

# **Anonymity (Arrested Persons) Bill**

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**B I L L**

TO

Prohibit the publication of certain information regarding persons who have been arrested until they have been charged with an offence; to set out the circumstances where such information can be published without committing an offence; and for connected purposes.

**B**E IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**1 Reporting restrictions between arrest and charge**

- (1) Where a person is arrested for an offence then neither their name nor address, nor any still or moving picture, of that person shall—
- (a) be published in England and Wales in any publication available to the public in written, electronic or any other form; or 5
  - (b) be included in a relevant programme for reception in England and Wales,
- if it is likely to lead members of the public to identify that person as the person by whom the offence is suspected or alleged to have been committed.
- (2) The restrictions imposed by subsection (1) shall continue to apply unless and until the person is charged with the offence for which they were arrested. 10

**2 Exception to reporting restrictions**

- (1) A judge of the Crown Court may direct that section 1 shall not apply to a person who has been arrested where satisfied that such a direction is—
- (a) required to comply with the Human Rights Act 1998; 15
  - (b) in the interests of justice; or
  - (c) otherwise in the public interest.
- (2) Without prejudice to the generality of subsection (1), it shall be in the interests of justice to make a direction where—
- (a) it may lead to additional complainants coming forward; 20
  - (b) it may lead to information that assists the investigation of the offence;

- (c) it may lead to information that assists the arrested person; or
- (d) the conduct of the arrested person's defence at trial is likely to be substantially prejudiced if the direction is not given.
- (3) A direction may be made or reviewed –
- (a) on the application of the person who has been arrested; 5
- (b) on the application of a Chief Constable or prosecuting authority;
- (c) on the application of any other person who is considered by a judge of the Crown Court to have a sufficient interest; or
- (d) by the Court of its own motion.
- (4) A direction shall be made under subsection (1) to the extent necessary to give effect to a joint application that is made under this section by – 10
- (a) the arrested person; and
- (b) a Chief Constable or prosecuting authority.
- (5) Any direction under this section may either disapply section 1 in its entirety or in relation to specified matters and time periods only. 15
- 3 Offences**
- (1) If any matter is published or included in a relevant programme in contravention of section 1, the following persons shall be guilty of a summary offence –
- (a) in the case of publication in a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical; 20
- (b) in the case of publication in any other form, the person publishing the matter; and
- (c) in the case of any matter included in a relevant programme –
- (i) any body corporate engaged in providing the service in which the programme is included; and 25
- (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper.
- (2) Proceedings for an offence under this section shall not be instituted except by or with the consent of – 30
- (a) the Director of Public Prosecutions,
- (b) the Director of the Serious Fraud Office, or
- (c) the Director of Revenue and Customs Prosecutions.
- 4 Defence: no knowledge of prohibited matter**
- A defence is available to a person charged under section 3 where at the time of the alleged offence they were not aware, and neither suspected nor had reason to suspect, that the publication or programme in question was of, or included, the prohibited matter in question. 35
- 5 Penalties**
- (1) An individual guilty of an offence under section 3 is liable on conviction to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both. 40

- (2) Any other person guilty of an offence under section 3 is liable on conviction to a fine not exceeding the statutory maximum.

## 6 Offences by bodies corporate

- (1) This section applies if an offence under this Act is committed by a body corporate. 5
- (2) If the offence is proved to have been committed with the consent or connivance of—
- (a) a senior officer of the body corporate, or
  - (b) a person purporting to act in such a capacity,
- the senior officer or person (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly. 10
- (3) In this section—
- “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,
  - “senior officer”, in relation to a body corporate, means a director, manager, secretary or other similar officer of the body corporate. 15

## 7 Interpretation etc

- (1) In this Act—
- “offence” means any summary or indictable offence against the laws of England and Wales; 20
  - “picture” includes a likeness however produced;
  - “prosecuting authority” means—
    - (a) the Director of Public Prosecutions,
    - (b) the Director of the Serious Fraud Office,
    - (c) the Director of Revenue and Customs Prosecutions, and 25
    - (d) any other person or body that is designated for the purposes of this Act by an order made by the Secretary of State.
  - “publication” includes a film, a soundtrack and any record in permanent form; it also includes any publication on an internet site based in England and Wales, but does not include an indictment or other document prepared for use in particular legal proceedings; 30
  - “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990.
- (2) Subject to subsection (3), a person is charged with an offence for the purposes of this Act if— 35
- (a) a custody sergeant charges the person in accordance with section 37 of the Police and Criminal Evidence Act 1984;
  - (b) an information is laid alleging that the person has committed the offence in accordance with section 1 of the Magistrates’ Courts Act 1980; 40
  - (c) a charge is brought against the person by a prosecuting authority;
  - (d) the person appears before a court charged with the offence;
  - (e) a court before which the person is appearing commits the person for trial on a new charge alleging the offence, or

(f) a bill of indictment charging the person with the offence is preferred before a court in which he may lawfully be indicted for the offence.

(3) The Secretary of State may by order make provision to specify additional circumstances in which a person is to be treated as being charged with an offence for the purposes of this Act. 5

(4) Nothing in this Act affects any prohibition or restriction imposed by virtue of any other enactment upon a publication or matter included in a relevant programme.

## **8 Orders**

(1) A power to make an order under this Act is exercisable by statutory instrument. 10

(2) A statutory instrument under sections 7(1) or 7(3) of this Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

## **9 Short title, commencement and extent**

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(1) This Act may be cited as the Anonymity (Arrested Persons) Act 2011.

(2) This Act comes into force on such day as the Secretary of State may by order made by statutory instrument appoint.

(3) This Act extends to England and Wales only.

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## B I L L

To prohibit the publication of certain information regarding persons who have been arrested until they have been charged with an offence; to set out the circumstances where such information can be published without committing an offence; and for connected purposes.

*Presented by Anna Soubry.*

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to be Printed, 30 June 2010.*

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