

Offensive Weapons Bill

AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

After Clause 31

BARONESS WILLIAMS OF TRAFFORD

1 Insert the following new Clause –

“PART 5

KNIFE CRIME PREVENTION ORDERS

Knife crime prevention orders made otherwise than on conviction

Knife crime prevention order made otherwise than on conviction

- (1) A court may make a knife crime prevention order under this section in respect of a person aged 12 or over (the “defendant”) if the following conditions are met.
- (2) The first condition is that a person has, by complaint to the court, applied for a knife crime prevention order under this section in accordance with section (*Requirements for application for order under section (Knife crime prevention order made otherwise than on conviction)*).
- (3) The second condition is that the court is satisfied on the balance of probabilities that, on at least two occasions in the relevant period, the defendant had a bladed article with them without good reason or lawful authority –
 - (a) in a public place in England and Wales,
 - (b) on school premises, or
 - (c) on further education premises.
- (4) In subsection (3) “the relevant period” means the period of two years ending with the day on which the order is made; but an event may be taken into account for the purposes of that subsection only if it occurred after the coming into force of this section.
- (5) Without prejudice to the generality of subsection (3), a person has good reason for having a bladed article with them in a place mentioned in that subsection if the person has the article with them in that place –
 - (a) for use at work,
 - (b) for educational purposes,

- (c) for religious reasons, or
 - (d) as part of any national costume.
- (6) The third condition is that the court thinks that it is necessary to make the order –
 - (a) to protect the public in England and Wales from the risk of harm involving a bladed article,
 - (b) to protect any particular members of the public in England and Wales (including the defendant) from such risk, or
 - (c) to prevent the defendant from committing an offence involving a bladed article.
- (7) A knife crime prevention order under this section is an order which, for a purpose mentioned in subsection (6) –
 - (a) requires the defendant to do anything described in the order;
 - (b) prohibits the defendant from doing anything described in the order.
- (8) See also –
 - (a) section (*Provisions of knife crime prevention order*) (which makes further provision about the requirements and prohibitions which may be imposed by a knife crime prevention order under this section),
 - (b) section (*Requirements included in knife crime prevention order etc*) (which makes further provision about the inclusion of requirements in a knife crime prevention order under this section), and
 - (c) section (*Duration of knife crime prevention order etc*) (which makes provision about the duration of a knife crime prevention order under this section).
- (9) Section 127 of the Magistrates’ Courts Act 1980 (time limits) does not apply to a complaint under this section.
- (10) In this section –
 - “court” –
 - (a) in the case of a defendant who is under the age of 18, means a magistrates’ court which is a youth court, and
 - (b) in any other case, means a magistrates’ court which is not a youth court;
 - “further education premises” means land used solely for the purposes of –
 - (a) an institution within the further education sector (within the meaning of section 91 of the Further and Higher Education Act 1992), or
 - (b) a 16 to 19 Academy (within the meaning of section 1B of the Academies Act 2010),
 excluding any land occupied solely as a dwelling by a person employed at the institution or the 16 to 19 Academy;
 - “public place” includes any place to which, at the time in question, the public have or are permitted access, whether on payment or otherwise;

“school premises” means any land used for the purposes of a school, excluding any land occupied solely as a dwelling by a person employed at the school; and “school” has the meaning given by section 4 of the Education Act 1996.”

Member’s explanatory statement

This clause and the other amendments of the Minister to insert new clauses after clause 31 would make provision for knife crime prevention orders and interim knife crime prevention orders. Such orders would impose requirements and prohibitions on defendants for the purposes of reducing knife crime and a defendant subject to such an order would be subject to certain notification requirements. The proposal is that the new clauses should be inserted as Part 5 of the Bill and the rest of the Bill should be divided into Parts when it is re-printed.

2 Insert the following new Clause –

“Requirements for application for order under section (Knife crime prevention order made otherwise than on conviction)

- (1) An application for a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*) may be made only by –
 - (a) a relevant chief officer of police,
 - (b) the chief constable of the British Transport Police Force, or
 - (c) the chief constable of the Ministry of Defence Police.
- (2) For the purposes of subsection (1)(a) a chief officer of police is a relevant chief officer of police in relation to an application for a knife crime prevention order in respect of a defendant if –
 - (a) the defendant lives in the chief officer’s police area, or
 - (b) the chief officer believes that the defendant is in, or is intending to come to, the chief officer’s police area.
- (3) An application for a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*) made by a chief officer of police for a police area may be made only to a court acting for a local justice area that includes any part of that police area.
- (4) Subsections (5) and (6) apply if a person proposes to apply for a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*) in respect of a defendant who –
 - (a) is under the age of 18, and
 - (b) will be under that age when the application is made.
- (5) Before making the application the person must consult the youth offending team established under section 39 of the Crime and Disorder Act 1998 in whose area it appears to the person that the defendant lives.
- (6) If it appears to the person that the defendant lives in the area of two or more youth offending teams, the obligation in subsection (5) is to consult such of those teams as the person thinks appropriate.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

3 Insert the following new Clause –

“Application without notice

- (1) An application for a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*) may be made without the applicant giving notice to the defendant.
- (2) Section (*Requirements for application for order under section (Knife crime prevention order made otherwise than on conviction)*)(4) to (6) does not apply to an application made without notice.
- (3) If an application is made without notice the court must –
 - (a) adjourn the proceedings and make an interim knife crime prevention order under section (*Interim knife crime prevention order: application without notice*),
 - (b) adjourn the proceedings without making an interim knife crime prevention order under that section, or
 - (c) dismiss the application.
- (4) If the court acts under subsection (3)(a) or (b), the applicant must comply with section (*Requirements for application for order under section (Knife crime prevention order made otherwise than on conviction)*)(4) to (6) before the date of the first full hearing.
- (5) In this section “full hearing” means a hearing of which notice has been given to the applicant and the defendant in accordance with rules of court.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

4 Insert the following new Clause –

“Interim knife crime prevention orders

Interim knife crime prevention order: application without notice

- (1) Where an application for a knife crime prevention order in respect of a defendant is made without notice by virtue of section (*Application without notice*), the court may make an interim knife crime prevention order under this section in respect of the defendant if the first and second conditions are met.
- (2) The first condition is that the proceedings on the knife crime prevention order are adjourned (otherwise than at a full hearing within the meaning of section (*Application without notice*)).
- (3) The second condition is that the court thinks that it is necessary to make an interim knife crime prevention order under this section.
- (4) An interim knife crime prevention order under this section is an order which imposes on the defendant such of the prohibitions that may be imposed by a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*) as the court thinks are required in relation to the defendant.

- (5) An interim knife crime prevention order under this section may not impose on the defendant any of the requirements that may be imposed by a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*).
- (6) See also—
 - (a) section (*Provisions of knife crime prevention order*) (which makes further provision about the prohibitions which may be imposed by an interim knife crime prevention order under this section), and
 - (b) section (*Duration of knife crime prevention order etc*) (which makes provision about the duration of an interim knife crime prevention order under this section).”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

5 Insert the following new Clause—

“Interim knife crime prevention order: application not determined

- (1) This section applies if—
 - (a) an application is made to a court for a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*) in respect of a defendant,
 - (b) the defendant is notified of the application in accordance with rules of court, and
 - (c) the application is adjourned.
- (2) The court may make an interim knife crime prevention order in respect of the defendant if—
 - (a) the first or second condition is met, and
 - (b) the third condition is met.
- (3) The first condition is that, by the complaint by which the application mentioned in subsection (1) is made, the applicant also applies for an interim knife crime prevention order in respect of the defendant.
- (4) The second condition is that, by complaint to the court, the applicant for the order mentioned in subsection (1) subsequently applies for an interim knife crime prevention order in respect of the defendant.
- (5) The third condition is that the court thinks that it is just to make the order.
- (6) An interim knife crime prevention order under this section is an order which—
 - (a) imposes on the defendant such of the requirements that may be imposed by a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*) as the court thinks appropriate;
 - (b) imposes on the defendant such of the prohibitions that may be imposed by a knife crime prevention order under that section as the court thinks appropriate.

- (7) See also—
- (a) section (*Discretionary provisions of knife crime prevention order*) (which makes further provision about the requirements and prohibitions that may be imposed by an interim knife crime prevention order under this section),
 - (b) section (*Requirements included in knife crime prevention order etc*) (which makes further provision about the inclusion of requirements in an interim knife crime prevention order under this section), and
 - (c) section (*Duration of knife crime prevention order etc*) (which makes provision about the duration of an interim knife crime prevention order under this section).
- (8) Section 127 of the Magistrates’ Courts Act 1980 (time limits) does not apply to a complaint under this section.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

- 6 Insert the following new Clause—

“Knife crime prevention orders made on conviction

Knife crime prevention order made on conviction

- (1) This section applies where—
 - (a) a person aged 12 or over (the “defendant”) is convicted of an offence which was committed after the coming into force of this section, and
 - (b) the court is satisfied on the balance of probabilities that the offence is a relevant offence.
- (2) The court may make a knife crime prevention order under this section in respect of the defendant if the following conditions are met.
- (3) The first condition is that the prosecution applies for a knife crime prevention order to be made under this section.
- (4) The second condition is that the court thinks that it is necessary to make the order—
 - (a) to protect the public in England and Wales from the risk of harm involving a bladed article,
 - (b) to protect any particular members of the public in England and Wales (including the defendant) from such risk, or
 - (c) to prevent the defendant from committing an offence involving a bladed article.
- (5) A knife crime prevention order under this section is an order which, for a purpose mentioned in subsection (4)—
 - (a) requires the defendant to do anything described in the order;
 - (b) prohibits the defendant from doing anything described in the order.

- (6) See also—
- (a) section (*Discretionary provisions of knife crime prevention order*) (which makes further provision about the requirements and prohibitions that may be imposed by a knife crime prevention order under this section),
 - (b) section (*Requirements included in knife crime prevention order etc*) (which makes further provision about the inclusion of requirements in a knife crime prevention order under this section), and
 - (c) section (*Duration of knife crime prevention order etc*) (which makes provision about the duration of a knife crime prevention order under this section).
- (7) The court may make a knife crime prevention order under this section in respect of the defendant only if it is made in addition to—
- (a) a sentence imposed in respect of the offence, or
 - (b) an order discharging the offender conditionally.
- (8) For the purposes of deciding whether to make a knife crime prevention order under this section the court may consider evidence led by the prosecution and evidence led by the defendant.
- (9) It does not matter whether the evidence would have been admissible in the proceedings in which the defendant was convicted.
- (10) For the purposes of this section an offence is a relevant offence if—
- (a) the offence involved violence,
 - (b) a bladed article was used, by the defendant or any other person, in the commission of the offence, or
 - (c) the defendant or another person who committed the offence had a bladed article with them when the offence was committed.
- (11) In subsection (10) “violence” includes a threat of violence.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

7

Insert the following new Clause—

“Requirement to consult on application for order under section (Knife crime prevention order made on conviction)

- (1) This section applies if the prosecution proposes to apply for a knife crime prevention order under section (*Knife crime prevention order made on conviction*) in respect of a defendant who—
 - (a) is under the age of 18, and
 - (b) will be under that age when the application is made.
- (2) Before making the application, the prosecution must consult the youth offending team established under section 39 of the Crime and Disorder Act 1998 in whose area it appears to the prosecution that the defendant lives.
- (3) If it appears to the prosecution that the defendant lives in the area of two or more youth offending teams, the obligation in subsection (2) is to consult such of those teams as the prosecution thinks appropriate.”

Member’s explanatory statement

See the explanation of the Minister's amendment to insert the first new clause after clause 31.

8 Insert the following new Clause—

“Provisions of knife crime prevention order

Provisions of knife crime prevention order

- (1) The only requirements and prohibitions that may be imposed on a defendant by a knife crime prevention order are those which the court making the order thinks are necessary—
 - (a) to protect the public in England and Wales from the risk of harm involving a bladed article,
 - (b) to protect any particular members of the public in England and Wales (including the defendant) from such risk, or
 - (c) to prevent the defendant from committing an offence involving a bladed article.
- (2) The requirements imposed by a knife crime prevention order on a defendant may, in particular, have the effect of requiring the defendant to—
 - (a) be at a particular place between particular times on particular days;
 - (b) be at a particular place between particular times on any day;
 - (c) present themselves to a particular person at a place where they are required to be between particular times on particular days;
 - (d) participate in particular activities between particular times on particular days.
- (3) Section (*Requirements of knife crime prevention order*) makes further provision about the inclusion of requirements in a knife crime prevention order.
- (4) The prohibitions imposed by a knife crime prevention order on a defendant may, in particular, have the effect of prohibiting the defendant from—
 - (a) being in a particular place;
 - (b) being with particular persons;
 - (c) participating in particular activities;
 - (d) using particular articles or having particular articles with them;
 - (e) using the internet to facilitate or encourage crime involving bladed articles.
- (5) References in subsection (4) to a particular place or particular persons, activities or articles include a place, persons, activities or articles of a particular description.
- (6) A knife crime prevention order which imposes prohibitions on a defendant may include exceptions from those prohibitions.
- (7) Nothing in subsections (2) to (6) affects the generality of section (*Knife crime prevention order made otherwise than on conviction*)(7) or section (*Knife crime prevention order made on conviction*)(5).
- (8) The requirements or prohibitions which are imposed on the defendant by a knife crime prevention order must, so far as practicable, be such as to avoid—
 - (a) any conflict with the defendant's religious beliefs, and

- (b) any interference with the times, if any, at which the defendant normally works or attends any educational establishment.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

9 Insert the following new Clause –

“Requirements included in knife crime prevention order etc

- (1) A knife crime prevention order or interim knife crime prevention order which imposes a requirement on a defendant must specify a person who is to be responsible for supervising compliance with the requirement.
- (2) That person may be an individual or an organisation.
- (3) Before including a requirement, the court must receive evidence about its suitability and enforceability from –
 - (a) the individual to be specified under subsection (1), if an individual is to be specified;
 - (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.
- (4) Before including two or more requirements, the court must consider their compatibility with each other.
- (5) It is the duty of a person specified under subsection (1) –
 - (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (the “relevant requirements”);
 - (b) to promote the defendant’s compliance with the relevant requirements;
 - (c) if the person considers that the defendant –
 - (i) has complied with all of the relevant requirements, or
 - (ii) has failed to comply with a relevant requirement, to inform the appropriate chief officer of police.
- (6) In subsection (5)(c) “the appropriate chief officer of police” means –
 - (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that the defendant lives, or
 - (b) if it appears to that person that the defendant lives in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.
- (7) A defendant subject to a requirement in a knife crime prevention order or interim knife crime prevention order must –
 - (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
 - (b) notify that person of any change of the defendant’s home address.
- (8) The obligations mentioned in subsection (7) have effect as if they were requirements imposed on the defendant by the order.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause

31.

10 Insert the following new Clause—

“Duration of knife crime prevention order etc

- (1) A knife crime prevention order or an interim knife crime prevention order under section (*Interim knife crime prevention order: application not determined*) takes effect on the day on which it is made, subject to subsections (6) and (7).
- (2) An interim knife crime prevention order under section (*Interim knife crime prevention order: application without notice*) takes effect when it is served on the defendant, subject to subsections (6) and (7).
- (3) A knife crime prevention order must specify the period for which it has effect, which must be a fixed period of at least 6 months, and not more than 2 years, beginning with the day on which it takes effect.
- (4) An interim knife crime prevention order under section (*Interim knife crime prevention order: application without notice*) has effect until the determination of the application mentioned in subsection (1) of that section, subject to section (*Variation, renewal or discharge of knife crime prevention order etc*).
- (5) An interim knife crime prevention order under section (*Interim knife crime prevention order: application not determined*) has effect until the determination of the application mentioned in subsection (1) of that section, subject to section (*Variation, renewal or discharge of knife crime prevention order etc*).
- (6) Subsection (7) applies if a knife crime prevention order or an interim knife crime prevention order is made in respect of—
 - (a) a defendant who has been remanded in or committed to custody by an order of the court,
 - (b) a defendant on whom a custodial sentence has been imposed or who is serving or otherwise subject to such a sentence, or
 - (c) a defendant who is on licence for part of the term of a custodial sentence.
- (7) The order may provide that it does not take effect until—
 - (a) the defendant is released from custody,
 - (b) the defendant ceases to be subject to a custodial sentence, or
 - (c) the defendant ceases to be on licence.
- (8) A knife crime prevention order or an interim knife crime prevention order may specify periods for which particular prohibitions or requirements have effect.
- (9) Where a court makes a knife crime prevention order or an interim knife crime prevention order in respect of a defendant who is already subject to such an order, the earlier order ceases to have effect.
- (10) In this section “custodial sentence” means—
 - (a) a sentence of imprisonment or any other sentence or order mentioned in section 76(1) of the Powers of Criminal Courts (Sentencing) Act 2003, or
 - (b) a sentence or order which corresponds to a sentence or order within paragraph (a) and which was imposed or made under an earlier enactment.”

Member's explanatory statement

See the explanation of the Minister's amendment to insert the first new clause after clause 31.

11 Insert the following new Clause—

“Notification requirements

Notification requirements

- (1) Subsection (2) applies if—
 - (a) a knife crime prevention order is made in respect of a defendant (other than an order which replaces an interim knife crime prevention order), or
 - (b) an interim knife crime prevention order is made in respect of a defendant.
- (2) The defendant must notify the information mentioned in subsection (3) to the police within the period of 3 days beginning with the day on which the order takes effect.
- (3) That information is—
 - (a) the defendant's name on the day on which the notification is given and, where the defendant uses one or more other names on that day, each of those names, and
 - (b) the defendant's home address on that day.
- (4) Subsection (5) applies to a defendant who is subject to—
 - (a) a knife crime prevention order, or
 - (b) an interim knife crime prevention order.
- (5) The defendant must notify the information mentioned in subsection (6) to the police within the period of 3 days beginning with the day on which the defendant—
 - (a) uses a name which has not previously been notified to the police under subsection (2) or this paragraph,
 - (b) changes their home address, or
 - (c) decides to live for a period of one month or more at any premises the address of which has not been notified to the police under subsection (2) or this paragraph.
- (6) That information is—
 - (a) in a case within subsection (5)(a), the name which has not previously been notified;
 - (b) in a case within subsection (5)(b), the new home address;
 - (c) in a case within subsection (5)(c), the address at which the defendant has decided to live.
- (7) A defendant gives a notification under subsection (2) or (5) by—
 - (a) attending at a police station in a police area in which the defendant lives, and
 - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.”

Member's explanatory statement

See the explanation of the Minister's amendment to insert the first new clause after clause 31.

12 Insert the following new Clause –

“Offences relating to notification

- (1) A person commits an offence if the person –
 - (a) fails, without reasonable excuse, to comply with section (Notification requirements)(2) or (5), or
 - (b) notifies to the police, in purported compliance with section (Notification requirements)(2) or (5), any information which the person knows to be false.
- (2) A person guilty of an offence under subsection (1) is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine or to both.
- (3) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (maximum sentence that may be imposed on summary conviction of offence triable either way) the reference in section (2)(a) to 12 months is to be read as a reference to 6 months.
- (4) A person commits an offence under subsection (1)(a) on the day on which the person first fails, without reasonable excuse, to comply with section (Notification requirements)(2) or (5).
- (5) The person continues to commit the offence throughout any period during which the failure continues.
- (6) But the person may not be prosecuted more than once in respect of the same offence.
- (7) Proceedings for an offence under this section may be commenced in any court having jurisdiction in any place where the person charged with the offence lives or is found.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

13 Insert the following new Clause –

“Supplementary provisions

Review of knife crime prevention order

- (1) This section applies where a court has made a knife crime prevention order in respect of a defendant.
- (2) The court may order the applicant and the defendant to attend one or more review hearings on a specified date or dates.
- (3) Subsection (4) applies if any requirement or prohibition imposed by the knife crime prevention order is to have effect after the end of the period of 1 year beginning with the day on which the order takes effect.
- (4) The court must order the applicant and the defendant to attend a review hearing on a specified date within the last 4 weeks of the 1 year period (whether or not the court orders them to attend any other review hearings).

- (5) A review hearing under this section is a hearing held for the purpose of considering whether the knife crime prevention order should be varied or discharged.
- (6) Subsections (7) to (9) of section (*Variation, renewal or discharge of knife crime prevention order etc*) apply to the variation of a knife crime prevention order under this section as they apply to the variation of an order under that section.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

14 Insert the following new Clause –

“Variation, renewal or discharge of knife crime prevention order etc

- “(1) A person within subsection (2) may apply to the appropriate court for –
 - (a) an order varying, renewing or discharging a knife crime prevention order, or
 - (b) an order varying or discharging an interim knife crime prevention order.
- (2) Those persons are –
 - (a) the defendant;
 - (b) the chief officer of police for a police area in which the defendant lives;
 - (c) a chief officer of police who believes that the defendant is in, or is intending to come to, the chief officer’s police area;
 - (d) if the application for the order was made by a chief officer of police other than one within paragraph (b) or (c), the chief officer by whom the application was made;
 - (e) if the order was made on an application by the chief constable of the British Transport Police Force, that chief constable;
 - (f) if the order was made on an application by the chief constable of the Ministry of Defence Police, that chief constable.
- (3) An application under subsection (1) may be made –
 - (a) where the appropriate court is the Crown Court, in accordance with rules of court;
 - (b) in any other case, by complaint.
- (4) Before a person other than the defendant makes an application under subsection (1), the person must notify the persons consulted under section (*Requirements for application for order under section (Knife crime prevention order made otherwise than on conviction)*)(5) or section (*Requirement to consult on application for order under section (Knife crime prevention order made on conviction)*)(2).
- (5) Before making a decision on an application under subsection (1), the court must hear –
 - (a) the person making the application, and
 - (b) any other person within subsection (2) who wishes to be heard.
- (6) Subject as follows, on an application under subsection (1) –
 - (a) the court may make such order varying or discharging the order as it thinks appropriate;

- (b) in the case of an application under paragraph (a) of that subsection, the court may make such order renewing the order as it thinks appropriate.
- (7) The court may renew a knife crime prevention order, or vary such an order or an interim knife crime prevention order so as to impose an additional prohibition or requirement on a defendant, only if it is satisfied that it is necessary to do so –
 - (a) to protect the public in England and Wales from the risk of harm involving a bladed article,
 - (b) to protect any particular members of the public in England and Wales (including the defendant) from such risk, or
 - (c) to prevent the defendant from committing an offence involving a bladed article.
- (8) The provisions mentioned in subsection (9) have effect in relation to the renewal of a knife crime prevention order, or the variation of a knife crime prevention order or interim knife prevention order so as to impose a new requirement or prohibition, as they have effect in relation to the making of such an order.
- (9) Those provisions are –
 - (a) section (*Provisions of knife crime prevention order*) (provisions of knife crime prevention order),
 - (b) section (*Requirements included in knife crime prevention order etc*) (requirements of knife crime prevention order), and
 - (c) section (*Duration of knife crime prevention order etc*) (duration of knife crime prevention order).
- (10) The court may not discharge a knife crime prevention order before the end of the period of 6 months beginning with the day on which the order takes effect without the consent of the defendant and –
 - (a) where the application under this section is made by a chief officer of police, that chief officer,
 - (b) if paragraph (a) does not apply but the application for the order was made by a chief officer of police, that chief officer and (if different) each chief officer of police for an area in which the defendant lives or
 - (c) in any other case, each chief officer of police for an area in which the defendant lives.
- (11) In this section the “appropriate court” means –
 - (a) where the Crown Court or the Court of Appeal made the knife crime prevention order or the interim knife crime prevention order, the Crown Court;
 - (b) where an adult magistrates’ court made the order, that court, an adult magistrates’ court for the area in which the defendant lives or, where the application is made by a chief officer of police, any adult magistrates’ court acting for a local justice area that includes any part of the chief officer’s police area;
 - (c) where a youth court made the order and the defendant is under the age of 18, that court, a youth court for the area in which the defendant lives or, where the application is made by a chief officer of police, any youth court acting for a local justice area that includes any part of the chief officer’s police area;

- (d) where a youth court made the order and the defendant is aged 18 or over, an adult magistrates' court for the area in which the defendant lives or, where the application is made by a chief officer of police, any adult magistrates' court acting for a local justice area that includes any part of the chief officer's police area.
- (12) In subsection (11) "adult magistrates' court" means a magistrates' court that is not a youth court."

Member's explanatory statement

See the explanation of the Minister's amendment to insert the first new clause after clause 31.

15 Insert the following new Clause—

"Appeal against knife crime prevention order etc

- (1) A defendant may appeal to the Crown Court against—
- (a) the making of a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*), or
 - (b) the making of an interim knife crime prevention order.
- (2) A person who applied for a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*) or an interim knife crime prevention order may appeal to the Crown Court against a refusal to make the order.
- (3) A defendant may appeal against the making of a knife crime prevention order under section (*Knife crime prevention order made on conviction*) as if the order were a sentence passed on the defendant for the offence.
- (4) Where an application is made for an order under section (*Variation, renewal or discharge of knife crime prevention order etc*)—
- (a) the person who made the application may appeal against a refusal to make an order under that section;
 - (b) the defendant may appeal against the making of an order under that section which was made on the application of a person other than the defendant;
 - (c) a person within subsection (2) of that section other than the defendant may appeal against the making of an order under that section which was made on the application of the defendant.
- (5) An appeal under subsection (4)—
- (a) is to be made to the Court of Appeal if the application for the order under section (*Variation, renewal or discharge of knife crime prevention order*) was made to the Crown Court;
 - (b) is to be made to the Crown Court in any other case.
- (6) On an appeal under subsection (1) or (2), or an appeal under subsection (4) to which subsection (5)(b) applies, the Crown Court may make—
- (a) such orders as may be necessary to give effect to its determination of the appeal, and
 - (b) such incidental and consequential orders as appear to it to be appropriate."

Member's explanatory statement

See the explanation of the Minister's amendment to insert the first new clause after clause 31.

16 Insert the following new Clause –

“Offence of breaching knife crime prevention order etc

- (1) A person commits an offence if, without reasonable excuse, the person breaches a knife crime prevention order or an interim knife crime prevention order.
- (2) A person guilty of an offence under subsection (1) is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, to a fine or to both.
- (3) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (maximum sentence that may be imposed on summary conviction of offence triable either way) the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (4) Where a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

17 Insert the following new Clause –

“Guidance

- (1) The Secretary of State may from time to time issue guidance relating to the exercise by a relevant person of functions in relation to knife crime prevention orders and interim knife crime prevention orders.
- (2) In this section “relevant person” means a person who is capable of making an application for a knife crime prevention order or an interim knife crime prevention order.
- (3) A relevant person must have regard to any guidance issued under subsection (1) when exercising a function to which the guidance relates.
- (4) The Secretary of State must arrange for any guidance issued under this section to be published in such manner as the Secretary of State thinks appropriate.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

18 Insert the following new Clause –

“Consequential amendments

- (1) In section 3(2) of the Prosecution of Offences Act 1985 (functions of the Director of Public Prosecutions) after paragraph (ff) insert –
 - “(fg) to have the conduct of applications for orders under section (Knife crime prevention order made on conviction) of the Offensive Weapons Act 2019 (knife crime prevention orders made conviction);”.

- (2) In the Criminal Legal Aid (General) Regulations 2013 (SI 2013/9), in regulation 9 (criminal proceedings) after paragraph (ub) insert—
- “(uc) proceedings under Part 5 of the Offensive Weapons Act 2019 in relation to a knife crime prevention order or an interim knife crime prevention order;”.
- (3) The amendment made by subsection (2) is without prejudice to any power to make an order or regulations amending or revoking the regulations mentioned in that subsection.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

19 Insert the following new Clause—

“Interpretation of Part

- (1) In this Part—
- “applicant” means an applicant for a knife crime prevention order;
- “bladed article” means an article to which section 139 of the Criminal Justice Act 1988 applies;
- “defendant”—
- (a) in relation to a knife crime prevention order under section (*Knife crime prevention order made otherwise than on conviction*), has the meaning given by subsection (1) of that section;
- (b) in relation to a knife crime prevention order under section (*Knife crime prevention order made on conviction*), has the meaning given by subsection (1) of that section;
- “harm” includes physical and psychological harm;
- “home address”, in relation to a defendant, means—
- (a) the address of the defendant’s sole or main residence, or
- (b) if the defendant has no such residence, the address or location of a place where the defendant can regularly be found and, if there is more than one such place, such one of those places as the defendant may select.
- (2) A reference in this Part to a knife crime prevention order which is not expressed as a reference to an order under section (*Knife crime prevention order made otherwise than on conviction*) or (*Knife crime prevention order made on conviction*) is a reference to an order under either of those sections.
- (3) A reference in this Part to an interim knife crime prevention order which is not expressed as a reference to an order under section (*Interim knife crime prevention order: application without notice*) or (*Interim knife crime prevention order: application not determined*) is a reference to an order under either of those sections.”

Member’s explanatory statement

See the explanation of the Minister’s amendment to insert the first new clause after clause 31.

Clause 39

BARONESS WILLIAMS OF TRAFFORD

- 20 Page 37, line 42, leave out from first “in” to third “in” and insert “this Part as it applies”

Member’s explanatory statement

This amendment and the Minister’s amendment at page 38, line 1 would convert references to certain clauses of the Bill relating to firearms into references to a Part of the Bill. This is as a result of the proposal to divide the Bill into Parts when it is reprinted.

Clause 39

BARONESS WILLIAMS OF TRAFFORD

- 21 Page 38, line 1, leave out from first “in” to third “in” and insert “this Part as it applies”

Member’s explanatory statement

See the explanation of the Minister’s amendment at page 37, line 42.

Clause 42

BARONESS WILLIAMS OF TRAFFORD

- 22 Page 40, line 17, leave out “sections 28 to 31” and insert “Part 4”

Member’s explanatory statement

This amendment would convert references to the clauses of the Bill relating to threatening with an offensive weapon into a reference to Part 4 of the Bill. This is as a result of the proposal to divide the Bill into Parts when it is reprinted.

Clause 42

BARONESS WILLIAMS OF TRAFFORD

- 23 Page 40, line 17, at end insert –
“(ca) Part 5;”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment to insert a series of new clauses after clause 31, which is proposed should form Part 5 of the Bill.