



# Police, Crime, Sentencing and Courts Act 2022

Owen Greenhall, Garden Court Chambers

June 2022



GARDEN COURT CHAMBERS



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## History of s12 and 14

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### *Public Order Act 1936*

- Response to fascist marches
- Powers to impose conditions on, and ban, processions and marches
- No restrictions on assemblies



## History of s12 and 14

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### *Public Order Act 1986*

-White paper referred to:

- i. National Front rallies
- ii. Pickets at Grunwick's
- iii. Miners' strike
- iv. Brixton riot
- v. Disorder at football matches
- vi. Stop the City demonstrations 1983-4



## History of s12 and 14

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### *Public Order Act 1986*

- Extended powers to static assemblies
- Only impose limited range of conditions
- No power to ban assemblies

“The Government has been very concerned not to extend statutory controls over static demonstrations any further than strictly necessary. ...”



# Police, Crime, Sentencing and Courts Act 2022

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## *Hansard: Home Sec*

“The right to protest peacefully is a cornerstone of our democracy and one that this Government will always defend, but there is, of course, a balance to be struck between the rights of the protester and the rights of individuals to go about their daily lives. The current legislation the police use to manage protests, the Public Order Act 1986, was enacted over 30 years ago...



# Police, Crime, Sentencing and Courts Act 2022

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## Hansard

“...In recent years, we have seen a significant change of protest tactics, with protesters exploiting gaps in the law which have led to disproportionate amounts of disruption. Last year, we saw XR blocking the passage of an ambulance and emergency calls, gluing themselves to a train during rush hour, blocking airport runways, preventing hundreds of hard-working people from going to work. Finally, I would like to gently remind the House that on one day last year many people across the country were prevented from reading their morning newspapers due to the tactics of some groups...”



## *Police, Crime, Sentencing and Courts Act 2022*

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### Outline of changes to s12-14 POA 1986:

- i. New definition of serious disruption
- ii. Noisy protests
- iii. Ministerial amendment
- iv. Any conditions on assemblies
- v. One-person protests
- vi. Knowledge of conditions





## *Old law – Section 14 POA 1986*

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- (1) If the senior police officer, having regard to the time or place at which and the circumstances in which any public assembly is being held or is intended to be held, reasonably believes that—
- (a) it may result in serious public disorder, serious damage to property or serious disruption to the life of the community, or
  - (b) the purpose of the persons organising it is the intimidation of others with a view to compelling them not to do an act they have a right to do, or to do an act they have a right not to do,



## *Old law – Section 14 POA 1986*

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he may give directions imposing on the persons organising or taking part in the assembly such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent such disorder, damage, disruption or intimidation.



## *New law – Section 12 and 14 POA 1986 – Serious disruption*

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Now includes (S12/14(2A))

(a) it may result in a significant delay to the delivery of a time- sensitive product to consumers of that product, or

"time-sensitive product" means a product whose value or use to its consumers may be significantly reduced by a delay in the supply of the product to them.



## *New law – Section 12 and 14 POA 1986 – Serious Disruption*

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Now includes (S12/14(2A))

- (b) it may result in a prolonged disruption of access to any essential goods or any essential service, including, in particular, access to—
- (i) the supply of money, food, water, energy or fuel,
  - (ii) a system of communication,
  - (iii) a place of worship,
  - (iv) a transport facility,
  - (v) an educational institution, or
  - (vi) a service relating to health.



## *New law – Section 12 and 14 POA 1986 - Noise*

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### Precondition for s12/14 now includes:

(aa) the noise generated by persons taking part in the assembly may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the assembly

Includes: where it may result in persons connected with the organisation not being reasonably able, for a prolonged period of time, to carry on in that vicinity the activities or any one of them (s14(2C)).



## *New law – Section 12 and 14 POA 1986 - Noise*

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### Precondition for s12/14 now includes:

- (ab) in the case of an assembly in England and Wales—
  - (i) the noise generated by persons taking part in the assembly may have a relevant impact on persons in the vicinity of the assembly, and
  - (ii) that impact may be significant



## *New law – Section 12 and 14 POA 1986 - Noise*

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### Precondition for s12/14 now includes:

(S2D) Noise generated may have a relevant impact on persons in the vicinity of the assembly if:

- (a) it may result in the intimidation or harassment of persons of reasonable firmness with the characteristics of persons likely to be in the vicinity, or
- (b) it may cause such persons to suffer alarm or distress.

(S2E) Assessing ‘significance of impact’ consider the likely:

- a) number of persons affected, (b) duration, and (c) intensity of impact.



## *New law – Section 12 and 14 POA 1986 – Ministerial Amendment*

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### Ministers may amend:

- 1) Definition of ‘Serious Disruption to life of community’
- 2) Definition of ‘Serious Disruption to activities of an organisation’



## *New law – Section 14 POA 1986 - Conditions*

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### Old

he may give directions imposing on the persons organising or taking part in the assembly such conditions as to the place at which the assembly may be (or continue to be) held, its maximum duration, or the maximum number of persons who may constitute it, as appear to him necessary to prevent such disorder, damage, disruption or intimidation.

### New

(1A) The senior police officer may give directions imposing on the persons organising or taking part in the assembly... such conditions as appear to the officer necessary to prevent the disorder, damage, disruption, impact or intimidation mentioned in subsection (1);



## *New law – Section 14z POA 1986 – One-Person Protests*

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### S14ZA - Can now impose conditions on one-person protests:

-If senior police officer, having regard to time/place/circumstances in which one-person protest is carried on/intended, reasonably believes—

(a) noise generated by the person carrying on the protest may result in serious disruption to the activities of an organisation in the vicinity

or

(b) that the noise generated may have a significant relevant impact on persons in vicinity



## *New law – Section 14z POA 1986 – One-Person Protests*

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### S14ZA - Can now impose conditions on one-person protests:

-Then may give directions imposing on the person organising or carrying on the protest such conditions as appear to the officer necessary to prevent such disruption or impact.

-Conditions include route of moving protest

-prohibition on entering any public place whilst protesting

-max sentence: 6 months' imprisonment.



## *New law – Section 12 and 14 POA 1986 - Knowledge*

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### S12(5)/14(5) Offence of failing to comply with a condition

#### Old:

- requires knowingly failing to comply
- defence to prove that failure ‘arose from circumstances beyond D’s control’
- max sentence: fine level 3 (organisers – 3 months prison)

#### New:

- offence if fail to comply and ‘know or ought to know’ condition has been imposed
- retain defence if prove failure ‘arose from circumstances beyond D’s control’
- max sentence: fine level 4 (organisers/one-person protest – 6m prison)



# *Public Nuisance*

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-Statutory offence:

-An act or omission that:

i) Creates a risk/causes serious harm to public

ii) Obstructs public in exercise or enjoyment of right

-Mental element: Intent or recklessness

-‘serious harm’ means:

(a) death/personal injury,

(b) loss of/damage to property

(c) Serious distress, serious annoyance, serious inconvenience or serious loss of amenity

-Max sentence: 10 years

-Defence of reasonable excuse (Art 10/11?)



# Thank you

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