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Public Bill Committee

OFFENSIVE WEAPONS BILL

Sixth Sitting

Tuesday 4 September 2018

(Evening)

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Saturday 8 September 2018

The Committee consisted of the following Members:

Chairs: Mike Gapes, †James Gray

† Atkins, Victoria *(Parliamentary Under-Secretary of State for the Home Department)*
† Foster, Kevin *(Torbay)* (Con)
† Foxcroft, Vicky *(Lewisham, Deptford)* (Lab)
† Haigh, Louise *(Sheffield, Heeley)* (Lab)
† Huddleston, Nigel *(Mid Worcestershire)* (Con)
† Jones, Sarah *(Croydon Central)* (Lab)
† Maclean, Rachel *(Redditch)* (Con)
† McDonald, Stuart C. *(Cumbernauld, Kilsyth and Kirkintilloch East)* (SNP)
† Maynard, Paul *(Lord Commissioner of Her Majesty's Treasury)*
† Morgan, Stephen *(Portsmouth South)* (Lab)
† Morris, James *(Halesowen and Rowley Regis)* (Con)
† Pursglove, Tom *(Corby)* (Con)
† Robinson, Mary *(Cheadle)* (Con)
† Scully, Paul *(Sutton and Cheam)* (Con)
† Siddiq, Tulip *(Hampstead and Kilburn)* (Lab)
† Smyth, Karin *(Bristol South)* (Lab)
† Timms, Stephen *(East Ham)* (Lab)

Mike Everett, Adam Mellows-Facer, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 4 September 2018

(Evening)

[Mr James Gray *in the Chair*]

Offensive Weapons Bill

Clause 1

Sale of corrosive products to persons under 18

Amendment proposed (this day): 51, in clause 1, page 2, line 24, at end insert—

"(10A) The appropriate national authority may only modify or remove a reference to a substance under Schedule 1 following the publication of evidence pertaining to that decision by the appropriate authority and subject to approval from both Houses of Parliament.

(10B) In subsection (10A) the 'evidence pertaining to that decision' must include—

(a) a report by the National Police Chiefs' Council on the use of the substance in attacks; and

(b) a report by relevant clinicians on the effect of the substance."—*(Louise Haigh.)*

7 pm

The Parliamentary Under-Secretary of State for the Home Department (Victoria Atkins): Clause 1(10) provides a delegated power for the Secretary of State, and for the Department of Justice in Northern Ireland, to amend schedule 1 by secondary legislation. Such regulations would be subject to the affirmative procedure. Any changes required in future will be undertaken on the advice of the police—including Police Scotland, which would not be covered by the amendment because it is not part of the National Police Chiefs Council—and of our scientific advisers, the Defence Science and Technology Laboratory. We would also consult with manufacturers, retailers and the Scottish Government before making any regulations to amend the schedule.

Although we would take police and scientific advice, consult with others and make the outcome of those discussions available to Parliament when making any regulations, we do not think that there needs to be a legal requirement to publish evidence. Parliament will have ample opportunity in the debates on the regulations in both Houses to question the Government about why we are amending the schedule. Having a legal requirement could also lead to problems; for example, if the NPCC changed its name, further primary legislation would be needed before any regulations could be made.

Stephen Timms (East Ham) (Lab): Clause 1(10) refers to the "appropriate national authority" to make additions or changes to schedule 1. Could the Minister clarify what that authority will be? Will it be a different authority in different parts of the UK, or a single authority throughout?

A couple of times, the Minister made the helpful point that regulations to make such changes will be subject to the affirmative rather than the negative procedure. Could she point us to where in the Bill that assurance is provided? I have not been able to find it.

Victoria Atkins: The appropriate national authority will be the Secretary of State in England, Wales and Scotland, and the Department of Justice in Northern Ireland. We will consult the Scottish Government, however, because clauses 1 to 4 deal with matters that are reserved in relation to Scotland.

The right hon. Gentleman raises an important point about where in the Bill the affirmative procedure is specified. Clause 37(2) requires that regulations be "approved by a resolution…of each House of Parliament." As ever, I am extremely grateful to the right hon. Gentleman for his forensic eye for detail, and I invite the hon. Member for Sheffield, Heeley to withdraw the amendment.

Louise Haigh (Sheffield, Heeley) (Lab): As with the previous group of amendments, I thank the Minister for her response. I am satisfied that the legislation referred to in clause 1(10) will fulfil the objective that our amendment was attempting to achieve. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 14, in clause 1, page 2, line 29, at end insert—

"( ) See section (*Presumptions in proceedings in Scotland for offence under section 1, 3 or 4*) for provisions about presumptions as to the content of containers in proceedings in Scotland."

This amendment and Amendments 16, 19, 20, 31, 33, NC5 and NC6 provide for certain evidential presumptions relating to the nature of substances that are or were in containers to apply in Scotland in relation to an offence under section 1, 3, 4 or 5 involving a corrosive substance or product.—(Victoria Atkins.)

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

Louise Haigh: There is an issue that has not been raised through any amendments, and I hope the Committee will bear with me as I briefly address it. Clause 1(8) relates to the coming into force of section 281(5) of the Criminal Justice Act 2003. We attempted to table an amendment to ensure that this provision is enacted within six months of the Bill coming into force. The subsection was legislated for 15 years ago and is still to come into practice. There is concern that the Government continue to bring forward legislation—as I am sure the previous Labour Government did—that rests on magistrates courts being able to give sentences of up to 12 months.

I understand from previous conversations with the Minister's colleagues that there are some issues for the Ministry of Justice around enactment but, 15 years on, we need to overcome them. If we cannot, we should not be putting such provisions into new legislation, pretending that we can. I would like the Minister to clarify whether we are likely to see those provisions coming into force. If not, should we not be clear in the legislation that, in reality, the sentencing is six months and not 12 months?

Victoria Atkins: I note that the amendment in question was not permitted in the groupings, Mr Gray. With regard to the 2003 Act, the hon. Lady has correctly identified that this is a Ministry of Justice matter, and this small Bill is not the place to introduce a provision that will have ramifications across the whole of the criminal justice system. We keep magistrates' sentencing powers under review, but there is currently no intention to implement provisions of the 2003 Act in the Bill.

Question put and agreed to.

Clause 1, as amended, accordingly ordered to stand part of the Bill.

Schedule 1 agreed to.

Clause 2

DEFENCE TO REMOTE SALE OF CORROSIVE PRODUCTS TO PERSONS UNDER 18

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

The Chair: Just for the information of the Committee, the consultation responses from the Government are now available and in the room, if hon. Members would like to have a look.

Louise Haigh: Thank you, Mr Gray, and I thank the Minister for providing those consultation responses. We welcome clause 2 on defence to remote sale. It is an extremely important part of the Bill, because a significant proportion of the purchasing is likely to occur online, as it does at present.

Our concerns relate to the defence to remote sale under condition A, which I referred to earlier:

"that they took all reasonable precautions and exercised all due diligence to avoid the commission of the offence".

In subsection (6)(a), a seller is regarded as having taken all due diligence if they

"operated a system for checking that persons who bought corrosive products…were not under the age of 18".

We know from evidence given to the Committee that there are concerns about what a system for checking persons who bought corrosive products would look like. Would it look like the online age verification controls introduced by the Digital Economy Act 2017? That would present significant difficulties. That legislation was limited to major commercial players, which have the means and capacity to implement age verification controls. However, such controls have proven perilously difficult to implement in a workable form. Has the Home Office considered what standard of age verification software or controls would be acceptable under clause 2?

The British Retail Consortium said:

"Ideally, we would like to see some standards, so we can be sure that online age verification systems developed by businesses such as Yoti and others will be accepted as due diligence by the enforcers."—[*Official Report, Offensive Weapons Public Bill Committee,* 17 July 2018; c. 62, Q154.]

Currently, offline systems are standardised and clearly laid out in the legislation, but it is difficult for retailers to be sure that they are complying with online systems, which is why the Government are banning the delivery of corrosive products and bladed articles to residential premises, to make sure they are complied with. However, I want to press the Minister on what age verification controls the Government have considered and, as we will come to later, why they do not consider them sufficient to prevent the delivery of corrosive products and bladed articles to under-18s.

Victoria Atkins: I am grateful to the hon. Lady for her speech. We have not set out in the Bill the measures that businesses could take to satisfy themselves that the person to whom they are selling is under 18 because we are conscious that different age verification systems are available, and the technology is developing at a very fast pace, as we have seen in relation to the Digital Economy Act 2017. We did not want to stipulate a specific approach in primary legislation for fear that it would quickly run out of relevance.

However, there are conditions of due diligence under the defence in clause 2. There has been a certain amount of misunderstanding about the conditions in the defence relating to knives—which I will come to in due course—but clause 2 is about ensuring that these dangerous substances are not sold to under-18s. We want sellers of these products to understand from the very beginning that they have a duty of due diligence to determine the age of those to whom they are selling. We know, from experience of other age-controlled items, that businesses will quickly develop these systems. It will be for the seller to show that they have robust age verification systems in place.

Louise Haigh: I completely agree, and I would never advocate including technological guidance or prescriptions in primary legislation. However, would it not be advisable to set standards that we expect retailers to comply with, for both corrosive substances and bladed articles, particularly given the very low rates of prosecution by trading standards? Perhaps there is an issue with "due diligence" being too vague for trading standards to be able to bring prosecutions forward.

Victoria Atkins: In other statutes—for example, the Health and Safety at Work Act 1974—we have the test of "reasonably practicable". I am anxious that, if a case reaches the court, we do not bind the hands of a magistrate in determining the facts of the case. I will happily consider what I think is the hon. Lady's point about whether there is scope to provide best practice, guidance and so on, but we are of the view that the defence as it stands should be set out in statute and that it should then be for businesses and retailers to ensure that they comply with the law.

7.15 pm

Louise Haigh: I am grateful for that reply, but a bit concerned that the Home Office had not already planned to issue guidance to online retailers. With something like this, I would have thought that, given that some retailers are not currently subject to age verification legislation at all, the Home Office would automatically issue guidance on what it would expect such age verification to look like—not best practice, but a standard beneath which a retailer would not be able to fall under the legislation. Is that not the case?

Victoria Atkins: We will publish guidance when implementing the Bill.

Question put and agreed to.

Clause 2 accordingly ordered to stand part of the Bill.

Clause 3

DELIVERY OF CORROSIVE PRODUCTS TO RESIDENTIAL PREMISES ETC

Amendments made: 15, in clause 3, page 4, line 35, at end insert—

'(13) In Scotland, proceedings for an offence under this section may be commenced within the period of 12 months beginning with the commission of the offence.

(14) Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of subsection (13) as it applies for the purposes of that section."

This amendment provides for proceedings in Scotland for an offence under Clause 3 to be brought within 12 months of the commission of the offence. Under section 136 of the Criminal Procedure (Scotland) Act 1995 the default period for bringing summary proceedings is 6 months.

Amendment 16, in clause 3, page 4, line 35, at end insert—

'( ) See section (Presumptions in proceedings in Scotland for offence under section 1, 3 or 4) for provisions about presumptions as to the content of containers in proceedings in Scotland." —*(Victoria Atkins.)*

See the explanatory statement for Amendment 14.

Clause 3, as amended, ordered to stand part of the Bill.

Clause 4

Delivery of corrosive products to persons under 18

Stuart C. McDonald (Cumbernauld, Kilsyth and Kirkintilloch East) (SNP): I beg to move amendment 43, in clause 4, page 4, line 41, leave out

"and the seller is outside the United Kingdom at that time".

This is a probing amendment to allow debate on whether the offence should be restricted to where the seller is outside the United Kingdom.

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

Amendment 44, in clause 4, page 4, line 45, after "was" insert

"or ought to have been aware".

This is a probing amendment to allow discussion on whether requiring proof of actual knowledge is the appropriate test.

New clause 9—*Purchase of offensive weapons from outside the European Union*—

"(1) A person commits an offence if they knowingly purchase an offensive weapon from a seller located in a country that is not a member of the European Union.

(2) A person who is guilty of an offence under subsection (1) is liable—

(a) on summary conviction in England and Wales, to a fine;

(b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale."

Stuart C. McDonald: Clause 4 concerns the delivery of corrosive products to under-18s. Amendments 43 and 44 are probing amendments, tabled in my name, and they seek to test the Government's thinking in this area. Amendment 43 merely queries why a delivery company commits an offence in delivering a corrosive substance to a person under 18 only if the seller is outside the United Kingdom. Why is it okay for that delivery to take place on behalf of a seller based within the UK? That is a straightforward question.

Amendment 44 queries the test that the prosecution will have to meet. As I understand, under the Bill's current drafting, the prosecution would have to prove actual knowledge on behalf of the delivery company, and that it was aware that a corrosive substance could be involved in the contract to deliver products. From recollection, I think that some offences permit prosecution if it can be shown that the delivery company ought to have been aware of that—for example, if the client who was sold the product remotely is a well-known manufacturer of corrosive substances, and that is the main part of its business. Perhaps that should be enough in itself for the prosecution to make its case, but, again, I simply seek the Government's view on those issues and wish to test their opinion.

Stephen Timms: I rise to speak to new clause 9. It arises from a number of conversations that I had with a man called Mr Raheel Butt, whom I would briefly like to tell the Committee about. He grew up in West Ham, in the constituency of my hon. Friend the Member for West Ham (Lyn Brown), rather than in East Ham, and as he would freely acknowledge, he went wrong for several years and served a term in prison. I think he left prison in 2012, and since then he has made it his mission to try to ensure that other young people do not make the same mistakes he made. He set up a community interest company called Community & Rehabilitation Solutions, which works with the Metropolitan police in a number of ways, and he is very concerned about the ease with which people can get hold of very unpleasant weapons and corrosive substances—the new clause covers both corrosive substances and bladed weapons.

I arranged to meet Mr Butt a couple of weeks ago, and he came to Portcullis House to have a conversation with me about this issue. About five minutes after he was due to turn up, I realised that he had not arrived, so I gave him a call on his mobile. He said, "Well, the problem is I don't know how to get past security with my offensive weapons." I had not realised that he was planning to bring his offensive weapons with him, but that was indeed his intention. It caused a significant security alert; I actually never got to see the offensive weapons, because they were taken off him before he managed to get through Portcullis House security. I suppose that was reassuring.

The point he wanted to make, however, was that it is extremely easy to buy the most dreadful weapons online extremely cheaply. For example, I am just looking at a product that he pointed out to me—the ones he showed me are all readily available on eBay, and I know there are other websites where they are available as well. "Ultralight Self Defense Tactical Defense Pen Outdoor Glass Breaker Writing Pen" is the name of a product that costs £2.84 on eBay. It is designed to look like a pen, and it does look like a pen, but it is actually a lethal weapon. My worry, which I am sure is also the Minister's worry, is how to stop these things getting into the hands of people who want to do harm with them, of whom there are sadly far too many at the moment.

Clause 4 covers the delivery of corrosive products to people under 18, and clause 15 covers the delivery of bladed products to residential premises. In both cases, the Bill places requirements on the suppliers. My worry is what happens in a case such as one Mr Butt drew my attention to. That ultra-light product on ebay.co.uk is supplied by a Chinese company called vastfire-luz. My worry is whether this legislation will cover companies such as that one in China, or companies elsewhere, that are sending these very damaging and unpleasant items to people in the UK.

I know that clause 15, on the delivery of bladed products to residential premises, puts in place arrangements to cover the situation where the supplier is outside the UK. An onus is placed on the delivery company; we will no doubt come to that in due course, but it is not clear to me how effective that will be. If a Chinese company posts an item, which could be in a perfectly innocuous small package, to somebody in the UK, will the arrangements in the Bill help us pick up that it is, in fact, a lethal weapon that is being delivered? It might be delivered by the Royal Mail through the post or by a delivery company of some kind. It is difficult to see how the measures in the Bill, although clearly intended to stop that kind of delivery being made, will in practice have that effect for suppliers determined to get around the impediments being put in their way.

That is the reason I have tabled new clause 9, which I accept looks like a rather odd proposition on the face of it, to move that a person

"commits an offence if they knowingly purchase an offensive weapon from a seller located in a country that is not a member of the European Union."

The Bill is intended to manage sellers and delivery agencies, but I am sceptical whether that will work in practice. Through my new clause, I instead place an onus on the purchaser and, indeed, on people such as eBay who are facilitating these sales, and say to them: "If you are an individual purchasing an offensive weapon from a seller outside the EU, that is an offence." That would be one way of shifting the onus on to the purchaser. Clearly, it would still be possible for businesses to import items into the UK in the ordinary way. What I am worried about is individuals buying the dreadful implements that are freely on sale at the moment, on eBay and elsewhere and that, as far as I can see, the well-intentioned measures in the Bill will not capture. This proposal would be another way of trying to stop those very damaging things getting into the country.

Louise Haigh: I rise briefly to congratulate my right hon. Friend on the ingenious way he has brought forward the new clause to tackle the thorny issue of websites outside the UK and the difficulties that the Government will have in prosecuting those who attempt to sell corrosive substances and, indeed, bladed articles, which are dealt with later in the Bill.

I want particularly to address the issue of platforms. As my right hon. Friend said, platforms such as Wish, eBay, Facebook Marketplace and Amazon proliferate the use of horrendous weapons. In 2016, a teenager killed a young man called Bailey Gwynne in a school in Aberdeen. He was cleared of murder, but convicted of culpable homicide. He had paid £40 on Amazon for a folding knife with an 8.5 cm blade. It is illegal even under the current law—prior to the Bill—to sell a folding knife to a buyer aged under 18 if the blade is more than 3 inches long, but that 16-year-old had been able to get around Amazon's age-verification checks by pinning a note to his front door rather than accepting delivery in person.

I am sure that large retailers and online providers such as Amazon will comply with this new legislation, but individual sellers who sell through Amazon, Facebook Marketplace, eBay and so on are unlikely to comply, so there has to be a way, if we do not use the exact wording that my right hon. Friend has proposed, for us to crack down on platforms; otherwise, we will leave a gaping hole that will render essentially meaningless the worthy principles that the Bill is designed to implement.

Victoria Atkins: I am extremely grateful to the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East and the right hon. Member for East Ham for the amendments and the new clause. If I may, I will deal with amendments 43 and 44 first and then move on to new clause 9.

I start by saying that, sadly, it is of course not just in the context of the use of offensive weapons that there are people who do not have the scruples that we do when it comes to crimes and harms; they use online platforms to sell their wares. Indeed, only yesterday my right hon. Friend the Home Secretary gave a powerful speech on his expectations of all members of the tech industry when it comes to addressing the horrific prevalence of child sexual exploitation online. We are discussing here a different form of criminality, but of course we have to work to ensure that criminals do not have a gaping hole open on the internet to sell these horrific weapons.

Section 141 of the Criminal Justice Act 1988 prohibits the sale, importation and other things of disguised knives. The Bill extends that to cover their possession, so I hope that that addresses the point made about the disguised weapon that Mr Butt—

Stephen Timms: Can the Minister clarify the law on this? If it is illegal to sell disguised weapons in the way that she has just said, but there are loads of them on eBay and anyone can look them up and anyone can buy them, who is committing an offence in that situation?

Victoria Atkins: If I inadvertently fall into error, I will write to the right hon. Gentleman to correct what I have said. With marketplace platforms such as eBay or Amazon, it depends. Let us take the example of Amazon. Sometimes Amazon sells as a retailer itself and at other times it is acting as—well, it has been described to me as an antiques fair where someone comes and puts up their stall. Because Amazon has headquarters in the UK, we believe that these provisions apply to those instances where it is selling the knives itself, directly. With the marketplace/antiques fair example, we are in very difficult territorial waters, because of course then Amazon is not selling the item directly itself. It depends on where the seller is based. Section 141 of the 1988 Act addresses the importation of weapons. The example of a zombie knife or a disguised weapon would fall under that section.

7.30 pm

We have tried to address the very real problems with the international marketplace and where retailers sit. To address the amendments, we have tried through clause 4 to put the focus on delivery companies that have entered into an arrangement with a seller of corrosive products that is outside the UK to deliver corrosive products to buyers in the UK, where the corrosive product is being sold remotely, whether by telephone or online. Clause 4 puts the responsibility on the delivery company to ensure that the corrosive product is not delivered to a person under 18. There are various defences to that as well.

Clause 4 relates specifically to an overseas seller, because the offence of delivering a corrosive product to someone aged under 18 would be committed by the delivery company that undertook to deliver the package on behalf of the overseas seller, if that delivery company had entered into a contract to do so with the seller. Sadly, there is no extraterritorial jurisdiction to prosecute overseas sellers in this context. We do not want to criminalise the person actually delivering the package—the postman or postwoman or the courier. The company itself must take responsibility.

Stephen Timms: The Minister made the point earlier, if I understood her correctly, that it is illegal to sell a disguised weapon. Lots of those kinds of weapons are freely available on ebay.co.uk, which presumably has some sort of UK presence. They are being sold by companies in China and around the world. If one of those companies sells a disguised weapon to somebody in the UK, has a crime been committed?

Victoria Atkins: These weapons, I hasten to add, are the ones described under the 1988 Act and under the Criminal Justice Act 1988 (Offensive Weapons) Order 1988. If an item is an offensive weapon under that order, its importation is an offence. I am pretty sure I am on the right track. If the sale was a UK seller to a UK buyer, that is covered by section 141, but if it was a Chinese seller, using the right hon. Gentleman's example, we do not have jurisdiction. We do, however, have jurisdiction over the person buying a disguised weapon, which is obviously one of the harms we are trying to address in the Bill.

Stephen Timms: But if it is, as it would be in the case of an eBay purchase, an individual buying the product online and then receiving it through a postman or courier, has anyone committed an offence? If so, who is it?

Victoria Atkins: I am struggling to keep up with the example. If an individual has imported a disguised weapon, it falls under section 141. If a UK purchaser has bought it from a UK seller, then both can be prosecuted under section 141 because sale and importation are in that section. If it is a UK buyer and an overseas seller, it is the buyer of a disguised weapon who falls foul of section 141. I hope that assists the right hon. Gentleman.

To deal with the point that the hon. Member for Cumbernauld, Kilsyth and Kirkintilloch East made—I am moving on from amendments 43 and 44—we do not want to put deliverers, couriers and office workers in the impossible position of trying to guess whether a parcel may or may not contain offensive weapons, which is why we have defined things in the way we have in the Bill. There is a contract with the delivery company and the seller to deliver it. We would obviously expect the seller to make it clear, or for the delivery company to satisfy itself, that the requirements of the Bill were being met.

On new clause 9, I have already referenced the Criminal Justice Act 1988 (Offensive Weapons) Order 1988. It is already an offence to sell, manufacture, hire, loan or gift such weapons in the UK and to import such items, so we are of the view that the criminality that the right hon. Member for East Ham rightly seeks to address is covered by existing legislation, regardless of whether it occurs inside or outside the EU.

Stephen Timms: The Minister has given the Committee a lot of helpful information. From what she says, anyone who buys the kind of product that I described, which is freely available on eBay, is committing an offence. If I buy a disguised weapon on ebay.co.uk from a Chinese company, I am committing an offence. How is it that eBay continues to offer all these things on its platform? At the very least it is highly irresponsible because, by definition, anyone who clicks on that item and makes a purchase is committing a crime. Surely that should not be permitted?

Victoria Atkins: That is a very good question for those tech companies—not just eBay but others—that allow those items on to their platform. The right hon. Gentleman knows that the Government will look at the huge issue of online responsibility and online harms in a White Paper being published later this year. That will cover not just the incidences we are looking at now but sexual abuse, violence, online trolling and bullying, and so on. These are all issues that we have drawn consultations on and that we are carefully considering. I will make sure that the Home Secretary and the Secretary of State for Digital, Culture, Media and Sport very much bear the right hon. Gentleman's point in mind.

Stephen Timms *rose—*

The Chair: I think the Minister has concluded her remarks.

Stephen Timms: I rise to make a contribution. The Minister referred to the obligations that the clause places on delivery companies in cases where purchases are made from a company outside the UK, as we have just discussed, with the onus therefore needing to be on those companies. Will she spell out for us what checks the delivery company will be required to make? She emphasised the importance of not making unreasonable demands of delivery companies, but how far will the legislation expect them to go in making sure that they are not delivering a corrosive product to somebody's home?

Victoria Atkins: The defence is set out in subsection (5). It is the same threshold as that set out in clause 2: taking all reasonable precautions and exercising all due diligence.

Stephen Timms: Can the Minister—

The Chair: I am slightly confused. I think the Minister was responding to the right hon. Gentleman's speech. He has now spoken twice. If he wishes to speak again he may, but it is becoming a bit backwards and forwards.

Stephen Timms: I am grateful, Mr Gray, and I apologise for the confusion. I will make one final contribution, if I may. Can the Minister tell us a little more about what

is regarded as reasonable? If a delivery company enters into a contract to deliver products from a supplier outside the UK and that supplier says that none of the products is corrosive, and if the delivery company believes them, has it taken all reasonable steps, or should it check the consignments to see what is in them? Should it check all of them, or just some of them? It would be helpful if the Minister could tell us a little more about what is expected of delivery company in such situations.

Victoria Atkins: The delivery company will know the nature of what it is delivering, because it will be under the arrangements with the seller. It is about whether the person it is handing the package to is over the age of 18. I am speculating, but it may well be that delivery companies set demands and expectations on the people with whom they enter into agreements when people are selling corrosive substances or bladed articles. The point is that it is about a contract to deliver substances or products that may fall under the Bill, as well as knives.

Stuart C. McDonald: I am grateful to the Minister for her explanation. I will give it some further thought. A couple of points in her explanation seemed to hinge on not wanting to allow posties and so on to get caught up in these provisions. We must remind ourselves that, as I understand it, this offence will be committed by a body corporate, so we will in no way see posties being brought before a court of law and so on. I am not sure that properly explains why the Government have limited the offence to where the seller is outside the UK—I will give it some thorough thought—nor why the state of awareness has to be quite as high as it is. I will take it away and think about it further, but in the meantime I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Victoria Atkins: I beg to move amendment 17, in clause 4, page 5, line 13, leave out "is guilty of" and insert "commits".

This amendment and Amendment 23 have the effect that Clauses 4(4) and 18(4) provide that a person commits an offence in specified circumstances rather than that a person is guilty of an offence in those circumstances. This is for consistency with other provisions in the Bill and does not change the legal effect of Clauses 4(4) and 18(4).

The Chair: With this it will be convenient to discuss Government amendments 23, 24, 25, 26, 27 and 28.

Victoria Atkins: These are amendments to iron out a couple of drafting inconsistencies in the Bill. Clauses 4(4) and 18(4) say that a person "is guilty of" an offence in certain circumstances, whereas the other free-standing provisions of the Bill, such as clause 1(1), say that a person "commits" an offence in certain circumstances. Both formulations appear on the statute book and work legally, but we are looking to adopt the "commits" approach, for the sake of consistency.

Government amendments 24 to 28 pick up a point made by my hon. Friend the Member for Shipley (Philip Davies) on Second Reading. He pointed out that the definitions of "serious physical harm" in section 1A(2) of the Prevention of Crime Act 1953 and section 139AA(4) of the Criminal Justice Act 1988 need to be omitted. That is because clause 26 of the Bill now replaces references to "serious physical harm" in section 1A(1) of the 1953 Act and section 139AA(1) of the 1988 Act with "physical harm". Unfortunately, that was not picked up when the Bill was drafted and we are now taking the opportunity to correct that oversight. I thank my hon. Friend for spotting the inconsistency. All these amendments are minor and technical in nature.

Amendment 17 agreed to.

Amendments made: 18, in clause 4, page 5, line 45, at end insert—

"(11) In Scotland, proceedings for an offence under this section may be commenced within the period of 12 months beginning with the commission of the offence.

(12) Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (date when proceedings deemed to be commenced) applies for the purposes of subsection (11) as it applies for the purposes of that section."

This amendment provides for proceedings in Scotland for an offence under Clause 4 to be brought within 12 months of the commission of the offence. Under section 136 of the Criminal Procedure (Scotland) Act 1995 the default period for bringing summary proceedings is 6 months.

Amendment 19, in clause 4, page 5, line 45, at end insert—

"( ) See section (Presumptions in proceedings in Scotland for offence under section 1, 3 or 4) for provisions about presumptions as to the content of containers in proceedings in Scotland."—*(Victoria Atkins.)*

See the explanatory statement for Amendment 14.

Clause 4, as amended, ordered to stand part of the Bill.

7.45 pm

Clause 5

Offence of having a corrosive substance in a public place

Louise Haigh: I beg to move amendment 52, in clause 5, page 6, line 44, after "otherwise" insert

", and any place other than premises occupied as a private dwelling (including any stair, passage, garden, yard, garage, outhouse or other appurtenance of such premises which is used in common by the occupants of more than one such dwelling)."

This amendment would extend the definition of public places in relation to England and Wales and Northern Ireland.

This amendment was specifically requested by serving police officers because of concerns about the definition of public place referenced in this clause. I appreciate that it is also referenced in other pieces of legislation, so I fully accept and expect that the Minister will raise concerns about differing definitions of public place, but it is important to have this debate about the clause, given the gravity and extent of the offences that could be committed, and because of the police's concerns that the definition is too narrow and limits their powers in the event of possession in a communal area of a residential dwelling.

Our intention is to make it absolutely clear that "public place" also refers to any area that is exempt from the definition in the Bill due to its not being a place where any ordinary member of the public has access, but which is still regarded as a public place because it is not within a premise occupied as a private dwelling. Such places include any stair, passage, garden,

[Louise Haigh]

yard, garage, outhouse or other place of such premises that is used in common by the occupants of more than one dwelling.

The amendment helpfully mirrors legislation in Scotland that gives the police broader powers to ensure the safety of residents in communal areas—clearly because of criminality that has taken place in such areas and in response to the police's limited powers to take action. The existing definition of "public place" in section 1 of the Prevention of Crime Act 1953 is

"any highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise".

In Scotland, in this Bill and other legislation, it is

"any place other than premises occupied as a private dwelling",

such as a garden, yard or outhouse. That reflects the existing definition of "public place" in Scottish legislation. The offence of having an offensive weapon, or a bladed or pointed article, in a public place is set out in sections 47 and 49 of the Criminal Law (Consolidation) (Scotland) Act 1995.

A 2011 report by the Scottish Government explained that the definition was changed to capture locations such as the ones in our amendment. The explanatory note to section 37 of the Criminal Justice and Licensing (Scotland) Act 2010 made it clear that possession in a public place offences

"may be committed by possession of an offensive weapon or a knife on the common parts of shared properties such as common landings in tenement blocks of flats."

We strongly believe that these measures must be extended to those public places to bring security to residents in those areas and to give the police the power to act if offensive weapons are possessed within them. It is clear that the police need and want this power, and we see no reason why we should not align ourselves with the measures in Scotland.

Victoria Atkins: I am grateful to Opposition Members for tabling this amendment. It proposes that we extend the definition used in England, Wales and Northern Ireland to bring it closer to the definition used in Scotland, which would be an extension of the current definition and would include private properties. I absolutely understand why the police and others are seeking to close what they perceive to be a gap in the law. It appears that some private properties would not be covered by the offence in clause 5.

Of course, possessing a corrosive substance in a private place is not an offence. It may well be that some of us have an assortment of cleaning products that would qualify as corrosives in our home, so the Bill does not seek to make it illegal to possess a corrosive in a dwelling. There may well be properties that are not homes and have legitimate uses for corrosive substances, some of which we have already discussed during our scrutiny of the Bill. We do not want the Bill to criminalise members of the public who are going about their daily lives or enjoying a hobby outside their home.

The amendment applies solely to the offence of possession. It is worth noting that a number of other criminal offences are available to the police, in relation to threatening with a corrosive. For example, there is the offence of threatening the use of a corrosive substance as an offensive weapon, and it would be possible to charge a person with common assault under the 1998 Act or with a public order offence. I can see that there may be some benefit in expanding the definition to cover possession in all places that are not dwellings. I would be grateful if the Committee would allow me time to consider this matter further with my officials.

Louise Haigh: I am very grateful that the Minister is willing to consider the amendment. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment made: 20, in clause 5, page 7, line 4, after "See" insert "—

(a) section (Presumptions in proceedings in Scotland for offence under section 5) for provisions about presumptions as to the content of containers in proceedings in Scotland;

(b) "*—(Victoria Atkins.)*

See the explanatory statement for Amendment 14.

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

Stephen Timms: I very much welcome the inclusion of clause 5 in the Bill. It is a very important step forward to make an offence of having a corrosive substance in a public place, in exactly the same way as having a knife in a public place is an offence. I am hopeful that the Bill will address some of the problems we have seen in areas such as mine.

I just want to ask the Minister one question. Subsection (2) makes the point that it is a defence for somebody if they can prove that

"they had good reason or lawful authority for having the corrosive substance with them in a public place".

Subsection (3) goes on to say that it is a defence if the person has the corrosive substance with them for work. Will the Minister set out what the courts should expect to regard as a good reason for carrying a corrosive substance in a public place? I think that all of us would rightly accept having it for work to be a perfectly defensible reason. I wonder whether there is a risk of getting into some difficult areas where people come up with a raft of potential excuses for carrying acid in a Lucozade bottle. Has there been any thought about what would count as a good reason or lawful authority for having this substance, to give some guidance to magistrates courts and others who might themselves quite quickly having to make these judgments when cases come before them?

Louise Haigh: May I request a couple of clarifications from the Minister? She mentioned testing kits earlier. Are they to be made available to every constable in every police force in the country? If not, to whom will they be made available to enable testing while on the beat, so to speak?

With regard to the definition in clause 5 about not burning human skin. We discussed bleach earlier; household bleach does not corrode skin, so would that not fall under the definition in clause 5, since it does not in schedule 1? Will the Minister give us some examples of products that would match the definition in clause 5 but not come under schedule 1, if that makes sense?

Victoria Atkins: I will definitely have to write to the hon. Lady on that last point. That is all about concentrations and how long the substance has to be on the skin to corrode.

In answer to the question that the right hon. Member for East Ham asked about how subsection (2) as a defence adds to subsection (3), which is the specific work defence, it is to cover situations where, for example, someone might have bought a high-strength drain unblocker and are taking it to use at home. In the example he gave of the substance being decanted into a Lucozade or drinks bottle, the act of decanting the substance into another bottle would be a strong aggravating feature, certainly if I were prosecuting and hoping to prove my case on not being able to rely on subsections (2) or (3).

On the clause as a whole, we hope that this new offence will be able to help the police in the important and difficult work they do in tackling these crimes. I heard what the hon. Member for Sheffield, Heeley said about testing kits. We will have to review the policy of supplying them on the basis of what we know. After all, as the right hon. Member for East Ham said, his borough sadly has the highest incident of acid or corrosive substance attacks, but in other parts of the country they simply do not happen. I do not want to tempt fate or to mention the word "resources," but we want to ensure that the resources are best deployed where the need is clear, as it is in some parts of London.

I hope that the Committee supports the clause, which will mean that the police can deal with someone carrying around acid for no good reason—

Louise Haigh: Will the Minister give way?

Victoria Atkins: I shall give way just before I sit down.

Louise Haigh: I am grateful to the Minister—I appreciate that she was literally about to sit down. I am a bit concerned about how that will work in practice. As a former special constable—I know I mention that often—I struggle to see how I would have implemented this offence without the testing kit being available. If I do not have such a kit and I stop and search someone, perhaps finding a water bottle, what am I meant to do? Obviously I am not going to test it on my own skin, so I would have to take the person to the police station to do forensic tests there, which seems like an unconscionable use of police resources. It is difficult to envisage how the police will implement the legislation if they do not all have the testing kit available, although I completely appreciate the Minister's point about directing the kits to where the problem is most prevalent.

Victoria Atkins: Of course, the police will be leading our knowledge on this with the College of Policing and the National Police Chiefs Council, so I do not want to commit to every single constable having a kit in their possession, in case those who know day-to-day policing in and around their force areas say, "Actually, we don't think we need it in this area." I do not want to make a promise, only for it not to happen in good faith. If I may, I will leave the Government's answer as being that we will of course consult the police on the deployment of the testing kits.

Karin Smyth (Bristol South) (Lab): May I comment on what we have just heard? I am resident in the Bristol area, and I am slightly concerned that the Minister suggested that in certain parts of the country we might not be looking further. We had an incident just outside Bristol, in the suburbs, in an area that might not normally be expected to have such an incident. We do not know the details yet, so I cannot comment further, but it highlights the fact that even in a family retail park, in essence, that sort of incident can still happen. Equally, over the summer I was out with the DVSA and the police to look at the testing of diesel in relation to trailer safety, and the logistics of how we equip officers for testing need to be thought through more. I am a little concerned that we do not seem to know how the testing will be operationalised. It would be helpful to know that before the Bill returns to the Floor of the House, so that we can be clear about how, operationally, police officers will be equipped to respond to this offence and whether they will be carrying more kit and so on.

Victoria Atkins: I absolutely understand the spirit in which the hon. Lady raises the issue. However, we have been very keen to act as quickly as we can. The Government, with all our various layers of consultations, work-rounds and so on, wanted to get this piece of legislation before the House as quickly as possible so that the police have the powers and can start to deploy them.

We have commissioned the Defence Science and Technology Laboratory, along with the NPCC lead, to develop the testing regime that will allow officers to test suspect containers for corrosive substances. A project team has been appointed and a work programme is being developed. I do not know—though I will ask the question—whether, frankly, I will be able to provide the Committee with an answer about force decisions on whether every police officer will be given a test kit. In fact, I suspect I will not be able to, because that is a matter for the chief constables. Once we have developed this, it will be for chief constables and police and crime commissioners to assess their local policing landscape and see whether this is a piece of equipment that they feel the officers need.

I am trying to leave my answer as open as possible, not because I am not trying to help the Committee, but because I want to give the police and the commissioners the space to be able to make the right decisions that are appropriate for their areas. Clearly, there will be some areas, such as certain parts of London, where this will be a really important piece of kit. There will be other parts of the countries where frankly it will not be, because there has not been any such attack.

8 pm

Louise Haigh: I think my hon. Friend the Member for Bristol South was asking whether it would be possible for this information to be made available before the Bill returns to the Floor of the House on Report. In particular, although I appreciate that its roll-out will be a decision for chief constables and police and crime commissioners, will it be made clear whether they will be provided by the Home Office or whether police forces will have to pay for them out of their budgets?

Victoria Atkins: I am conscious that the project team is being appointed and a work programme is being developed. I will use my best endeavours to bring those

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answers before the next stage of the Bill, but if I am not able to, that will be because these matters are out of my hands and the laboratory or others may need more time to provide those answers. We want to get the Bill passed as quickly as possible and we want to be able to help officers to use clause 5, where they need it, as quickly as possible.

Question put and agreed to.

Clause 5, as amended, accordingly ordered to stand part of the Bill.

Clause 6

APPROPRIATE CUSTODIAL SENTENCE FOR CONVICTION UNDER SECTION 5

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

Louise Haigh: As with the entirety of the Bill, we fully support the intention and most of the content of the clause, but we share the concerns of some of those who have given evidence to the Committee and to the Home Office about mandatory minimum sentencing for children. The clause has been lifted from an amendment to the Criminal Justice and Courts Act 2015, proposed by the former Member Nick de Bois, that introduced a two-strikes sentence, meaning that adults convicted more than once of being in possession of a blade will face a minimum six-month prison sentence and a maximum of four years, and that children aged 16 and 17 will face a minimum four-month detention and training order.

Since that legislation was introduced, there have been multiple media reports that have suggested that those sentencing arrangements are not being carried out for adults or children covered by that clause. Will the Minister provide details of how many offenders have been sentenced under those provisions and whether there has been monitoring of how many offenders do not receive a custodial sentence included in that clause, having been charged and convicted of knife possession on two separate occasions?

For example, the *Telegraph* reported in March 2016 that provisional data indicated that since the legislation was introduced, only 50% of offenders had been jailed, while another 23% had been given suspended sentences. Of those offenders, 907 were adults and 50% received a custodial sentence with an average sentence length of 6.6 months. It stated that

"The remaining 59 cases were offenders aged 16 or 17, with…46 per cent receiving an immediate custodial sentence."

Has there been any review by either the Home Office or the Ministry of Justice of whether those reforms in the 2015 Act are being implemented by the courts—and, more importantly, of whether those reforms are effective? Are they improving public protection? Are they acting as a deterrent to children and adult offenders? Are they reducing recidivism? Has there been any review of the measures? If not, would it not have been desirable to conduct such a review before bringing forward the identical measures in this Bill?

Part of the written evidence we received came from the Standing Committee for Youth Justice, which made a compelling case as the Criminal Justice and Courts Act 2015 passed through Parliament—it restates it here: that mandatory minimum sentences for children do not necessarily act as a deterrent, do not necessarily rehabilitate children who are caught with knives and do not ensure that the public are protected, as opposed to when the judiciary has full discretion.

The Children's Commissioner said in evidence:

"I want to have a system that can respond to individuals, so my instinct is not to go down the mandatory minimum sentences route but to look at individual cases."—[*Official Report, Offensive Weapons Public Bill Committee,* 19 July 2018; c. 90, Q223.]

I fully acknowledge that during that same evidence session we heard from the Victims' Commissioner, who said:

"I have to say that victims tell me they want mandatory; only then will it be effective."—[*Official Report, Offensive Weapons Public Bill Committee,* 19 July 2018; c. 91, Q223.]

Of course, it is understandable that victims and the public at large should want to see people who commit, or intend to commit, abhorrent criminal offences sent to prison for a reasonable amount of time, but the ultimate objective of custody must be to reduce offending and keep the public more secure. To achieve that, we believe that we have to look at each individual case, especially when it involves children, and the judiciary should have full discretion to respond appropriately.

The Standing Committee for Youth Justice's evidence is compelling in that regard. On the claim that custody acts as a deterrent, it contests that awareness of second sentencing among children is perceived by frontline practitioners to be low. There are many children in and around the criminal justice system who we would not expect to make rational choices, in the economic, behavioural sense of the word.

As well as that, children carry knives and weapons for numerous and complex reasons, often because of the perception that it is necessary for self-protection. Punitive measures, particularly custodial measures, are unlikely to act as a deterrent, even if the child is aware of the punishment and able to act rationally. In other words, for those children who fear for their safety and their lives, carrying a knife or corrosive substances may be seen as the rational course of action, and the threat they are facing—perceived or real—will be more significant than the threat of a custodial sentence. Research on deterrents has consistently supported that, with studies finding little or no evidence that sentence severity or the threat of custody acts as a deterrent to crime for children.

The statistics on knife-crime offences also support that evidence. Since the introduction of mandatory minimum custodial sentencing in 2015, the number of children convicted of possession or threatening offences involving bladed articles or offences weapons has risen.

Sarah Jones (Croydon Central) (Lab): I want to add to the sensible speech my hon. Friend is making. In the all-party parliamentary group on knife crime, our first meeting was with about 15 young offenders who had been in prison for knife offences. We had a conversation with them about whether prison was a deterrent or not. Some of them said, shockingly, that going to prison was a relief, because it was a break from the streets. They could keep out of trouble and be fed. They were in a secure institution. Their lived experience was so tough that being in prison was not the worst thing in the world, so I endorse everything she is saying about it not necessarily being a deterrent.

Louise Haigh: I am very grateful to my hon. Friend for that intervention. She has done amazing work chairing the all-party parliamentary group on knife crime, following the tragic experiences of her young constituents. She brings that evidence and wealth of experience to bear, to show that it is not a deterrent.

The other argument made is around public protection. It seems obvious that if an offender is removed from the streets and detained, the public are better protected. That is undeniably true for many offence types and for prolific offenders, but children in and around the criminal justice system are a relatively transient group. They are quickly replaced by others. They can sometimes—more often than not—go through phases of criminality that they grow out of, so custodial sentencing is unlikely to have a significant impact on public protection.

The reoffending rates for children leaving custody are stubbornly high. Last year, more than 68% of children who left custody reoffended within a year, yet for those who received youth community penalties the figure—still too high—was 58%, which is significantly lower. We know from all the evidence that diverting children away from the formal youth justice system is more effective at reducing offending than any punitive response. I completely accept what my hon. Friend said about custody being a relief, but the evidence also indicates that custody is itself criminogenic: it encourages crime.

I am not for a second saying that offenders under 18 should not serve custodial sentences under any circumstances. Only a couple of weeks ago, a constituent of mine was attacked in the street and stabbed five times—including once in the heart and once in the lungs—by a 15-year-old, and I have urged the Crown Prosecution Service to review the sentence that he received on the grounds of undue leniency. However, that just demonstrates that every case is different.

Clearly, in the vast majority of cases, the carrying of acid for a second time should result in a custodial sentence. However, if the youth justice service and the judge deem that other interventions would be more effective, they should have the full discretion to impose them. I do not believe that subsections (2) or (4) provide for that. Will the Minister furnish the Committee with examples of the use of the sister clause of subsection (2) in the 2015 Act? It would be very helpful for us to understand in what circumstances that

"relate to the offence, the previous offence or the offender"

judges have chosen not to implement the mandatory sentencing otherwise expected in the 2015 Act.

I was interested to hear the Minister mention that one reason why the Government decided not to go above the age of 18 for the sale of corrosive substances and knives is that 18 is the internationally recognised age of the child. She is absolutely right: the UN convention on the rights of the child states that clearly. On that basis, how can we justify delivering mandatory minimum sentences for children, when so much of the evidence suggests that it is not effective or appropriate? The UN convention on the rights of the child states that mandatory sentences remove judicial discretion and the ability of courts to ensure that the penalty best fits the circumstance of the offence. Indeed, our own Sentencing Council in the UK said that a custodial sentence should always be a measure of last resort for children and young people; it seems that the clauses directly contradict the Sentencing Council's guidance.

The Law Society also backs up those concerns. It said:

"In our view, courts should be trusted to impose the most suitable and just sentence in the unique circumstances of the offence and the offender before them. Sentencing guidelines exist to provide consistency and indicate aggravating factors, such as previous convictions. We accordingly do not support the setting of a minimum sentence for corrosive substance offences for the same reason."

I appreciate that, even if the Minister agrees with these concerns, there are difficulties, given that we are trying to mirror what is already in legislation. However, I hope the Minister will accept the concerns that have been raised. If she is wedded to going ahead with the clauses, perhaps she will provide us with the evidence base for requiring mandatory minimum sentences for children, particularly relating to reoffending, public protection and deterrence.

Victoria Atkins: The clause is being inserted in the context of corrosive substances because we want to mirror the provisions in legislation concerning knives and to send out the clear message that corrosive substances are just as much as an offensive weapon as knives.

On the first occasion when someone comes before the court, the sentencing judge will obviously have all powers and options open to her or him to sentence the person in possession of a corrosive substance or a knife; they will have that power to exercise their discretion. However, as is the case with knives, we want to send out a tough message. Someone who has already been through the court process and stood in front of a judge—who may have given them a community penalty rather than imprisonment if that was deemed appropriate—is then on notice that, if they walk around with a knife or corrosive substance again, a court will have the power to impose an immediate custodial sentence, unless subsections (2) and (4) apply. Subsections (2) and (4) are important, because they allow the court to divert from the mandatory minimum sentence, if it is

"of the opinion that there are particular circumstances".

8.15 pm

Incidentally, a strong lobby of Members in this House want it to be "first strike and you're out." A very passionate campaign is being run by the former Chair of the Home Affairs Committee, the right hon. Member for Leicester East (Keith Vaz), who had a terrible case involving his constituent. There are different views on the issue, but we believe that subsection (2) and subsection (4), which references the duty under section 44 of the Children and Young Persons Act 1933, address the circumstances that the hon. Member for Sheffield, Heeley set out, where a court believes that under those provisions it would not be right to impose a custodial sentence on the young person. We want to get the message out to those who think it is okay to carry a corrosive substance as a weapon to throw and attack that we are determined to take the strongest action against them.

Louise Haigh: I fully appreciate that there is a wide spectrum of views out there. In regard to the campaign led by the former Chair of the Home Affairs Committee, I would say that hard cases make for bad law. I made several requests in my speech for the evidence underpinning the clause and the provision in the 2015 Act. Rather

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than ceding to those siren voices that we routinely hear in this place about increasing sentence lengths—I often add my voice to them too—I would be grateful if the Minister provided us with the evidence that the provision will improve public protection and reduce reoffending.

Victoria Atkins: I am so sorry; I have got a note here. I am going to ask the Ministry of Justice and write to the Committee with a response to the questions the hon. Lady asked about figures and statistics and so on. That material is held by the Ministry of Justice, which owns this territory. I hope that assists the Committee.

Question put and agreed to.

Clause 6 accordingly ordered to stand part of the Bill.

Clause 7

OFFENCE UNDER SECTION 5: RELEVANT CONVICTIONS

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

Louise Haigh: If I may, I want to ask for one quick clarification in relation to subsection (2), which states:

"References in subsection (1) to a conviction for an offence are to a conviction for an offence regardless of when it was committed."

Will the Minister confirm that that is compliant with the Rehabilitation of Offenders Act 1974? Is subsection (2) the case even if any such conviction is now spent?

Victoria Atkins: Those who spend a great deal of time and effort in drafting the provisions of the Bill will no doubt very much have that at the forefront of their mind. It might well be that it is such a nuanced position and topic at 8.18 at night that I might have to write to the hon. Lady.

Question put and agreed to.

Clause 7 accordingly ordered to stand part of the Bill.

Clause 8

SEARCH FOR CORROSIVE SUBSTANCES: ENGLAND AND WALES

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

Louise Haigh: The Minister made a slight reference earlier—it came as a surprise to me—to the Home Office consulting on stop-and-search powers. I note the consultation that the Home Office released last month, which I believe relates to codes C and H of the Police and Criminal Evidence Act 1984. That does not cover stop-and-search, but I note the Home Secretary's announcement today that he is mulling over increased powers for officers on stop-and-search in relation to corrosive substances. I was confused by that, because clause 8 clearly provides constables with the power, under an amended PACE, to stop and search offenders who they have reasonable grounds to believe have committed, are committing or are going to commit an offence under the Bill.

Can the Minister confirm whether the Home Office is considering additional stop-and-search powers? Is it not convinced that the reformed stop-and-search powers in the Bill are sufficient to tackle the issue of corrosive substances? Does it have further plans to lower the stop-and-search threshold to levels currently associated only with section 60 of PACE, which, as far as I can see, is the only distinction that the Home Secretary could have been making in what he said today? He said that officers would have to have only suspicion, which I assume is a lesser threshold than the current threshold of reasonable grounds. I would be grateful if the Minister clarified exactly what the Home Office is taking further steps on. If it is not convinced that the Bill is sufficient, why is it not tabling amendments at this stage?

Victoria Atkins: While existing powers allow a police officer to conduct stop-and-search for a corrosive substance where it is suspected that a person is in possession of a corrosive substance to cause injury, they do not extend to the proposed new offence of possession in a public place. The proposed extension of stop-and-search seeks to address that gap to enable the police to take preventive action. We have to consult on such an extension, so it is clause 8 that we will be consulting on, but the consultation has not opened yet.

Question put and agreed to.

Clause 8 accordingly ordered to stand part of the Bill.

Clauses 9 and 10 ordered to stand part of the Bill.

Clause 11

CONSEQUENTIAL AMENDMENTS RELATING TO SECTION 5

Victoria Atkins: I beg to move amendment 21, in clause 11, page 10, line 25, at end insert—

'(1A) In section 37(1A) of the Mental Health Act 1983 (powers of courts to order hospital admission or guardianship: effect of provisions requiring imposition of appropriate custodial sentence)—

(a) omit the "or" at the end of paragraph (c), and

(b) at the end of paragraph (d) insert ", or

(e) under section 6(2) of the Offensive Weapons Act 2018 (minimum sentences in certain cases of possession of a corrosive substance),".

(1B) In section 36(2)(b) of the Criminal Justice Act 1988 (review of sentencing in case of failure to impose appropriate custodial sentence)—

(a) omit the "or" at the end of sub-paragraph (iii), and

(b) at the end of sub-paragraph (iv) insert "; or

(v) section 6(2) of the Offensive Weapons Act 2018."'

This amendment and Amendments 22, 29 and 30 provide for amendments to be made various Acts in consequence of the provisions in Clauses 6 and 7 on appropriate custodial sentences for the possession of corrosive substances.

The Chair: With this it will be convenient to discuss Government amendments 22, 29 and 30.

Victoria Atkins: These are minor and consequential amendments to clause 11, on the possession of a corrosive substance in a public place, and clause 38, which deals with the extent of the provisions in the Bill. They make amendments to various Acts in consequence of the provisions in clauses 6 and 7 on appropriate custodial

sentences for the possession of corrosive substances. The purpose of the amendments is to bring the sentencing measures in relation to the prohibition on corrosives in the Bill in line with those for existing offences involving knives.

Amendment 21 does two things. First, it will allow a court to provide for a hospital or guardianship order under section 37 of the Mental Health Act 1983 as an alternative to a minimum sentence for a second offence of possessing a corrosive, which mirrors the existing approach for knife possession. It also allows unduly lenient sentences to be referred to the Court of Appeal by the Attorney General.

Amendment 22 will prevent the court from imposing an absolute or conditional discharge under section 12 of the Powers of Criminal Courts (Sentencing) Act 2000, where an appropriate custodial sentence must be imposed for an offence under clause 5. It also allows for a reduction in sentence for a guilty plea under section 144 of the Criminal Justice Act 2003, in line with the rules in place for existing offensive weapons offences. Amendments 29 and 30 relate to the territorial extent of amendments 21 and 22, which is England, Wales and Northern Ireland, and England and Wales respectively.

Amendment 21 agreed to.

Amendment made: 22, in clause 11, page 10, line 30, at end insert—

'(3) In section 12(1A) of the Powers of Criminal Courts (Sentencing) Act 2000 (provisions preventing the making of an order for absolute or conditional discharge), after paragraph (f) insert—

"(g) section 6(2) of the Offensive Weapons Act 2018."

(4) In section 144 of the Criminal Justice Act 2003 (reduction in sentences for guilty pleas)—

(a) in subsection (3), at the end insert—

"section 6(2) of the Offensive Weapons Act 2018.", and

(b) in subsection (5), at the end insert—

"section 6(2) of the Offensive Weapons Act 2018."'—*(Victoria Atkins.)*

See the explanatory statement for Amendment 24.

Clause 11, as amended, ordered to stand part of the Bill.

Ordered, That further consideration be now adjourned. —*(Paul Maynard.)*

8.24 pm

Adjourned till Thursday 6 September at half-past Eleven o'clock.

Written evidence reported to the House

OWB 61A BASC (supplementary to oral evidence)

OWB 95A FCSA-UK (further written evidence)

OWB 100 Richard Hudson

OWB 101 Ian Backhouse

OWB 102 Samuel Moulton

OWB 103 Axminster Tool Centre Ltd

OWB 104 ACS (the Association of Convenience Stores)

OWB 105 National Federation of Coppice Workers (NCfed)

OWB 106 Springfields

OWB 107 Mr B Britton

OWB 108 Chris McColl

OWB 109 Roger Creagh-Osborne

OWB 110 Historical Breechloading Smallarms Association

OWB 111 Gareth Rowlands

OWB 112 Crown Prosecution Service (follow-up)

OWB 113 Alexander Davis

OWB 114 Freddie Witts

OWB 115 Easton Antique Arms, Schola Gladiatoria, FightCamp and the Historical European Martial Arts Coalition (HEMAC)

OWB 116 Emma Connell

OWB 117 Mr Stephen J Home

OWB 118 Matthew Forde

OWB 119 Leanne & Simon Hengle

OWB 120 Christopher J Bolton

OWB 121 Dr James R. Pritchett

OWB 122 Ian Parish

OWB 123 Mr. Gian A. Ameri

OWB 124 Keith Farrell, on behalf of the Academy of Historical Arts Ltd

OWB 125 Mike Field, Managing Director, MDS Battery Limited

OWB 126 Mark Simpkins

OWB 127 Inderjeet Singh

OWB 128 Taylors Eye Witness Ltd further submission

OWB 129 Usdaw

OWB 130 Ryan

OWB 131 Paul Hannaby, Chairman of the Association of Woodturners of Great Britain (AWGB)

OWB 132 Christopher Scott, Great Scott Antiques

OWB 133 Neil Plucknett

OWB 134 Andrew Stevens, Antique Swords UK/EU further submission

OWB 135 Michael Ebbage further submission

OWB 136 Wayne Pearce, Chairman BDRPC, NRA Club 135

OWB 137 Brian Jones

OWB 138 Bob Sweet

OWB 139 Bernard Crocombe

OWB 140 Rupert Cantello

OWB 141 Benjamin Grunwerg on behalf of I Grunwerg Ltd

OWB 142 Charles Horner

OWB 143 Mrs Angela Wentworth

OWB 144 British Woodcarvers Association

OWB 145 Battery Shop (UK) Ltd

OWB 146 Griffin Battery Centres

OWB 147 Tayna Batteries

OWB 148 Standing Committee for Youth Justice

OWB 149 Leonard Sellwood

OWB 150 Muzzle Loaders Association of Great Britain

OWB 151 Jurg Peterson

OWB 152 Mr R E FLOOK further submission

OWB 153 Steven Mould, Director and Co-founder of Flint and Flame—trading name for The Wellness Tree Ltd

OWB 154 Dr Karl Gensberg

OWB 155 Chemical Business Association (CBA)

OWB 156 CART (Coleshill Auxiliary Research Team) further submission

OWB 157 Cate Tuitt

OWB 158 Andrew J Brice

OWB 159 Lee Sheldon (private individual)

OWB 160 Malvern Community Forest

OWB 161 Motorcycle Industry Association (MCIA)

OWB 95B Fifty Calibre Shooters Association UK (Further submission)

OWB 162 Thomas Dennison

OWB 163 London Borough of Newham

OWB 164 Southern Gun Company Ltd.