



Sessional orders

Standard Note: SN/PC/05593
Last updated: 12 July 2013
Author: Oonagh Gay
Section: Parliament and Constitution Centre

This note provides a brief outline of the changes to Sessional Orders since 2002-03 when the Procedure Committee was asked to look at this subject.

Traditionally, Sessional Orders were agreed by the House at the beginning of each Session immediately before the debate on the Queen's Speech. The Orders had little or no direct legal effect.

Sessional Orders were moved for the last time in the Commons in May 2005 following the passing of the *Serious Organised Crime and Police Act (SOCPA) 2005*, which restricted the right to demonstrate in the area around Parliament. These provisions were repealed in Part 3 of the *Police Reform and Social Responsibility Act 2011*.

The [Joint Committee on Parliamentary Privilege](#) report of July 2013 has recommended that the Sessional Orders for the Commons be restored, since they served as a reminder that Members of both Houses must have free access to Parliament when in session.

Contents

1	Sessional orders before 2005	2
2	Sessional Orders from 2005 onwards	3
3	<i>Constitutional Renewal Draft Bill</i>	5
4	The <i>Constitutional Reform and Governance Bill 2009-10</i>	6
5	<i>Police Reform and Social Responsibility Act 2011</i>	6
6	Joint Committee on Parliamentary Privilege 2013-14	6

This information is provided to Members of Parliament in support of their parliamentary duties and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as being up to date; the law or policies may have changed since it was last updated; and it should not be relied upon as legal or professional advice or as a substitute for it. A suitably qualified professional should be consulted if specific advice or information is required.

This information is provided subject to [our general terms and conditions](#) which are available online or may be provided on request in hard copy. Authors are available to discuss the content of this briefing with Members and their staff, but not with the general public.

1 Sessional orders before 2005

Sessional Orders appear to date from the end of the seventeenth century.¹ The House would agree to three Orders and three Resolutions. These related to elections, witnesses, the Metropolitan Police, and the Votes and Proceedings. However, the Sessional Orders are no longer moved at the beginning of each session. The last time they were moved was on 17 May 2005. This change followed an inquiry by the Procedure Committee. In its third Report of Session 2002-03, the Committee explained:

During a recent discussion with this Committee, the Speaker encouraged us to look at these Sessional Orders and Resolutions, to consider whether they should be abolished or updated, and, in particular, whether the Order requiring the Metropolitan Police Commissioner to prevent obstructions hindering access to the House by Members was appropriate, in the light of recent experience with demonstrations around the Houses of Parliament. The previous Clerk of the House, Sir William McKay, had also provided us with memoranda and suggested such an inquiry.²

The Speaker had encouraged the Committee to consider whether the Sessional Orders and Resolutions should be abolished or updated, and, in particular, whether the Order requiring the Metropolitan Police Commissioner to prevent obstructions hindering access to the House by Members was appropriate.

The Committee recommended that:

- (a) the passing of the Sessional Orders and Resolutions relating to elections, witnesses and the Votes and Proceedings be discontinued;
- (b) the House should decide, by agreeing to this Report, that all Members who are returned for two or more places in any part of the United Kingdom should choose for which of the places they will serve, within one week after it appears that there is no question about their election for that place.

The survival of the Sessional Orders and Resolutions for so long may reflect a desire by the House to begin the Session with a reminder of matters which it considers important. As we have explained, the Sessional Orders and Resolutions are no longer appropriate for this purpose, but we recommend that they should be replaced by a statement of the duties and responsibilities of Members, possibly the seven principles of public life as set out in the Code of Conduct together with historic claims to privilege including those of freedom of speech and freedom from legal challenge embodied in the Bill of Rights 1689; however, we believe that the details might be left to the Speaker's discretion, perhaps after taking such soundings as seemed appropriate.³

The Committee also made recommendations on the Sessional Order relating to the Metropolitan Police and access to Parliament. They recommended that the Government should introduce appropriate legislation to prohibit long-term demonstrations. However, until such legislation came into force, the Committee recommended that it would be sensible to continue with a Sessional Order, to reflect the House's concerns and to act as a marker that "it expects Members' access to Parliament to be maintained as far as the existing law allows."

¹ *An Encyclopaedia of Parliament* (4th ed) Norman Wilding and Philip Laundy p690

² Procedure Committee, *Sessional Orders and Resolutions*, 19 November 2003, HC 855 2002-03

³ Procedure Committee, *Sessional Orders and Resolutions*, 19 November 2003, HC855 2002-03

The Government responded favourably to the Committee's recommendations.⁴ The House agreed to the Procedure Committee's proposals on 3 November 2004. Some concern was expressed as to the need to consult Members on the wording to be used in the Speaker's statement which would replace the Orders.⁵

2 Sessional Orders from 2005 onwards

The main proposals on disruptions in the locality of Parliament were dealt with in sections 132-138 of the *Serious Organised Crime and Police Act (SOCPA) 2005* which came into force on 1 August 2005.

The Sessional Orders had been passed for the last time at the start of the 2005 Parliament:

Mr. Speaker: Before the Clerk gives the customary First Reading to the Outlawries Bill, I shall put to the House the Sessional Order to the Metropolitan police. Before the Dissolution, legislation was enacted on the control of demonstrations and other activities in the environs of Parliament, including Parliament square, but I understand that this will not be brought into effect until later this year. I must express my personal hope that the Government will indeed put the new legislation into effect as soon as possible. That will make it unnecessary for the House to pass the Sessional Order again in future.

SESSIONAL ORDERS

Metropolitan Police

Ordered,

That the Commissioner of the Police of the Metropolis do take care that the passages through the streets leading to this House be kept free and open and that no obstruction be permitted to hinder the passage of Members to and from this House during the sitting of Parliament, or to hinder Members by any means in the pursuit of their Parliamentary duties in the Parliamentary Estate; and that the Serjeant at Arms attending this House do communicate this Order to the Commissioner.⁶

In place of the Sessional Orders the Speaker made a statement on the duties of Members. The first Speaker's statement of this type was made at the start of the 2006-07 session:

Mr. Speaker: As the House will recall, it was agreed that the Speaker should make a brief statement at the beginning of each Session about the duties and responsibilities of Members.

Our privileges allow us to conduct our debate without fear of outside interference. [An Hon. Member: "Tell the Whips!"] We cannot go that far. In particular, we enjoy freedom of speech, in both Committee proceedings and debates on the Floor of the House, and it is a privilege that comes with our membership. It is up to each of us to ensure that, as individuals and collectively, we do not misuse the rights that we have been given. They should be exercised in the public interest. We must ensure that we follow the letter and spirit of the code of conduct and related rules that we have approved to regulate our business.

⁴ Procedure Committee, *Sessional Orders and Resolutions: The Government's Response to the Committee's Third Report of Session 2002-03*, 20 March 2004, HC 613 2003-04

⁵ HC Deb 3 November 2004 c370-423. (See comments by Andrew Mackinlay in the debate.)

⁶ HC Deb 17 May 2005 c28

Each Member is here to represent the views of his or her constituents and to participate in the process of democracy. We should ensure that every Member is heard with the respect to which we are all entitled, regardless of the views that are being expressed.

Every member of the public has the right to expect that his or her Member of Parliament will behave with civility, in the best traditions of fairness, with the highest level of probity and with integrity.

I turn now to security, not only for Members of Parliament, but also for our staff and for the staff of this House, who work so hard on our behalf to ensure that the House of Commons continues its tradition of welcoming the maximum number of visitors, both from home and abroad. I expect every Member of this House to co-operate fully with those officials who are responsible for our security, which ensures that our democratic process is not disrupted.⁷

In the 2007-08 session a very similar statement was made by the Speaker, as follows:

Mr. Speaker: As the House will recall, it was agreed that the Speaker should make a brief statement at the beginning of each Session about the duties and responsibilities of hon. Members.

Our ancient privileges allow us to conduct our debate without fear of outside interference. In particular, we enjoy freedom of speech, in both Committee proceedings and debates on the Floor of the House. Parliamentary privilege is essential for proper democratic debate and scrutiny, and it should be exercised responsibly. It is up to each one of us to ensure, as individuals and collectively, that we do not misuse the rights that we have. They should be exercised in the public interest. We must ensure that we follow the letter and spirit of the code of conduct and related rules which we have approved to regulate our business.

Each Member is here to represent the views of his or her constituents and to participate in the process of democracy. We should ensure that every Member is heard courteously, regardless of the view that he or she is expressing.

Every member of the public has a right to expect that his or her Member of Parliament will behave with civility, in the best traditions of fairness, with the highest level of probity and with integrity. [Hon. Members: "Hear, hear."] I am glad that you are listening.

I turn now to security, not only for Members of Parliament but for the staff of the House who work so hard on our behalf, and for those who are pass-holders. I expect every Member of the House to co-operate fully with those officials who are responsible for security, which ensures that our democratic process is not disturbed and visitors to Parliament can continually be made welcome.

As Members, we are aware that the boundary commissioner is looking constantly at constituency boundaries. Hon. Members have a duty to look after the constituents who elected them. Those boundaries do not change until the next election, so we must obey the convention of not involving ourselves with another Member's constituency until that time.⁸

⁷ HC Deb 15 November 2006 c2

⁸ HC Deb 6 November 2007 c2

At the start of the 2008-09 session the Speaker's statement concentrated on the arrest of Damian Green on 27 November 2008 and the controversy generated by the police search of his offices.

3 Constitutional Renewal Draft Bill

The legislation regarding demonstrations in Parliament Square was controversial. For further details of the issues involved see Library Standard Note 3658 *Protests around Parliament*.

In the *Constitutional Renewal* white paper of March 2008 published alongside the draft Bill, the Government promised to repeal sections 132-138 of SOCA.

27. In moving to repeal sections 132-138 of the Serious Organised Crime and Police Act, the Government nonetheless takes seriously the need to ensure that the operation of Parliament is safeguarded. For many years this principle has been given expression in sessional orders which provided the Metropolitan Police with clarity on the House's expectations on the Commissioner.

28. The Government believes that Parliament itself is well placed to contribute to proper consideration of what needs to be secured in order to ensure that Members are able freely and without hindrance to discharge their roles and responsibilities.⁹

The Joint Committee on the *Draft Constitutional Renewal Bill* made the following recommendation:

37. The legal framework regulating access should apply to sitting days and non-sitting days equally, given the continuous use of Parliament and the need to create certainty for all concerned. At the same time we recognise that protests are less likely to cause disruption to the proper functioning of Parliament at weekends or during recesses, and this should be taken into account in the practical application of any resulting legislation. The Sessional Orders do nothing to enhance police powers and we recommend that the House of Lords Stoppages Orders should be discontinued and that the House of Commons Sessional Orders should not be reintroduced.¹⁰

The Lords continued to pass the traditional order requiring the police to keep passages open for peers to access the House of Lords. In 2009 this was as follows:

7 Stoppages in the Streets It was ordered that the Commissioner of Police of the Metropolis do take care that the passages through the streets leading to this House be kept free and open and that no obstruction be permitted to hinder the passage of Lords to and from this House during the sitting of Parliament; or to hinder Lords in the pursuit of their Parliamentary duties on the Parliamentary Estate; and that the Gentleman Usher of the Black Rod attending this House do communicate this Order to the Commissioner.¹¹

The Government's reply to the Joint Committee's report agreed that Sessional Orders should not be re-introduced. The House of Commons has not re-introduced them. The House of Lords moved the Stoppages in the Streets order on 25 May 2010.¹²

⁹ MoJ, *The Governance of Britain – Constitutional Renewal*, Cm 7342-I, March 2008, p 14

¹⁰ Joint Committee on the Draft Constitutional Renewal Bill, *First Report*, HL 166/HC 551 2007-08, 22 July 2008

¹¹ HL Deb 18 November 2009 c26

¹² HL Deb 25 May 2010 c24

4 **The Constitutional Reform and Governance Bill 2009-10**

In 2009 the Government announced its intention to repeal the SOCPA provisions in the *Constitutional Reform and Governance Bill*, which received its first reading in the Commons on 20 July 2009 and was carried over to the next session.

Six days of debate in Committee of the Whole House mainly concentrated on the many other important constitutional matters included in a wide-ranging and somewhat controversial Bill.

In the second reading debate in the House of Lords the repeal of SOCPA was welcomed:

Lord Williamson: I come to Part 7, on which I have a brief comment. My speech is very brief, really. Part 7 would remove Sections 132 to 138 of the Serious Organised Crime and Police Act and put in effect a much better system for demonstrations in the area around Parliament. It would also set a limit of 300 metres from Parliament, which could be determined as the area in which such demonstrations could still be controlled by a senior police officer. There was a much wider area before, which was a serious mistake. Overall, Part 7 is very much to be welcomed.¹³

However, the relevant provisions were dropped during the pre-election ‘wash-up’ period in April 2010. Lack of time meant that large parts of the Bill were removed during the discussion of amendments in the House of Lords.¹⁴

5 **Police Reform and Social Responsibility Act 2011**

The [Coalition Government’s Programme for Government](#) contained a commitment to “restore rights to non-violent protest” The Government passed legislation to repeal the SOCA provisions in Part 3 of the [Police Reform and Social Responsibility Act 2011](#). The effect of the repeal was that notice would no longer be required for demonstrations in the designated area, that it would no longer be an offence for a demonstration to be held without the authorisation of the Metropolitan Police Commissioner and that it would no longer be an offence for a person to use a loudspeaker in the designated area Section 142 set out new provisions on a controlled area around the Palace of Westminster. The *Explanatory Notes* to the Act give further detail:

378. Section 142 defines the controlled area of Parliament Square in which the activities set out in section 143(2) are prohibited. This controlled area comprises the central part of Parliament Square which includes the central garden with its areas of grass and walkways as well as the pavements immediately surrounding the central garden. See also the map attached at Annex A to the Explanatory Notes for the delineation of the controlled area (which is the entire hatched area on the map comprising both the Greater London Authority and the Westminster City Council areas of responsibility).¹⁵

6 **Joint Committee on Parliamentary Privilege 2013-14**

The work of the [Joint Committee](#) is discussed in Standard Note 6390 *Parliamentary Privilege: Current Issues*. The Committee was established following the publication of a

¹³ HL Deb 24 March 2010 c1022

¹⁴ . For further detail see Library Standard Note 5379 [Remaining stages of the Constitutional Reform and Governance Bill 2009-10](#).

¹⁵ [Police Reform and Social Responsibility Act 2011 Explanatory Notes](#)

Green Paper on [Parliamentary Privilege](#).¹⁶ The Joint Committee commented on a range of issues to do with the current application of parliamentary privilege. This included a section on Members' access to the precincts of Parliament.

271. The regular batch of Sessional Orders, which used to be passed by the House of Commons without notice on the day of State Opening, was discontinued in 2004. The Speaker persisted in putting the Question on the Sessional Order relating to the Commissioner of the Police of the Metropolis until the Government fulfilled its commitment to bring forward legislation about demonstrations and security around Parliament. The relevant provisions, which surfaced in the Serious Organised Crime and Police Act 2005, were not universally well-regarded; in 2007 the incoming Prime Minister promised a review in *The Governance of Britain* White Paper. The current legislation applying to the control of demonstrations in Parliament Square is Part 3 of the Police Reform and Social Responsibility Act 2011. The Sessional Orders had little or no legal effect; the police in the environs of the Palace can rely for their powers only on statute law. Nonetheless, there is an inconsistency in that the House of Lords still passes its Sessional Order at the start of each Session.

272. While the new legislation applies appropriate and proportionate statutory controls to demonstrations in Parliament Square, the previous non-statutory requirement to safeguard Members' access to the House of Commons has been disregarded.

273. We regret the abandonment in one House of the practice of requesting the assistance of the Metropolitan Police Commissioner in preventing the obstruction of Members in the streets leading to the House and we call for its restoration in the House of Commons.

274. While such Sessional Orders may have little or no direct legal effect, they serve as a reminder that the police and other authorities have a special obligation to ensure that Members of both Houses must have free access to Parliament when in session. This obligation may require them to make special efforts, beyond those that the police make for ordinary citizens, in order that Parliament and its proceedings are not impeded by whatever may be happening outside the precincts of the Palace of Westminster.

The report has yet to be debated.

¹⁶ Cm 8318 April 2012