July 2023 by commencement regulations. These include the offences of causing serious disruption by tunnelling or being present in a tunnel, of being equipped for tunnelling, and of obstruction of major transport works. The regulations also brought into force provisions to protect journalists who observe protests, which are discussed below in further detail.

Content of the Bill

7. The 20 July 2022 report on the Bill to this Board set out the new offences under the Act of locking on and going equipped to lock on, of obstructing major transport works, and of interfering with ‘key national infrastructure’. That report also

discussed the new powers to stop and search on suspicion and without suspicion, and the new preventative court order, the 'Serious Disruption Prevention Order', which is intended to disrupt the activities of repeat offenders.

8. Many of the new powers and offences under the Act are triggered where there is "serious disruption". As the Bill progressed through the second House, the Government came under pressure from peers to define this term on the face of the Bill. It is now defined in Part 3 of the Act to include instances where people:
 - a. are prevented or hindered "to more than a minor degree" by physical obstruction from carrying out day-to-day activities (including making a journey), or construction or maintenance works;
 - b. are prevented from making or receiving, or suffer a delay that is "more than minor" to making or receiving, a delivery of a time-sensitive product; or
 - c. are prevented from accessing, or suffer a disruption that is "more than minor" to accessing, any essential goods or service (including money, food, water, fuel, a transport facility, an educational institution, or a health service).
9. A late amendment to the Bill was the addition of a new offence of "interference with access to or provision of abortion services." This measure, which was proposed by Labour MPs and given a "free vote" by the Government, was the subject of fierce debate in Parliament. The offence applies to acts done within a safe access zone, i.e. in a public area within 150 metres of an abortion clinic. It is an offence for a person in this zone to do an act with the intent of, or reckless as to whether it has the effect of:
 - a. influencing any person's decision to access, provide or facilitate the provision of abortion services at an abortion clinic;
 - b. obstructing or impeding any person accessing, providing, or facilitating the provision of abortion services at an abortion clinic; or
 - c. causing harassment, alarm or distress to any person in connection with a decision to access, provide, or facilitate the provision of abortion services at an abortion clinic.
10. Following the arrest of journalists by Hertfordshire Constabulary at a "Just Stop Oil" protest, the Bill was amended in the Lords to include measures to protect journalists who observe protests. The new section, "Exercise of police powers in relation to journalists", was introduced by Baroness Chakrabarti. Under the Act, a constable may not exercise a police power for the sole purpose of preventing a person from observing or reporting on a protest, or the exercise of a police power in relation to a protest-related offence, a protest-related breach of an injunction, or activities related to a protest.

Relevance to the City of London

11. Of particular interest to the City of London Police is section 15, which provides for consistency between police forces in London and those in the rest of the country. This relates to the delegation of certain powers under the Public Order Act 1986,

in relation to processions, assemblies and one-person protests. The provision amends section 15 of the 1986 Act so that the powers can be delegated to an officer of the rank of Commander (or above), which is equivalent to an Assistant Chief Constable outside of London. The Government have stated that this amendment is necessary “to relieve Assistant Commissioners of the heavy burden of attending court to provide first hand evidence whenever the lawfulness of a condition attached to a protest is contested.”

12. In Committee Stage of the Bill, the MP for the Cities of London and Westminster, Nickie Aiken (Conservative), told MPs that her constituency “tends to be the epicentre of political protest in this country... as it is home to the Government, to Parliament and to the UK’s financial heart in the City of London.” She said it had been made clear to her by both the Metropolitan Police and the City of London Police, that existing legislation “has not kept pace with the evolving tactics of modern-day protesters,” and made it “almost impossible for the police to balance lawful protest and basic civil rights.” She welcomed provisions under the Act to address this. She told MPs they “must ensure that both lawful protest and everyday life can continue without the basic rights being infringed in respect of either.” She felt that the Act “does exactly that,” and that its provisions were “absolutely necessary to rebalance lawful protest and civil rights.”

Conclusion

13. Since the last report to this Board on the Bill, provisions have been added to define “serious disruption,” to introduce a new offence of “interference with access to or provision of abortion services,” and to protect journalists who observe protests. Some key provisions, including the offences of locking on and going equipped to lock on, were brought into force in time for the Coronation weekend and their exercise was met with controversy. Further provisions, including the protection of journalists and the offence of causing serious disruption by obstructing major transport works, were brought into force on 2 July 2023. The remaining provisions of the Act, including the stop and search powers and the offence of “interference with access to or provision of abortion services,” will be brought into force by regulations which have not yet been drafted.

Background Papers

Public Order Bill, 20 July 2022.

Police, Crime, Sentencing and Courts Bill, 25 May 2022.

Police, Crime, Sentencing and Courts Bill, 23 September 2021.

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