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78 Intentionally or recklessly causing public nuisance

- (1) A person commits an offence if—
 - (a) the person—
 - (i) does an act, or
 - (ii) omits to do an act that they are required to do by any enactment or rule of law,
 - (b) the person's act or omission—
 - (i) creates a risk of, or causes, serious harm to the public or a section of the public, or
 - (ii) obstructs the public or a section of the public in the exercise or enjoyment of a right that may be exercised or enjoyed by the public at large, and
 - (c) the person intends that their act or omission will have a consequence mentioned in paragraph (b) or is reckless as to whether it will have such a consequence.
- (2) In subsection (1)(b)(i) "serious harm" means—
 - (a) death, personal injury or disease,
 - (b) loss of, or damage to, property, or
 - (c) serious distress, serious annoyance, serious inconvenience or serious loss of amenity.
- (3) It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for the act or omission mentioned in paragraph (a) of that subsection.
- (4) 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 10 years, to a fine or to both.
- (5) In relation to an offence committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 (increase in magistrates' court power to impose imprisonment) the reference in subsection (4)(a) to 12 months is to be read as a reference to 6 months.
- (6) The common law offence of public nuisance is abolished.
- (7) Subsections (1) to (6) do not apply in relation to—
 - (a) any act or omission which occurred before the coming into force of those subsections, or
 - (b) any act or omission which began before the coming into force of those subsections and continues after their coming into force.
- (8) This section does not affect—
 - (a) the liability of any person for an offence other than the common law offence of public nuisance,
 - (b) the civil liability of any person for the tort of public nuisance, or
 - (c) the ability to take any action under any enactment against a person for any act or omission within subsection (1).
- (9) In this section "enactment" includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978.

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