

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT  
GENERAL COMMITTEES

Public Bill Committee

## PRISONS (INTERFERENCE WITH WIRELESS TELEGRAPHY) BILL

*Wednesday 9 May 2018*

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### CONTENTS

CLAUSES 1 AND 2 agreed to.  
SCHEDULE agreed to.  
Bill to be reported, without amendment.

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**Sunday 13 May 2018**

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**The Committee consisted of the following Members:***Chair:* MRS MADELEINE MOON

- |  |   |
|--|---|
| † Caulfield, Maria ( <i>Lewes</i> ) (Con)              | † Russell-Moyle, Lloyd ( <i>Brighton, Kemptown</i> ) (Lab/<br>Co-op)  |
| † Duffield, Rosie ( <i>Canterbury</i> ) (Lab)          | † Scully, Paul ( <i>Sutton and Cheam</i> ) (Con)                      |
| † Foster, Kevin ( <i>Torbay</i> ) (Con)                | † Selous, Andrew ( <i>South West Bedfordshire</i> ) (Con)             |
| † Harrison, Trudy ( <i>Copeland</i> ) (Con)            | † Smyth, Karin ( <i>Bristol South</i> ) (Lab)                         |
| † Hughes, Eddie ( <i>Walsall North</i> ) (Con)         | † Stewart, Rory ( <i>Minister of State, Ministry of<br/>Justice</i> ) |
| † Hussain, Imran ( <i>Bradford East</i> ) (Lab)        | † Yasin, Mohammad ( <i>Bedford</i> ) (Lab)                            |
| † Keegan, Gillian ( <i>Chichester</i> ) (Con)          |   |
| † Knight, Julian ( <i>Solihull</i> ) (Con)             |   |
| Lee, Karen ( <i>Lincoln</i> ) (Lab)                    | Gail Bartlett, <i>Committee Clerk</i>                                 |
| † Lloyd, Stephen ( <i>Eastbourne</i> ) (LD)            |   |
| † Pearce, Teresa ( <i>Erith and Thamesmead</i> ) (Lab) | † <b>attended the Committee</b>                                       |

## Public Bill Committee

Wednesday 9 May 2018

[MRS MADELEINE MOON *in the Chair*]

### Prisons (*Interference with Wireless Telegraphy*) Bill

9.30 am

**The Chair:** Before we start, I advise people to switch electronic devices to silent. Teas and coffees are not allowed during sittings. Given the temperature today, if anyone wants to remove their jacket, please feel free to do so.

#### Clause 1

INTERFERENCE WITH WIRELESS TELEGRAPHY IN PRISONS  
ETC

*Question proposed,* That the clause stand part of the Bill.

**The Chair:** With this it will be convenient to discuss the following:

Clause 2 stand part.

That the schedule be the schedule to the Bill.

**Maria Caulfield** (Lewes) (Con): It is a pleasure to serve under your chairmanship, Mrs Moon. Your wise guidance to us in our deliberations on the Bill will be much welcomed. I also welcome members of the Committee and thank them for their support in getting the Bill to this stage. It was clear on Second Reading that the Bill has cross-party support, so I hope that we will be able to complete our proceedings relatively swiftly, while still giving the Bill appropriate scrutiny.

As hon. Members know, mobile phone technology in particular is constantly evolving. The Bill is designed to ensure that legislation keeps pace with developments and provides the means to combat the serious problems posed by illicit mobile phones in prisons. Illicit mobile phone use is linked to the supply of drugs and other contraband, serious organised crime and evasion of public protection monitoring, bringing further harm to the victims of crime.

The scale of the issue faced in our prisons is stark. In 2016, nearly 20,000 mobile phone and SIM cards—54 a day—were found in prisons in England and Wales. Although it is not a new problem, the scale of it has been increasing steadily, as in 2013 only about 7,000 mobile phones and SIM cards were found. To help combat this increasing challenge more effectively, clause 1 and its associated schedule make several changes to the Prisons (*Interference with Wireless Telegraphy*) Act 2012.

As technology has developed, public communications providers such as mobile phone operators have been at the forefront of those developments. The changes in this Bill are designed to ensure that their specialist knowledge and expertise can be used to improve the effectiveness of activity to combat the use of illegal mobiles in prisons, young offenders institutions, secure

training centres and secure colleges. Importantly, the Bill will ensure that there is a clear line of accountability for the activity set down in primary legislation.

I believe that this change is necessary to ensure that public communications providers can take appropriate direct action to interfere with wireless telegraphy to prevent the illegal use of mobile phones in prisons. Under the 2012 Act, mobile phone operators can act only as agents of the governors of individual institutions, rather than in their own right. Making this change means that the latest technological advances will be available to combat illegal mobile phones, governed by a clear legal framework.

The changes in clause 1 provide for the Secretary of State to authorise a public communications provider to interfere with wireless telegraphy in prisons in England and Wales. That is in addition to the existing authorisation that can be given to governors under the 2012 Act to interfere with wireless telegraphy in their institutions. Of course, it is important to ensure that this activity is subject to the right safeguards to prevent inappropriate use. To that end, consequential changes are made in the schedule to the Bill, which amends sections 2 to 4 of the 2012 Act. Section 2 of that Act is amended so that the safeguards that already apply to authorised governors will also apply to authorised public communications providers.

Like an authorised governor, any authorised public communications provider will have to comply with the directions given to them by the Secretary of State. Those directions must include requirements to pass on information concerning interference activity, as well as circumstances in which the use of equipment must be modified or stopped. That will help to ensure that there will not be disproportionate interference with wireless telegraphy outside the relevant institution.

Section 3 of the 2012 Act governs the retention and disclosure of information obtained following interference. Section 3 provides that information must be destroyed after three months, unless the governor authorises its retention on specific grounds. Where that information is retained, the governor must review its continued retention at three-monthly intervals and must destroy the information if retention is no longer required. Responsibility for deciding about retention and disclosure will continue to rest with the governor of the relevant institution. Because relevant information may have been obtained by a public communications provider, section 3 of the 2012 Act will be amended to clarify which governor will be responsible for decisions about retention and disclosure in such cases.

Clause 2(1) sets out the short title of the Bill, and subsection (2) states:

“This Act comes into force on such day as the Secretary of State may appoint by regulations made by statutory instrument.”

That is a standard procedure to provide for commencement by regulations if commencement provisions are not placed in a Bill. Clause 2(3) and (4) mirrors provisions in the 2012 Act concerning the Bill’s territorial extent, and the possibility of extending its provisions to the Channel Islands and the Isle of Man in the future. All those provisions are standard and, I hope, uncontroversial.

**Andrew Selous** (South West Bedfordshire) (Con): I will not detain the Committee long, but I want to add my wholehearted support to my hon. Friend in introducing

this important Bill. Having had the privilege of being the Minister responsible for prisons, probation and rehabilitation for two years, I am particularly aware of how necessary these provisions are.

We very much want prisoners to use telephones legitimately, and to stay in touch with their families and children in the approved manner and under the control of the prison authorities. That is a good thing that we want to encourage, and nothing in the Bill will prevent that. However, we must also be aware that prisoners have used mobile phones to carry on a life of crime in a truly shocking and appalling way, to the extent that they may as well not even have been in prison. Murders have been arranged and organised from within prisons, and drugs rings and even arms importation schemes have carried on because prisoners have had the use of illegal mobile phones.

There is also the issue of the intimidation of victims by perpetrators who have been sent to prison. When someone has been sent to prison, at least for that period of time the victim should not be afraid of being confronted by the person who attacked or raped them or whatever. Such intimidation is truly shocking, and the Bill will go a long way towards preventing it.

I remember that there are some prisons—HMP Brixton, for example—where people live right next to the prison wall. If memory serves me right, HMP Cardiff is another example of a built-up area where people live right next to the prison. In the past, mobile phone companies were obviously wary about that, and Members of Parliament would not want their constituents who live lawfully next to a prison to have their mobile phone usage interfered with. I believe the Ministry of Justice and my hon. Friend the Member for Lewes have come up with a solution that means that that will not be a problem, and that we will not affect the legal use of mobile phones by law-abiding constituents who happen to live next to but outside a prison. Perhaps my hon. Friend or the Minister will provide clarification on that point.

I offer my wholehearted support to this important Bill. We want phones to be used to help prisoners stay in touch with their families, because we know that that aids rehabilitation and helps to reduce crime, which is a good thing. However, phones are absolutely not to be used for ongoing criminal purposes, and that is why I support the Bill so strongly.

**Imran Hussain** (Bradford East) (Lab): I start by thanking the hon. Member for Lewes for bringing in this important Bill. I will not rehearse many of the points that other hon. Members have made, but I put on record that the Opposition have supported the Bill's passage through Parliament and continue to support it. We think it is rather unfortunate that this change has to be made via a private Member's Bill—it should have been forthcoming from the Government—and equally we must put on record that it is not a silver bullet that will resolve the issues in our prison system. I look forward to the Minister's coming back with a more substantial plan for reform, but in essence, this Bill strengthens the 2012 Act, which we support.

**The Minister of State, Ministry of Justice (Rory Stewart)**: It is a great pleasure to serve under your chairmanship, Mrs Moon. My hon. Friend the Member

for Lewes has very powerfully explained the legal necessity for the Bill and exactly how it will work in law. My hon. Friend the Member for South West Bedfordshire, my distinguished predecessor, has pointed out some of the challenges in balancing the need of prisoners to remain in contact with their families and retain a connection to broader society with the dangers posed by illegal phones. The hon. Member for Bradford East has pointed out that, of course, the Bill is just one element in what must be a much bigger strategy. As he says, it is not a silver bullet on its own.

We face an interesting and tricky problem. Those who remember reading "The Man in the Iron Mask" will remember that in 17th century France the only way of communicating out of a prison was to throw a silver plate, with some words scratched on it, out of the window. Today the prison walls are, in some senses, not really walls in the way they were in the 17th century. Modern mobile communication allows criminals, in the worst situations, to continue criminal activities from within those walls, to threaten or abuse people, to harass partners who do not wish to be harassed, or in the most dramatic cases, as my hon. Friend the Member for South West Bedfordshire pointed out, even to organise drug importations or contract killings from a prison.

Dealing with that has been difficult for the Department, because there are very strong human rights protections in article 8 of the European convention on human rights around the right to a private life, which protect citizens' rights to communication and prevent interference with communication. Ofcom polices that very strictly. Therefore there were two legal issues that needed to be dealt with. The first was whether a private prison governor could be exempt from the article 8 restrictions and the Ofcom regulations on interference. The Crown is usually exempt, but the question was whether a private prison governor could be exempt. That was largely dealt with in 2012.

Secondly, there was the question of instructing the mobile phone companies to work with the Government on interfering with communications out of a prison. The reason why that is important, as my hon. Friend pointed out, is that without the co-operation of the mobile telephone companies, we would get into a very strange war where we would end up broadcasting signals aggressively against those companies, which could potentially compromise the mobile phone signals of other citizens going about their normal life outside the prison walls.

This law will give much more certainty to the mobile phone companies and governors that there is proper, legal, proportionate and reasonable interference with illegal communication. However, we must bear in mind that we are now pushing ahead with in-cell telephony, which will allow controlled legal conversations between prisoners and their families. All of that is vital, because we face a big problem of violence and crime in prisons and driven from prisons. Tapping the almost 10,000 mobile phones that were seized in a single year and interfering with their ability to communicate is not a silver bullet, but it should help to make prisons a safer and more orderly place in which we can begin to address some of the underlying drivers of violence and crime.

I conclude with great thanks to my hon. Friend the Member for Lewes for bringing forward a very useful, practical step toward improving our prisons.

**Maria Caulfield:** On a point of order, Mrs Moon. Before we finish, I want to place on the record my thanks to you for chairing the Bill Committee, and to the Committee Clerks. This is my first private Member's Bill, so it has been a steep learning curve, and although the Clerks never said that there is no such thing as a stupid question, I am sure that that is what they meant at heart.

I thank the team at the Ministry of Justice for all their support, and I thank all hon. Members here. This is a great example of cross-party working to make a difference in all our communities; many of us have prisons locally. I thank my hon. Friend the Minister for his support, and I thank former Ministers as well, because the Bill has taken a little while to reach Committee.

I am sure that all hon. Members would wish to join me in placing on the record our thanks to all prison officers, up and down the country, who each and every

day have to deal with the problems that mobile phones cause in prisons. I particularly thank my local prison, HMP Lewes, where prison officers have told me at first hand what a difference the Bill will make. We place on the record our thanks to all prison officers in this country.

*Question put and agreed to.*

*Clause 1 accordingly ordered to stand part of the Bill.*

*Clause 2 ordered to stand part of the Bill.*

*Schedule agreed to.*

*Bill to be reported, without amendment.*

9.46 am

*Committee rose.*



