



Lord Rosser
House of Lords
London
SW1A 0PW

23 September 2016

Dear Richard,

**POLICING AND CRIME BILL: GOVERNMENT AMENDMENTS FOR LORDS COMMITTEE
STAGE**

I am writing to let you have details of a second tranche of Government amendments (copy attached) for Committee stage of the Bill which I have tabled today.

Cross-border powers of arrest (amendments to clauses 67, 105 and 149 and new Schedules “Schedule to be inserted as Schedule 7A to the Criminal Justice and Public Order Act 1994” and “Schedule to be inserted as Schedule 7B to the Criminal Justice and Public Order Act 1994”)

Chapter 7 of Part 4 of the Bill includes measures to strengthen the existing cross-border powers of arrest contained in Part 10 of the Criminal Justice and Public Order Act 1994 (“the 1994 Act”). In particular, these provisions close a gap in the cross-border arrest powers to ensure that a person who commits an offence in one UK jurisdiction can be arrested without a warrant by an officer from the jurisdiction in which the person is found. The provisions in new section 137A of the 1994 Act include a number of safeguards, one of which is that the arresting officer has reasonable grounds for suspecting that the suspect has committed a specified offence in another jurisdiction, that is an offence specified in regulations. In the interests of greater clarity, we now propose to include a list of relevant offences on the face of the Bill (as contained in new section 137B(A2) to (A4) and new Schedule 7A to the 1994 Act), but to retain a power to amend the list by regulations (subject to the affirmative procedure).

The list of relevant offences includes that in clause 67 of the Bill (offence of breach of pre-charge bail conditions relating to travel). The related amendment to that clause clarifies that, if a travel-related breach of pre-charge bail conditions is committed, anywhere in the United Kingdom, it will be regarded as having been committed in either England and Wales or Northern Ireland, depending on where the bail was granted. This will ensure that the breach can be prosecuted in the relevant UK courts and will also make sure that the cross-border powers set out in clauses 105 to 107 are available to enforce the offence.

Clause 105 applies certain existing statutory rights to persons arrested under the new power of arrest (for example, in respect of the information to be given to the arrestee), but includes a power to disapply or modify the specified enactments. Again in the interests of greater clarity, new Schedule 7B to the 1994 Act sets out the necessary modifications on the face of the Bill.

Firearms licensing: Removal of the additional requirements relating to the legal acquisition, possession and purchase of expanding ammunition, and automatic extension of an expired

firearm certificate pending a decision on the application for renewal (new clauses “*Controls on ammunition which expands on impact*” and “*Limited extension of firearms certificates etc*” and amendments to clause 149)

At Commons Report stage Geoffrey Clifton-Brown tabled amendments (new clauses 7, 8 and 9) seeking to make further changes to the Firearms Acts (official Report, 26 April 2016, columns 1384-1387). The then Minister for Preventing Abuse, Exploitation and Crime undertook to consider these amendments further. These new clauses give effect to two of the changes proposed by Geoffrey Clifton-Brown.

The possession of expanding ammunition is generally prohibited under the Firearms Act 1968 (“the 1968 Act”). However, the 1968 Act allows for expanding ammunition to be held on a suitably conditioned firearms certificate, issued by the police, providing the individual is engaged in a lawful activity such as deer management (indeed the Deer Act 1991, and the equivalent legislation in Scotland, requires the use of such ammunition for the shooting of deer).

New clause *Controls on ammunition which expands on impact* removes the additional requirement in the 1968 Act for special authority for expanding ammunition. This would remove some of the additional burdens for the police as well as those that arise for dealers from storage and associated costs when transferring prohibited ammunition. The requirement for special authority in respect of pistol ammunition will, for the time being at least, remain in place, since it is a requirement of the European Weapons Directive.

If a firearm certificate expires before the police have completed the renewal process, they either allow the certificate holder to continue with an expired certificate (technically leaving them in unlawful possession of their firearms), or issue a section 7 temporary permit. To improve the efficiency in the firearms certificate renewal process, new clause *Limited extension of firearms certificates etc* removes the need to grant temporary certificates and instead provide for the automatic extension of a current certificate’s validity until the police reach a decision on renewal. Such an automatic extension will only apply where the application for renewal is made at least eight weeks before the expiry of the existing certificate. Any automatic extension of the life of a certificate will be for a maximum of eight weeks after the expiry date of the certificate.

Alcohol licensing: Reform of the late night levy and putting cumulative impact policies on a statutory footing (new clauses “*Late night levy requirements*” and “*Cumulative impact assessments*” and new Schedule “*Late night levy requirements*”)

These amendments give effect to two alcohol-related measures announced in the Modern Crime Prevention Strategy published in March¹. You will be aware that Lyn Brown, then a front-bench Opposition spokesperson, tabled an amendment in relation to cumulative impact policies at Commons Committee stage (new clause 52 – debated in Public Bill Committee on 12 April, Official Report, column 337 to 342).

The late night levy allows licensing authorities to charge licensed premises operating between midnight and 6am, based on consideration of the costs of policing the night time economy. Late night levies were introduced in 2012, but only seven licensing authorities have implemented a levy. New clause and new Schedule *Late night levy requirements* makes a number of changes to the way the levy operates in order to increase the uptake and thereby increase the revenue raised towards the cost of policing. The specific changes will:

- a) Make the levy more flexible by allowing licensing authorities to target specific geographical locations (rather than, as now, the whole of the local authority area);
- b) Extend the levy to include late night refreshment outlets (with the exception of premises which sell hot drinks only);
- c) Enable Police and Crime Commissioners to request the licensing authority to propose introducing a levy; and

¹ <https://www.gov.uk/government/publications/modern-crime-prevention-strategy> - see page 36

- d) Require licensing authorities to publish information about how funds raised by the levy are spent so that those paying it are clearer about how it is being used.

Cumulative Impact Policies (“CIPs”) assist licensing authorities in carrying out their functions in relation to controlling the number or type of licence applications granted in an area where there is evidence of problems. CIPs are currently set out in the statutory guidance² and there are 200 in place in England and Wales. The Modern Crime Prevention Strategy committed to putting cumulative impact policies on a statutory footing in order to provide greater clarity and certainty about their use.

New clause *Cumulative impact assessments* provides that a licensing authority may publish a cumulative impact assessment if it considers that the number of licensed premises in an area is such that granting further licences would be inconsistent with its duty to promote the licensing objectives. The licensing authority must publish the evidence for its opinion and consult the list of persons set out at section 5(3) of the Licensing Act 2003 before publishing the assessment. A cumulative impact assessment does not prevent the grant or variation of licences, and a responsible authority or other person will need to make a representation if they wish to challenge the application. If no representations are made the licence will be granted, if the other relevant conditions are met, as is the case for all applications under the Licensing Act 2003. The licensing authority will be required to consider whether it still holds the opinion which forms the basis of the cumulative impact assessment at least every three years. This new clause confers a discretionary power; licensing authorities will not be required to consider the cumulative impact of licensed premises in their area.

We have published on the Bill page of the Home Office website³ impact assessments in relation to these new provisions.

Annex A details other, minor and technical, amendments to Parts 6, 7 and 9 of the Bill.

I also attach a supplementary delegated powers memorandum relating to these amendments.

I am copying this letter to all Peers who spoke at Second Reading, Baroness McIntosh of Pickering (Chairman, Licensing Act 2003 Committee), Baroness Fookes (Chairman, Delegated Powers and Regulatory Reform Committee), Andy Burnham, Geoffrey Clifton-Brown and Lyn Brown, and placing a copy in the Library of the House and on the Bill page on gov.uk.



Baroness Williams of Trafford

² <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003> - see in particular paragraph 13.20-13.39

³ <https://www.gov.uk/government/collections/policing-and-crime-bill>

