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Rt Hon Yvette Cooper MP
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Home Affairs Select Committee
House of Commons
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Sir Bob Neill MP
Chair
Justice Select Committee
House of Commons
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09 February 2021

Dear Yvette and Sir Bob,

STATUTORY INSTRUMENT – THE PROSECUTION OF OFFENCES ACT 1985 (SPECIFIED PROCEEDINGS) (CORONAVIRUS) (AMENDMENT) ORDER 2021

I am writing to advise you that the Prosecution of Offences Act 1985 (Specified Proceedings) (Coronavirus) (Amendment) Order 2021 was laid before Parliament yesterday, 08 February 2021, and comes into force today, 09 February 2021. This instrument follows on from the Order laid in my name on 02 June 2020, and allows for the efficient prosecution of offences contrary to various coronavirus regulations that have been made since June 2020 (“the Regulations”), by including them in the list of offences that can be dealt with through the single justice procedure. It preserves defendants’ right to a fair trial, and it has the support of the National Police Chiefs’ Council (NPCC), Crown Prosecution Service (CPS) and Her Majesty’s Courts and Tribunals Service (HMCTS). I wanted to take this opportunity to explain the legal effect of this instrument and its rationale.

As you know, the Regulations put in place restrictions based on clinical advice which are necessary to protect public health. This instrument achieves the same aim by limiting the number of people attending court. It will also support the effective enforcement of the coronavirus restrictions whilst helping to address the backlog of criminal trials. In summary, the process for dealing with non-contested cases of breaches of the Regulations will be streamlined. Currently, the CPS has a role in majority of these prosecutions, excluding those covered by the 02 June 2020 Order, even if the defendant pleads guilty and does not want a public hearing. The change means this will no longer be the case and the CPS will only have a role where the defendant pleads not guilty or does not consent to the procedure.

There are a number of checks and balances built into this process. The police will continue their checks and controls on charging, and the central administration of the service of notices and evidence means that there is NPCC oversight and accountability for this process going forward. Moreover, these cases will receive scrutiny at court by the magistrate and legal adviser (the latter having received additional training

from HMCTS on the prosecution of these offences). Further, it should be noted that any defendant who was unaware of proceedings may re-open them by swearing a declaration to that effect, and all defendants have an automatic right of appeal to the Crown Court. These proceedings are only brought when a person, having had sufficient opportunity to do so, fails to pay a fixed penalty notice. The CPS continues to be responsible for prosecuting any individual who pleads not guilty, or does not consent to the procedure. Any individual who wishes to plead not guilty can do so in the normal way before the court.

The CPS, NPCC and HMCTS have all been consulted and support this measure. Instituting proceedings in this manner is consistent with the processes the police have in place; it focuses CPS resources on contested cases; it requires fewer court staff and justices and reduces burdens on the court estate.

As these cases include those which date back some months, and the NPCC have confirmed they will start to institute proceedings immediately after the order is made, I intend to bring this instrument into force promptly.

*Yours sincerely
Suella Braverman*

**RT HON SUELLA BRAVERMAN QC MP
ATTORNEY GENERAL**