



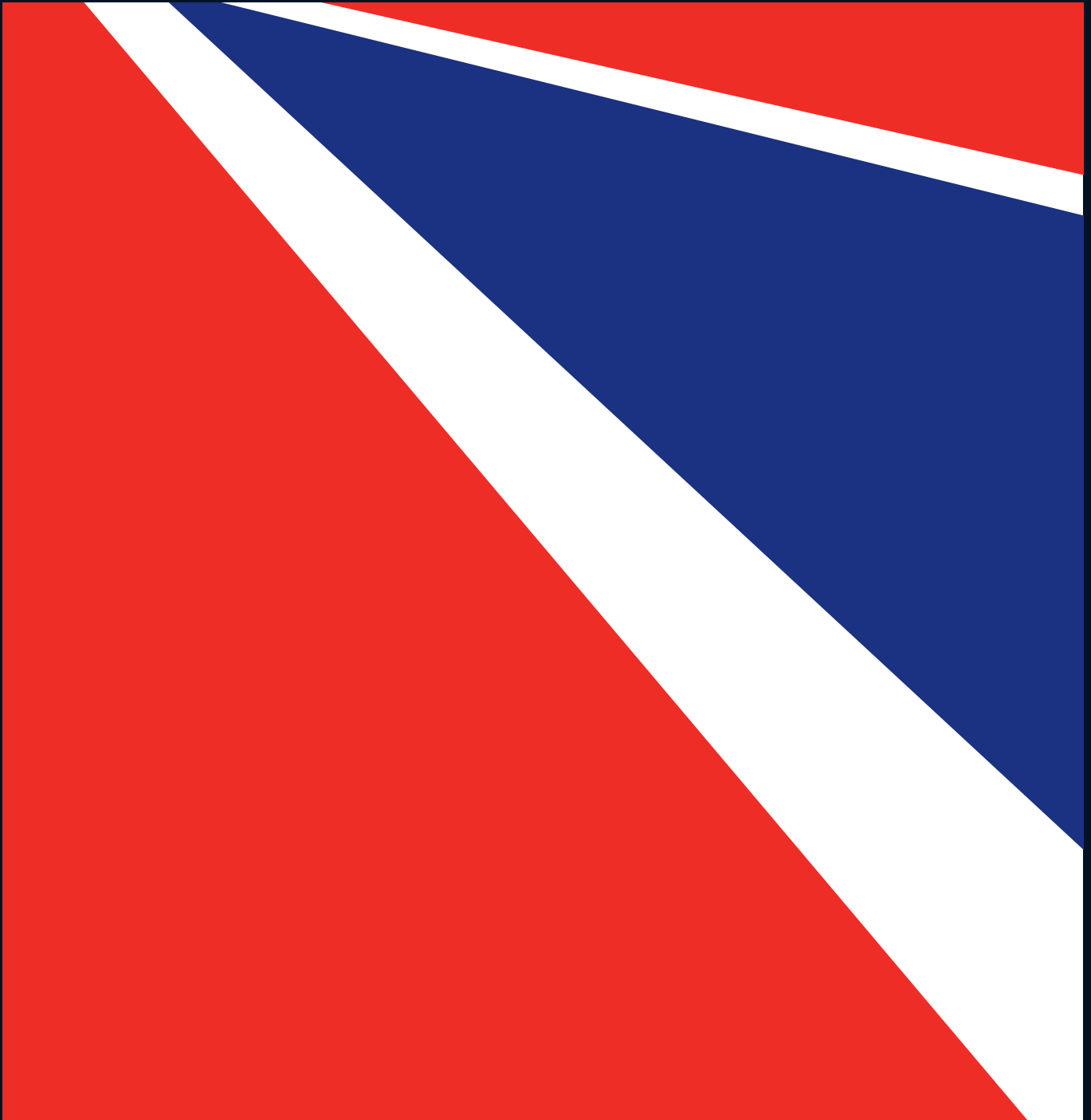
Home Office



The Governance of Britain

# Managing Protest around Parliament

Published on 25/10/07. This consultation ends on 17/01/08.





# The Governance of Britain

## Managing Protest around Parliament

Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty

October 2007

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## Foreword by the Home Secretary, The Rt Hon Jacqui Smith MP



The Government is committed to constitutional renewal and to re-invigorating our democracy, as set out in the Green Paper, *The Governance of Britain*, published in the summer.

The right to peaceful protest has long been an important component of our liberties and an essential component of a healthy democracy. As the Government we need constantly to uphold and reinforce these liberties.

The Government is aware of the strong views expressed in reaction to the provisions on demonstrations around Parliament introduced in sections 132-138 of the Serious Organised Crime and Police Act 2005, and the perception among some groups that this legislation has undermined the right to demonstrate peacefully.

We are clear that there should be no unnecessary restrictions on people's right to protest. This is particularly important in the vicinity of Parliament given that it is the forum of our democracy – the seat of our elected representatives. Therefore, it is right that we review provisions that have generated such concern. If left unchecked, such concerns can in turn contribute to a wider cynicism towards the political process.

We need to review sections 132-138 of the Serious Organised Crime and Police Act 2005 soberly. We need to focus on what the legislation actually does and to be aware that with rights come responsibilities. We need to remember that the freedom to demonstrate needs to be balanced with other freedoms, and to take other issues, like the security situation, into proper consideration.

That is what this Paper seeks to achieve, looking at the right to protest around Parliament in the wider context of legislation governing protests and demonstrations in the UK.

My main job as Home Secretary is to safeguard our borders and to protect the public from terrorism, crime and anti-social behaviour. Promoting our democratic freedoms is central to that job, not in conflict with it. I welcome your views on establishing the right legislative framework to secure those freedoms where they are perhaps most symbolic – around Parliament.

Jacqui Smith

## Introduction

The purpose of this paper is to seek views on the framework governing the right to protest around Parliament, looking at the wider context of legislation governing protests and demonstrations in the UK.

It is available as a printed document and can also be downloaded from [www.homeoffice.gsi.gov.uk](http://www.homeoffice.gsi.gov.uk)

The consultation is being conducted in line with the Code of Practice on Written Consultation issued by the Cabinet Office. The Code Criteria are set out in Annex A of this document. Details of the Home Office Consultation Co-ordinator are set out in Annex B.

The aim of this Paper is to generate thought and discussion on how to facilitate and appropriately manage peaceful protest around the forum of our democracy. In order to achieve this we are specifically distributing this document to:

- Campaigning Non-Government Organisations
- Law Enforcement Agencies
- Those with specific business in and around Parliament Square

However, in line with the principles in the Green Paper, *The Governance of Britain*, we welcome views from all sections of the public and interested organisations

The full list of those we have consulted in developing this paper can be found at Annex C.

## How to Respond

The closing date for comments is 17 January 2008.

There are various ways in which you can provide us with your views.

You can email us at:

[ProtestaroundParliament@homeoffice.gsi.gov.uk](mailto:ProtestaroundParliament@homeoffice.gsi.gov.uk)

Or you can write to us at:

**Managing Protest around Parliament  
Public Order Unit  
Home Office  
5<sup>th</sup> Floor Fry Building  
2 Marsham Street  
London  
SW1P 4DF**

Additional copies of this paper are available through our website  
[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

### Alternative Formats

You should also contact the Managing Protest around Parliament Consultation Team should you require a copy of this consultation paper in any other format, e.g. Braille, Large Font, or Audio.

### Responses: Confidentiality & Disclaimer

The information you send us may be passed to colleagues within the Home Office, the Government and related agencies.

Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a Statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with the obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, by itself, be regarded as binding on the Department.

Please ensure that your response is marked clearly if you wish your response and name to be kept confidential.

Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

The Department will process your personal data in accordance with the DPA – in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Individual contributions will not be acknowledged unless specifically requested.

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

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Thank you for taking the time to read this document and respond.

### **What Will Happen Next?**

The consultation period will end on 17 January 2008.

We expect to publish a summary of the responses received within 1 month of the closing date for this consultation, and this will be made available on the Home Office website.



## Executive Summary

*“While balancing the need for public order with the right to public dissent, I think it right – in consultation with the Metropolitan Police, Parliament, the Mayor of London, Westminster City Council and liberties groups – to change the laws that now restrict the right to demonstrate in Parliament Square.”*

*The Prime Minister, the Rt. Hon Gordon Brown MP, 3 July 2007*

The right to peaceful protest is a vital part of a democratic society. It has a very long and respected tradition in the United Kingdom. Many of the rights and freedoms we enjoy today were gained because people were prepared to protest.

The right to peaceful protest is also part of the European Convention on Human Rights (ECHR). The Convention, largely drafted by British jurists, articulates rights that we in the UK had long taken for granted, but which as 20<sup>th</sup> century history has regrettably shown, required reaffirming, to create a common understanding upon which we could all depend.

There are a number of laws that give the police powers to manage demonstrations. These laws reflect the need to weigh different rights against each other and gauge competing interests. For example, the right to peaceful demonstration needs to be balanced with other rights such as those to respect private and family life, or the interests of public safety.

The police have the difficult job of balancing the rights of demonstrators and the rights of those undertaking other lawful activities. The law has always recognised the need for balance and so does the European Convention on Human Rights (ECHR). Article 11 of the ECHR contains a specific right to assembly subject to exceptions and this was incorporated into English law in the Human Rights Act 1998. English law was compatible with the Convention long before 1998 and the police have always been accountable to the courts for the exercise of their powers. Demonstrators were – and still are – able to challenge decisions on normal judicial review principles e.g. that the police have exceeded their statutory powers or exercised them in an irrational or unreasonable way.

Sections 132-138 of the Serious Organised Crime and Police Act 2005 sought to establish a framework around Parliament that correctly balanced these competing rights; that provided the police with appropriate powers to manage this balance; and which protected the rights and interests of demonstrators and those undertaking other lawful activities.

This framework has however, raised concerns from campaigning non-Government organisations and ordinary citizens. We need to listen to those concerns. We also need constantly to review the dynamic wider security situation.

We therefore think it is now appropriate to review the provisions, exploring whether there is an alternative framework that better upholds and facilitates protest, while giving police the appropriate powers to keep the peace within the wider spectrum of what would be compliant in human rights terms.

# 1. Public Protest – The Legislative Framework

1.1 The starting point in a review of protests around Parliament needs to be a look at the legislative framework that applies to the rest of the country.

1.2 At a national level in England and Wales, it is the Public Order Act 1986, born out of a review of the law on public order in the early 1980s, which, broadly, sets out the powers the police have to manage protests. The relevant sections of the Act are set out at Annex D. Paragraphs 1.3 to 1.15 provide a brief summary of the provisions.

## The Public Order Act 1986

1.3 Sections 11 to 14 of the Public Order Act 1986 cover public marches and public assemblies. For the purposes of this consultation, a ‘march’ involves people moving along a route. An ‘assembly’ is a static demonstration.

1.4 A public assembly is defined as two or more persons in a public place in the open air. The law does not provide a minimum number to constitute a march.

## Marches

1.5 Under section 11 of the Public Order Act, organisers of marches must give advance notice to the police.

1.6 Notice need not be given if it is not reasonably practicable to do so in advance. This is intended to allow for a completely spontaneous march. Where notice is required it must be in writing and must include the date, time, proposed route and name and the address of the organiser

1.7 The written notice must be provided six clear days in advance. If a march is planned at short notice then the organiser is required to deliver written notice as soon as reasonably practicable.

1.8 A senior police officer can impose conditions on a march if he reasonably believes that the procession may result in:

- serious public disorder
- serious damage to property
- serious disruption to the life of the community;
- or, that the purpose of the march is to coerce by intimidation.

1.9 Failure to comply with these provisions knowingly and within one’s control is a criminal offence

1.10 The chief officer of police may under section 13 of the Public Order Act apply to the local authority for an order banning a march if he reasonably believes that imposing conditions will not prevent the march resulting in serious public disorder – the Home Secretary’s consent is required for such an order. In London, the Commissioner of the Police of the Metropolis may directly seek the consent of the Home Secretary for such an order.

1.11 Participating in a march that is known to be banned is a criminal offence.

## Assemblies

1.12 Unlike marches, there is no requirement under the Public Order Act to give prior notice to the police of an assembly. In practice, the organisers of large demonstrations usually consult the police in advance to help to ensure a safely managed event.

1.13 Section 14 of the Public Order Act does allow a senior police officer to impose conditions on a public assembly if he reasonably believes that the assembly may result in:

- serious public disorder
- serious damage to property
- serious disruption to the life of the community
- or that the purpose of the assembly is to coerce by intimidation

1.14 There is no power to ban a public assembly<sup>1</sup>.

1.15 Failure to comply with these provisions knowingly and within one's control is a criminal offence.

## Summary

1.16 The Public Order Act, through the requirement for prior notification in the case of marches and the power to impose conditions on both marches and assemblies, recognises that large gatherings of people, whether moving or static, can change from peaceful gatherings into ones involving violence and disorder. It must be possible for police to plan for and manage any disorder in line with their wider duty to keep the peace.

1.17 At all times proportionality is the key. The police response must be measured and proportionate in order to comply with Human Rights considerations. Anything that is not measured and/or proportionate would be challengeable.

***Q1: The Government believes peaceful protest is a vital part of a democratic society, and that the police should have powers to manage public assemblies and processions to respond to the potential for disorder. Should the powers generally in relation to marches and assemblies be the same?***

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<sup>1</sup> Under section 14A of the Public Order Act the Chief Officer of Police can apply to a district council for an Order prohibiting the holding of a trespassory assembly i.e. an assembly on land to which the public has no, or limited right of access, and where it is likely to be held without permission of the landowner and is likely to result in serious disruption to the life of the community

## Harmonisation of Powers to Manage Marches and Assemblies

1.18 The police have greater controls to manage marches than assemblies. Marches require advance notice and may be banned.

1.19 The Public Order Act does not specify all the conditions that can be imposed on a march to prevent serious public disorder (see paragraph 1.8). On the other hand, in respect of assemblies, the legislation only allows the senior officer to impose conditions as to the *place* at which the assembly may be held, its maximum *duration* or the maximum *number* of persons who may constitute it. These limits were intended to prevent the imposition of conditions on a static demonstration the effect of which would be tantamount to a ban.

1.20 The Metropolitan Police Service and Association of Chief Police Officers have formally raised practical concerns about the different position around the imposition of conditions on assemblies and on marches. The concerns are about the difficulty in distinguishing between an assembly and a march, particularly when managing large groups of people travelling to and from an assembly point.

1.21 Aligning the conditions that can be imposed on assemblies with those that can be imposed on marches would give the police greater discretion when it comes to managing assemblies. For example, a senior officer could direct that conditions be imposed on the content of banners or placards if they reasonably believed that the content of particular banners would be likely to result in serious public disorder.

1.22 We now have the Human Rights Act 1998. This would prevent the imposition of excessively strict conditions on an assembly as they would be open to challenge under Article 11 of ECHR (right to freedom of assembly and association).

***Q2. Do you agree that the conditions that can be imposed on assemblies and marches should be harmonised?***

## 2. Protest in the Vicinity of Parliament

2.1 Different arrangements govern static demonstrations in the vicinity of Parliament. These are set out in the Serious Organised Crime and Police Act 2005 (SOCAP). These provisions have aroused opposition from a number of groups.

2.2 These arrangements did not emerge out of a vacuum. Peaceful protest plays a vital role in a democracy. But the absolute essence of democracy is that the people's elected representatives should be able to meet freely, and then resolve the inevitable clashes of interest and principle by argument and vote, not by violence. In turn, this imperative requires that these elected representatives should get to the place they meet – the Houses of Parliament – freely, and then meet in a peaceable atmosphere. The Sessional Orders have worked to achieve this. Certainly in a period of intensive public protests – for example the late sixties and early seventies – they were observed basically without complaint by the organisers of demonstrations

2.3 The Sessional Orders<sup>2</sup> place a duty on the Commissioner of the Metropolitan Police to make sure that access to Parliament is kept free of obstruction. The House of Commons Procedure Committee conducted a short inquiry into a number of existing Sessional Orders, including that relating to the Metropolitan Police, and published a report in November 2003. The Committee recommended that the Government should introduce appropriate legislation to prohibit long-term demonstrations and to ensure that the laws about access were adequate and enforceable, concluding that, “legislation on demonstrations is the only way to ensure that the police have adequate powers to achieve the result intended by the Sessional Order.”

2.4 The Government considered those recommendations and brought forward its own proposals partly based on them. These proposals form the backbone of sections 132-138 of the Serious Organised Crime and Police Act 2005 which set out a distinct framework for static demonstrations in the vicinity of Parliament. A public *march*, of which notice is required to be given under the Public Order Act 1986, is not caught under SOCAP. SOCAP applies only to static demonstrations

2.5 The perception that these provisions may discourage active democratic engagement and promote wider cynicism in the political process is of concern to the Government. It consequently considers it timely to re-address the provisions.

2.6 Before analysing the merits of the framework governing demonstrations in the vicinity of Parliament, it may be helpful to set out what sections 132-138 of SOCAP actually do. Annex E sets out the sections in full.

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<sup>2</sup> Sessional Orders are passed at the beginning of the Parliamentary session. The Sessional Order on the Metropolitan Police Service instructs the Commissioner to make sure that passages through the streets leading to Parliament are kept free and open during the sitting of Parliament

## Sections 132-138 of the Serious Organised Crime and Police Act (SOCAP)

### Prior notification

2.7 SOCAP requires the organisers of static demonstrations<sup>3</sup> planned to take place in a designated area around Parliament (see paragraph 2.12) to notify the details to the Metropolitan Police Commissioner in advance. When notice of a static demonstration is given, the Commissioner **must** authorise it. It is an offence for a person to take part in a static demonstration if the organisers have not gained permission for it to take place unless he or she had reasonable belief authorisation had been given.

### Conditions

2.8 It is open to the Commissioner to attach conditions to the static demonstration where in his reasonable opinion it is necessary to do so to prevent any of the following:

- hindrance to persons wishing to enter/leave the Palace of Westminster;
- hindrance to the proper operation of Parliament;
- serious public disorder;
- serious damage to property;
- disruption to the life of the community;
- a security risk in any part of the designated area; or
- risk to the safety of members of the public (including any taking part in the demonstration).

2.9 There is no requirement on the Commissioner to impose any conditions. He bases that decision on whether conditions are necessary in the circumstances of each static demonstration. Where conditions are imposed, it is an offence not to comply with them knowingly, unless the non-compliance is due to circumstances beyond a person's control.

2.10 Conditions may impose requirements as to:

- The place where demonstration can take place
- The times at which it may be carried on
- The period during which it may be carried on
- The number of persons who may take part in it
- The number and size of the banners or placards used
- Maximum permissible noise levels

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<sup>3</sup> A person seeking authorisation must give written notice to the Commissioner at least 6 days in advance, or if that is not practical, not less than 24 hours before the demonstration is to start.

2.11 It is also an offence to operate a loudspeaker in the designated area<sup>4</sup>.

2.12 The provisions cover all static demonstrations within a designated area around Parliament. No point in the designated area may be more than one kilometre in a straight line from the point nearest to it in Parliament Square. The Order defining the precise area to be covered came into force on 1 July 2005. A map of the area covered by the Order is attached at Annex F (the furthest point is less than 1km from the Square).

2.13 What constitutes a static demonstration is ultimately a matter for the Courts to decide. However a demonstration under the SOCAP provisions does include a person carrying on a demonstration by himself.

2.14 We can see that the framework governing static demonstrations in the vicinity of Parliament differs from that governing public assemblies<sup>5</sup> in the rest of the country in the following respects:

- a) Prior Notification is needed to demonstrate in the vicinity of Parliament.
- b) To be lawful, demonstrations must be authorised – though that authorisation must be given to anyone applying for it in the proper way.
- c) A demonstration in the vicinity of Parliament can consist of a single person.
- d) The reasons for which the police may impose conditions on demonstrations in the vicinity of Parliament is wider. They include to prevent a security risk, hindrance to any person wishing to enter or leave the Palace of Westminster and or hindrance to the proper operation of Parliament.
- e) The range of conditions that can be imposed extends beyond the size, duration and place of the public assembly.
- f) There are explicit restrictions on the use of loudspeakers.

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4 There are also a number of exceptions for example where a loudspeaker is operated in the case of emergency, for police, fire and rescue authority or ambulance purposes, or where consent has been granted by a local authority

5 Section 14 of the Public Order Act 1986 does not apply in relation to a public assembly which is also a demonstration in the designated area.

## 3. A Different Position around Parliament?

3.1 In reviewing the provisions in the Serious Organised Crime and Police Act 2005, key questions are whether different arrangements should continue to apply to an area around Parliament, and what arrangements meet the needs of the area while protecting the right to demonstrate. Listed below are a number of factors that need to be considered.

### Business of Parliament

3.2 The SOCAP provisions built on Sessional Orders requiring the Commissioner of the Metropolitan Police to make sure that passageways to and from Parliament were kept free of obstruction. It is important that Members of Parliament are not obstructed from attending the House to conduct the business which they are elected to conduct.

3.3 Allowing the business of Parliament to proceed unhindered needs to be properly balanced against the argument that Parliament's status as the forum of our democracy means that it is, and should be, a *focus* for demonstrations. Elected representatives need to be able to hear the concerns of the electorate and should not be sheltered from the voice of protest groups.

### Security Risk

3.4 Parliament is a very obvious target for those who would violently attack the UK's democratic government or the values that the UK stands for.

3.5 The Government considers that this security risk needs to be properly and proportionately addressed and that the management of large groups of people in the vicinity of Parliament must continue to be a consideration when reviewing the framework for assemblies and marches in the vicinity of Parliament.

### Equal Access to the Right to Protest

3.6 The variety of protests in and around Parliament in recent years is a testament to the range of global and local issues that interest, motivate, drive, anger and frustrate individuals and groups. It gives a lie to talk of an uninterested generation, or of a country that is disengaged from global or local political issues.

3.7 In reviewing the framework governing protest in the vicinity of Parliament, we need to ensure that *all* groups have the proper opportunity to protest peacefully at the seat of the elected UK Parliament.



## Parliament Square: A World Heritage Site

3.8 During its review of the Sessional Order in 2003, the House of Commons Procedure Committee discussed the point that Parliament Square itself is a World Heritage Site, and that the enjoyment of that space by the wider public needs to be promoted alongside the right to demonstrate in and around Parliament Square. The Mayor of London's vision for Parliament Square is that it should provide a symbolic and dignified setting for Parliament and the surrounding historic buildings, in keeping with its World Heritage location. It should be both accessible and meaningful to Londoners and visitors.<sup>6</sup>

3.9 The Government shares this vision. It considers that protestors' compliance with existing bye-laws governing what can and cannot be done a) on the square, b) on the streets surrounding the square and c) in the wider designated area should provide appropriate protections in this regard.

***Q3. Is special provision needed for static demonstrations and marches around Parliament and if so what?***

***Q4. Are there any other considerations the Government should take into account?***

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<sup>6</sup> There are a number of authorities involved in managing Parliament Square. To clarify, Parliament Square Garden is managed by the Greater London Authority (GLA) under the GLA Act 1999. The perimeter pavements to the east and south of the Square are managed by Westminster City Council. The Trafalgar Square and Parliament Square Garden Byelaws 2000 set out what is prohibited or permitted in both squares. Historically demonstrations and rallies have not been allowed on Parliament Square Garden.

## 4. Discussion: Encouraging and Managing the Right to Protest

4.1 The previous section outlined the possible grounds for distinct arrangements on public protest to continue to apply to the vicinity of Parliament. However, even if it was accepted that grounds exist for distinct arrangements around Parliament, it does not follow that the framework which is currently set out in the Serious Organised Crime and Police Act 2005 is the most appropriate for circumstances in 2007. This section seeks views on possible frameworks – including that which applies to the rest of the country – which could apply.

4.2 The particular security risk that applies to Parliament, the need to allow the business of Parliament to proceed unhindered and promoting equal access to protest, could all argue for a legislative framework which incorporates some form of a **prior notification mechanism** (where prior notification is possible). The courts have confirmed that such mechanisms can be compatible with the European Convention on Human Rights. And a prior notification system applies for any gathering in Trafalgar Square<sup>7</sup> – including static demonstrations. Trafalgar Square is widely viewed as an example of how demonstrations can be managed well.

4.3 Prior notice for demonstrations around Parliament could provide an effective means to protect the safety of the demonstrators and the general public, facilitate appropriate access to Parliament and ensure that all groups have the opportunity to voice their views, without undermining the freedom to demonstrate.

4.4 Some groups and individuals have questioned the extent to which small demonstrations – and certainly single person demonstrations – impinge on security, the smooth running of Parliament or equal access to protest any more than the regular pedestrian traffic that passes through the vicinity of Parliament does. We are accordingly interested in views on the merits of an advance notification system that applies only to assemblies over a certain size. However, in thinking about size it is also important to consider the cumulative effect of a number of simultaneous ‘small’ demonstrations in the vicinity of Parliament.

4.5 As explained earlier the Public Order Act provides for conditions to be placed on public assemblies. Paragraph **1.13** sets out the reasons why a senior police officer can impose conditions on a public assembly anywhere in England and Wales. We are interested in views on whether the same or a broader range of **reasons to impose conditions** should be applied to demonstrations in the area around Parliament. We consider that the symbolic importance of Parliament could argue for retaining “to prevent a security risk in any part of the designated area” as a key criteria for the police to impose conditions. Equally “hindrance to the proper operation of Parliament” stands out as a distinct potential reason for conditions to be applied.

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<sup>7</sup> Trafalgar Square does not fall within the SOCAP designated area.

4.6 In terms of the **sorts of conditions** that can be imposed, an alignment of the conditions that can be imposed on marches and assemblies across England and Wales (see discussion at paragraphs 1.18 -1.22) and applying that framework to the vicinity of Parliament could remove any confusion around conditions that can be imposed and might provide police with proportionate powers to prevent serious public disorder.

4.7 Throughout this Paper we have talked about, “in the vicinity of Parliament”. As referenced in paragraph **2.12** the SOCAP provisions cover a designated area defined in an Order which came into force on 1 July 2005. This area covered by this Order is attached at Annex F. If you consider distinct provisions could justifiably apply to the vicinity of Parliament, we would welcome views on the boundaries of any distinct provisions governing protests around Parliament.

***Q5: Do you have views on the model that should apply for managing demonstrations around Parliament?***

***Q6: Do you consider that a prior notification scheme should apply to static demonstrations in the vicinity of Parliament? Should any scheme only apply to static demonstrations over a certain size? And if so, what size of demonstration?***

***Q7: Do you agree that conditions in order to prevent a security risk or hindrance to the operation of Parliament should remain in relation to demonstrations in the vicinity of Parliament?***

***Q8: Do you have a view on the area around Parliament that any distinct provisions on the right to protest should apply to?***

## Annex A

This consultation follows the Cabinet Office Code of Practice on Consultation – the criteria for which are set out below:

The six consultation criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full code of practice is available at:

<http://bre.berr.gov.uk/regulation/consultation/code/index.asp>

## Annex B

### Consultation Co-ordinator

If you have any complaints or comments specifically about the consultation process only, you should contact the Home Office consultation co-ordinator Nigel Lawrence by email at

[Nigel.Lawrence@homeoffice.gsi.gov.uk](mailto:Nigel.Lawrence@homeoffice.gsi.gov.uk)

Alternatively, you may wish to write to:

**Nigel Lawrence**  
**Consultation Co-ordinator**  
**Performance and Delivery Unit**  
**Home Office**  
**3<sup>rd</sup> Floor Seacole**  
**2 Marsham Street**  
**London SW1P 4DF**

## Annex C

Departments and organisations consulted during the development of this Paper.

Association of Chief Police Officers

Greater London Authority

Metropolitan Police Service

Ministry of Justice

Sergeant at Arms

# Annex D

## Public Order Act 1986: Sections 11-14

### Part II Processions and Assemblies

#### 11. Advance notice of public processions.

- (1) Written notice shall be given in accordance with this section of any proposal to hold a public procession intended –
- (a) to demonstrate support for or opposition to the views or actions of any person or body of persons,
  - (b) to publicise a cause or campaign, or
  - (c) to mark or commemorate an event,
- unless it is not reasonably practicable to give any advance notice of the procession.
- (2) Subsection (1) does not apply where the procession is one commonly or customarily held in the police area (or areas) in which it is proposed to be held or is a funeral procession organised by a funeral director acting in the normal course of his business.
- (3) The notice must specify the date when it is intended to hold the procession, the time when it is intended to start it, its proposed route, and the name and address of the person (or of one of the persons) proposing to organise it.
- (4) Notice must be delivered to a police station –
- (a) in the police area in which it is proposed the procession will start, or
  - (b) where it is proposed the procession will start in Scotland and cross into England, in the first police area in England on the proposed route.
- (5) If delivered not less than 6 clear days before the date when the procession is intended to be held, the notice may be delivered by post by the recorded delivery service; but section 7 of the Interpretation Act 1978 (under which a document sent by post is deemed to have been served when posted and to have been delivered in the ordinary course of post) does not apply.
- (6) If not delivered in accordance with subsection (5), the notice must be delivered by hand not less than 6 clear days before the date when the procession is intended to be held or, if that is not reasonably practicable, as soon as delivery is reasonably practicable.
- (7) Where a public procession is held, each of the persons organising it is guilty of an offence if –
- (a) the requirements of this section as to notice have not been satisfied, or
  - (b) the date when it is held, the time when it starts, or its route, differs from the date, time or route specified in the notice.
- (8) It is a defence for the accused to prove that he did not know of, and neither suspected nor had reason to suspect, the failure to satisfy the requirements or (as the case may be) the difference of date, time or route.
- (9) To the extent that an alleged offence turns on a difference of date, time or route, it is a defence for the accused to prove that the difference arose from circumstances beyond his control or from something done with the agreement of a police officer or by his direction.
- (10) A person guilty of an offence under subsection (7) is liable on summary conviction to a fine not exceeding **level 3** on the standard scale.

#### 12. Imposing conditions on public processions.

- (1) If the senior police officer, having regard to the time or place at which and the circumstances in which any public procession is being held or is intended to be held and to its route or proposed route, reasonably believes that –
- (a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or
  - (b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do, he may give directions imposing on the persons organising or taking part in the procession such conditions as appear to him

necessary to prevent such disorder, damage, disruption or intimidation, including conditions as to the route of the procession or prohibiting it from entering any public place specified in the directions.

(2) In subsection (1) “the senior police officer” means –

(a) in relation to a procession being held, or to a procession intended to be held in a case where persons are assembling with a view to taking part in it, the most senior in rank of the police officers present at the scene, and

(b) in relation to a procession intended to be held in a case where paragraph (a) does not apply, the chief officer of police.

(3) A direction given by a chief officer of police by virtue of subsection (2)(b) shall be given in writing.

(4) A person who organises a public procession and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(5) A person who takes part in a public procession and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(6) A person who incites another to commit an offence under subsection (5) is guilty of an offence.

(7) *Repealed*

(8) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding **3 months\*** or a fine not exceeding **level 4** on the standard scale or **both**.

(9) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding **level 3** on the standard scale.

(10) A person guilty of an offence under subsection (6) is liable on summary conviction to imprisonment for a term not exceeding **3 months\*** or a fine not exceeding **level 4** on the standard scale or both, notwithstanding section 45(3) of the Magistrates’ Courts Act 1980.

(11) *Scotland.*

### **13. Prohibiting public processions.**

(1) If at any time the chief officer of police reasonably believes that, because of particular circumstances existing in any district or part of a district, the powers under section 12 will not be sufficient to prevent the holding of public processions in that district or part from resulting in serious public disorder, he shall apply to the council of the district for an order prohibiting for such period not exceeding 3 months as may be specified in the application the holding of all public processions (or of any class of public procession so specified) in the district or part concerned.

(2) On receiving such an application, a council may with the consent of the Secretary of State make an order either in the terms of the application or with such modifications as may be approved by the Secretary of State.

(3) Subsection (1) does not apply in the City of London or the metropolitan police district.

(4) If at any time the Commissioner of Police for the City of London or the Commissioner of Police of the Metropolis reasonably believes that, because of particular circumstances existing in his police area or part of it, the powers under section 12 will not be sufficient to prevent the holding of public processions in that area or part from resulting in serious public disorder, he may with the consent of the Secretary of State make an order prohibiting for such period not exceeding 3 months as may be specified in the order the holding of all public processions (or of any class of public procession so specified) in the area or part concerned.

(5) An order made under this section may be revoked or varied by a subsequent order made in the same way, that is, in accordance with subsections (1) and (2) or subsection (4), as the case may be.

(6) Any order under this section shall, if not made in writing, be recorded in writing as soon as practicable after being made.

(7) A person who organises a public procession the holding of which he knows is prohibited by virtue of an order under this section is guilty of an offence.

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\*“51 weeks” substituted by the Criminal Justice Act 2003, Sch 26 from a date to be appointed.



(8) A person who takes part in a public procession the holding of which he knows is prohibited by virtue of an order under this section is guilty of an offence.

(9) A person who incites another to commit an offence under subsection (8) is guilty of an offence.

(10) *Repealed.*

(11) A person guilty of an offence under subsection (7) is liable on summary conviction to imprisonment for a term not exceeding **3 months\*** or a fine not exceeding **level 4** on the standard scale or both.

(12) A person guilty of an offence under subsection (8) is liable on summary conviction to a fine not exceeding **level 3** on the standard scale.

(13) A person guilty of an offence under subsection (9) is liable on summary conviction to imprisonment for a term not exceeding **3 months\*** or a fine not exceeding **level 4** on the standard scale or both, notwithstanding section 45(3) of the Magistrates' Courts Act 1980.

#### **14. Imposing conditions on public assemblies.**

(1) If the senior police officer, having regard to the time or place at which and the circumstances in which any public assembly is being held or is intended to be held, reasonably believes that –

(a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or

(b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do, he may give directions imposing on the persons organising or taking part in the assembly such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent such disorder, damage, disruption or intimidation.

(2) In subsection (1) “the senior police officer” means –

(a) in relation to an assembly being held, the most senior in rank of the police officers present at the scene, and

(b) in relation to an assembly intended to be held, the chief officer of police.

(3) A direction given by a chief officer of police by virtue of subsection (2)(b) shall be given in writing.

(4) A person who organises a public assembly and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(5) A person who takes part in a public assembly and knowingly fails to comply with a condition imposed under this section is guilty of an offence, but it is a defence for him to prove that the failure arose from circumstances beyond his control.

(6) A person who incites another to commit an offence under subsection (5) is guilty of an offence.

(7) *Repealed.*

(8) A person guilty of an offence under subsection (4) is liable on summary conviction to imprisonment for a term not exceeding **3 months\*** or a fine not exceeding **level 4** on the standard scale or both.

(9) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding **level 3** on the standard scale.

(10) A person guilty of an offence under subsection (6) is liable on summary conviction to imprisonment for a term not exceeding **3 months\*** or a fine not exceeding **level 4** on the standard scale or both, notwithstanding section 45(3) of the Magistrates' Courts Act 1980.

\*“51 weeks” substituted by the Criminal Justice Act 2003, Sch 26 from a date to be appointed.

Sections 11 to 14 of the Public Order Act 1986 have been reproduced from the Statute Law Database with amendments.

# Annex E

## Serious Organised Crime and Police Act 2005

### Demonstrations in vicinity of Parliament

#### 132 Demonstrating without authorisation in designated area

(1) Any person who –

- (a) organises a demonstration in a public place in the designated area, or
- (b) takes part in a demonstration in a public place in the designated area, or
- (c) carries on a demonstration by himself in a public place in the designated area,

is guilty of an offence if, when the demonstration starts, authorisation for the demonstration has not been given under section 134(2).

(2) It is a defence for a person accused of an offence under subsection (1) to show that he reasonably believed that authorisation had been given.

(3) Subsection (1) does not apply if the demonstration is –

- (a) a public procession of which notice is required to be given under subsection (1) of section 11 of the Public Order Act 1986 (c. 64), or of which (by virtue of subsection (2) of that section) notice is not required to be given, or
- (b) a public procession for the purposes of section 12 or 13 of that Act.

(4) Subsection (1) also does not apply in relation to any conduct which is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).

(5) If subsection (1) does not apply by virtue of subsection (3) or (4), nothing in sections 133 to 136 applies either.

(6) Section 14 of the Public Order Act 1986 (imposition of conditions on public assemblies) does not apply in relation to a public assembly which is also a demonstration in a public place in the designated area.

(7) In this section and in sections 133 to 136 –

- (a) “the designated area” means the area specified in an order under section 138,
- (b) “public place” means any highway or any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission,
- (c) references to any person organising a demonstration include a person participating in its organisation,
- (d) references to any person organising a demonstration do not include a person carrying on a demonstration by himself,
- (e) references to any person or persons taking part in a demonstration (except in subsection (1) of this section) include a person carrying on a demonstration by himself.

#### 133 Notice of demonstrations in designated area

(1) A person seeking authorisation for a demonstration in the designated area must give written notice to that effect to the Commissioner of Police of the Metropolis (referred to in this section and section 134 as “the Commissioner”).

(2) The notice must be given –

- (a) if reasonably practicable, not less than 6 clear days before the day on which the demonstration is to start, or
- (b) if that is not reasonably practicable, then as soon as it is, and in any event not less than 24 hours before the time the demonstration is to start.

(3) The notice must be given –

- (a) if the demonstration is to be carried on by more than one person, by any of the persons organising it,
- (b) if it is to be carried on by a person by himself, by that person.

(4) The notice must state –

- (a) the date and time when the demonstration is to start,

- (b) the place where it is to be carried on,
- (c) how long it is to last,
- (d) whether it is to be carried on by a person by himself or not,
- (e) the name and address of the person giving the notice.
- (5) A notice under this section must be given by –
  - (a) delivering it to a police station in the metropolitan police district, or
  - (b) sending it by post by recorded delivery to such a police station.
- (6) Section 7 of the Interpretation Act 1978 (c. 30) (under which service of a document is deemed to have been effected at the time it would be delivered in the ordinary course of post) does not apply to a notice under this section.

#### **134 Authorisation of demonstrations in designated area**

- (1) This section applies if a notice complying with the requirements of section 133 is received at a police station in the metropolitan police district by the time specified in section 133(2).
- (2) The Commissioner must give authorisation for the demonstration to which the notice relates.
- (3) In giving authorisation, the Commissioner may impose on the persons organising or taking part in the demonstration such conditions specified in the authorisation and relating to the demonstration as in the Commissioner's reasonable opinion are necessary for the purpose of preventing any of the following –
  - (a) hindrance to any person wishing to enter or leave the Palace of Westminster,
  - (b) hindrance to the proper operation of Parliament,
  - (c) serious public disorder,
  - (d) serious damage to property,
  - (e) disruption to the life of the community,
  - (f) a security risk in any part of the designated area,
  - (g) risk to the safety of members of the public (including any taking part in the demonstration).
- (4) The conditions may, in particular, impose requirements as to –
  - (a) the place where the demonstration may, or may not, be carried on,
  - (b) the times at which it may be carried on,
  - (c) the period during which it may be carried on,
  - (d) the number of persons who may take part in it,
  - (e) the number and size of banners or placards used,
  - (f) maximum permissible noise levels.
- (5) The authorisation must specify the particulars of the demonstration given in the notice under section 133 pursuant to subsection (4) of that section, with any modifications made necessary by any condition imposed under subsection (3) of this section.
- (6) The Commissioner must give notice in writing of –
  - (a) the authorisation,
  - (b) any conditions imposed under subsection (3), and
  - (c) the particulars mentioned in subsection (5),
 to the person who gave the notice under section 133.
- (7) Each person who takes part in or organises a demonstration in the designated area is guilty of an offence if –
  - (a) he knowingly fails to comply with a condition imposed under subsection (3) which is applicable to him (except where it is varied under section 135), or

(b) he knows or should have known that the demonstration is carried on otherwise than in accordance with the particulars set out in the authorisation by virtue of subsection (5).

(8) It is a defence for a person accused of an offence under subsection (7) to show –

(a) (in a paragraph (a) case) that the failure to comply, or

(b) (in a paragraph (b) case) that the divergence from the particulars,

arose from circumstances beyond his control, or from something done with the agreement, or by the direction, of a police officer.

(9) The notice required by subsection (6) may be sent by post to the person who gave the notice under section 133 at the address stated in that notice pursuant to subsection (4)(e) of that section.

(10) If the person to whom the notice required by subsection (6) is to be given has agreed, it may be sent to him by email or by facsimile transmission at the address or number notified by him for the purpose to the Commissioner (and a notice so sent is “in writing” for the purposes of that subsection).

### **135 Supplementary directions**

(1) This section applies if the senior police officer reasonably believes that it is necessary, in order to prevent any of the things mentioned in paragraphs (a) to (g) of subsection (3) of section 134 –

(a) to impose additional conditions on those taking part in or organising a demonstration authorised under that section, or

(b) to vary any condition imposed under that subsection or under paragraph (a) (including such a condition as varied under subsection (2)).

(2) The senior police officer may give directions to those taking part in or organising the demonstration imposing such additional conditions or varying any such condition already imposed.

(3) A person taking part in or organising the demonstration who knowingly fails to comply with a condition which is applicable to him and which is imposed or varied by a direction under this section is guilty of an offence.

(4) It is a defence for him to show that the failure to comply arose from circumstances beyond his control.

(5) In this section, “the senior police officer” means the most senior in rank of the police officers present at the scene (or any one of them if there are more than one of the same rank).

### **136 Offences under sections 132 to 135: penalties**

(1) A person guilty of an offence under section 132(1)(a) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both.

(2) A person guilty of an offence under section 132(1)(b) or (c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person guilty of an offence under section 134(7) or 135(3) is liable on summary conviction –

(a) if the offence was in relation to his capacity as organiser of the demonstration, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both,

(b) otherwise, to a fine not exceeding level 3 on the standard scale.

(4) A person who is guilty of the offence of inciting another to –

(a) do anything which would constitute an offence mentioned in subsection (1), (2) or (3), or

(b) fail to do anything where the failure would constitute such an offence,

is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both, notwithstanding section 45(3) of the Magistrates’ Courts Act 1980 (c. 43).

*(5) A constable in uniform may arrest without warrant anyone he reasonably believes is committing an offence mentioned in subsections (1) to (4).*

*This subsection ceases to have effect on the coming into force of section 110.*

### **137 Loudspeakers in designated area**

(1) Subject to subsection (2), a loudspeaker shall not be operated, at any time or for any purpose, in a street in the designated area.

(2) Subsection (1) does not apply to the operation of a loudspeaker –

(a) in case of emergency,

(b) for police, fire and rescue authority or ambulance purposes,

(c) by the Environment Agency, a water undertaker or a sewerage undertaker in the exercise of any of its functions,

(d) by a local authority within its area,

(e) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel,

(f) if the loudspeaker forms part of a public telephone system,

(g) if the loudspeaker is in or fixed to a vehicle and subsection (3) applies,

(h) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public, but only if the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed,

(i) in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).

(3) This subsection applies if the loudspeaker referred to in subsection (2)(g) –

(a) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle (or, if the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic), and

(b) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

(4) A person who operates or permits the operation of a loudspeaker in contravention of subsection (1) is guilty of an offence and is liable on summary conviction to –

(a) a fine not exceeding level 5 on the standard scale, together with

(b) a further fine not exceeding £50 for each day on which the offence continues after the conviction.

(5) In this section –

- “local authority” means a London borough council (and, in subsection (2)(d), the Greater London Authority),
- “street” means a street within the meaning of section 48(1) of the New Roads and Street Works Act [1991 \(c. 22\)](#) which is for the time being open to the public,
- “the designated area” means the area specified in an order under section 138,
- “vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968 (c. 59).

(6) In Schedule 2 to the Noise and Statutory Nuisance Act 1993 (consent to the operation of loudspeakers in streets or roads), in paragraph 1(1), at the end add “or of section 137(1) of the Serious Organised Crime and Police Act 2005”.

### **138 The designated area**

(1) The Secretary of State may by order specify an area as the designated area for the purposes of sections 132 to 137.

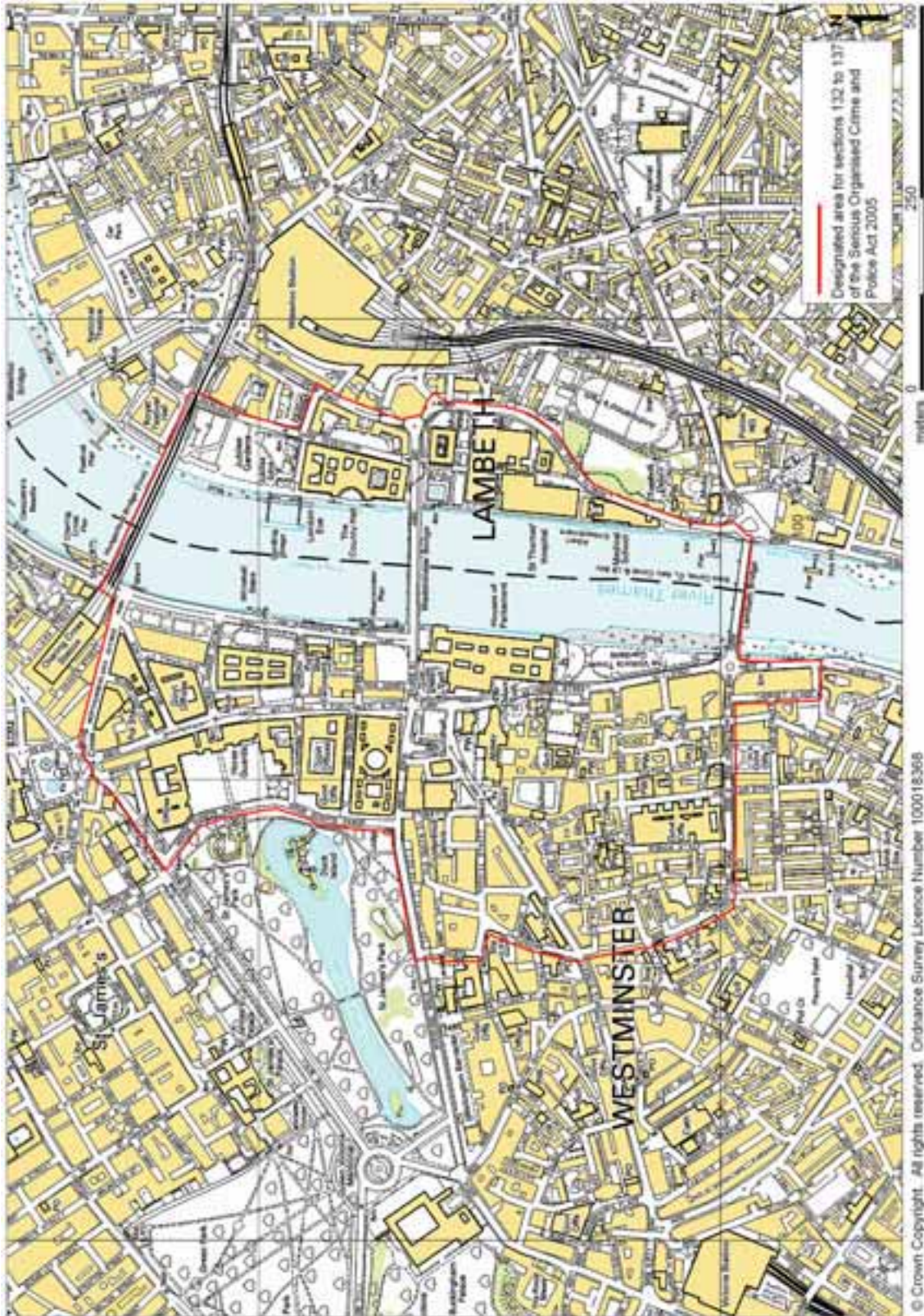
(2) The area may be specified by description, by reference to a map or in any other way.

(3) No point in the area so specified may be more than one kilometre in a straight line from the point nearest to it in Parliament Square.

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# Annex F

Map of the Designated Area for Sections 132-137 of the Serious Organised Crime and Police Act 2005



Printed in the UK for The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office  
ID5674371 10/07

Printed on Paper containing 75% recycled fibre content minimum.



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