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## The Public Order Bill – Report Stage Briefing, Lords

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The Public Order Bill (PO Bill) introduces further excessive restrictions on the rights to protest, following those already introduced in the Police, Crime, Sentencing and Courts Act (the PCSC Act). The PO Bill contains provisions that the Government attempted to include in the PCSC Act but were rejected by the House of Lords in February 2022. Amnesty’s analysis of those provisions at the time was that they were so vague, undefined and open to subjective interpretation that they were likely to be unlawful from the outset, would seriously curtail human rights in this country and damage the UK’s international standing, potentially irreparably. Changes to the PO Bill agreed by the Lords in February 2023 mitigate some of the Bill’s worst impacts and should be retained. However, these changes in no way render the Bill compliant with the UK’s international human rights obligations and Amnesty continues to call for the Bill to be dropped altogether.

**If the PO Bill is to proceed, Amnesty strongly urges MPs to retain the changes agreed by the Lords that would mitigate some of its worst effects, in particular:**

- **Retain amendments which limit Serious Disruption Prevention Orders (SDPOs)**
  - Amendment which removes the power to impose SDPOs without a conviction
  - Amendment which narrows who can be given an SDPO on conviction
- **Retain amendment which removes protest-specific stop and search powers without suspicion**
- **Oppose government amendment on the ‘Meaning of serious disruption’**
- **Retain amendment which provides protection for journalists and other observers of protests**

**Serious Disruption Prevention Orders:** These orders effectively ban certain individuals from participating in (and in some cases organising) protests on the basis that they have been convicted on two prior occasions of protest related crimes. The House of Lords voted to remove the power for SDPOs to also be imposed on the basis that an individual caused “serious disruption” (i.e. without conviction) on two prior occasions. This limitation must be retained.

**Nevertheless, Amnesty considers SDPOs to be violations of the right to freedom of peaceful assembly and of freedom of movement, regardless of the Government’s last-minute amendments that seek to soften the sharp edges of SDPOs (removing electronic tagging and limiting renewal); and Lords’ amendments which limit SDPOs to individuals who have been convicted of certain crimes.** Even with these “compromises”, SDPOs remain unprecedented and highly draconian.

**Powers to stop and search:** These are extraordinarily worrying provisions, especially given the widespread discriminatory use of stop and search powers on racialised groups in the UK. Widening the crimes that permit stops and searches will inevitably provide police even more discretion to use this power in a discriminatory manner. The House of Lords voted to remove the power for suspicion-less stops and search, which must be retained.

The [College of Policing](#), [Her Majesty's Inspectorate](#) and others have stated that stop and search is already an overused and ineffective tool that does not deter or prevent serious crime and can be largely counterproductive, by eroding trust between the police and local communities that are disproportionately targeted.

The proposals breach the UK's international human rights obligations. The Human Rights Council's General Comment on the Freedom of Peaceful Assembly stipulates that "stop and search" applied to those who participate in assemblies, or are about to do so, must be exercised based on reasonable suspicion of the commission or threat of a serious offence, and must not be used in a discriminatory manner. The mere fact that authorities associate an individual with a peaceful assembly does not constitute reasonable grounds for stopping and searching them.<sup>1</sup>

Allowing for suspicion less stops and searches would be even more concerning. The incredibly broad scope of items (not defined) that could be captured within this clause, items that are not illegal or otherwise prohibited or restricted in any other context, breaches the principle of legality. The combined provisions within these clauses are so broad, fail to establish any clear limitations about the exercise of that power and creates a potential situation for police to stop and search whoever they want on the basis of overly vague and broad activities that they believe might take place in any given area. It would be impossible for anyone attending a protest that could be captured under these provisions to have a clear view as to the reasons why they were being subjected to a stop and search or what items might fall within the scope of powers to seize them.

### **Meaning of serious disruption**

The government amendment reintroduces a definition of serious disruption that the government tried – unsuccessfully – to introduce during Report Stage in the Lords. This definition has already, rightly, been rejected by the House of Lords. The amendment sets the bar for the concept of 'serious disruption' at a level of conduct that causes 'disruption that is more than minor' to ordinary everyday life. This is an extremely low bar that is contrary to the ordinary meaning of the words used; contrary to the Office of the High Commissioner for Human Rights' General Comment on the Right of Peaceful Assembly, which talks of 'serious and sustained disruption'<sup>2</sup>; and contrary to the European Court of Human Rights (ECtHR) caselaw on 'serious disruption'.<sup>3</sup>

### **Protection for journalists and other observers**

In a chilling suppression of the rights of a free press, in November 2022, Hertfordshire Police arrested and detained [three journalists](#) for reporting on a number of environmental protests taking place. One female reporter from LBC radio was reportedly held in a police cell for five hours. The arrest of journalists for reporting in these circumstances is a fundamental breach of universally held rights, which should serve as a chilling warning of the dangers of increasing police powers in these areas and further undermines the credibility of the UK as a champion of media freedoms on the world stage. The House of Lords introduced new clauses to safeguard potential police misuse of powers in these areas in order to protect reporting and monitoring of protests, consistent with our international human rights obligations. These important safeguards should be retained.

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<sup>1</sup> See UN Human Rights Committee, General comment No. 37 (2020) on the right of peaceful assembly (article 21) available at: <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/GCArticle21.aspx>

<sup>2</sup> See Office of the High Commissioner for Human Rights, General Comment No. 37 (Right to Peaceful Assembly), <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-37-article-21-right-peaceful>

<sup>3</sup> See Kudrevičius And Others V. Lithuania, *Application no. 37553/05*, *Grand Chamber Judgment*, 15 October 2015