Justice Committee

Supplementary Legislative Consent Memorandum Anti-social Behaviour, Crime and Policing Bill (LCM(S4) 22.2)

Letter from the Minister for Commonwealth Games and Sport to the Convener

As you will be aware the Scottish Government lodged a supplementary LCM for the Anti-social Behaviour, Crime and Policing Bill on 11 November. The committee has since issued a call for evidence seeking the views of stakeholders on the proposed legislation (to criminalise forced marriage) to inform Parliamentary scrutiny.

The reason for lodging the LCM in regard to the forced marriage provisions was to extend those provisions to Scotland to ensure that we will be in the position to meet our international obligations on forced marriage and that that forced marriage legislation (and protection to victims) is consistent across the UK.

In relation to the penalty on conviction on indictment we had opted for this to be the same as for breach of a forced marriage protection order under section 9(4) (b) of the Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Act 2011 (imprisonment for a period not exceeding 2 years, a fine or both) and the amendment therefore proceeded on that basis.

However since that time officials have looked again at sentencing and, following discussions, have concluded that it would be desirable to make the sentence on indictment the same in Scotland as it is in England and Wales. The reasoning behind this decision is that, if we are providing consistency across the UK by criminalisation, we should seek to extend that same consistency (and deterrent to those who would seek to perpetrate forced marriages) by applying the same penalties upon indictment. To this end, I attach with this letter an addendum to Legislative Consent Memorandum (S4) 22.2 (the draft Legislative Consent Motion will remain unchanged).

Apologies for any inconvenience this may cause but I sincerely believe that this change is required to ensure successful application of this policy both in Scotland and UK-wide.

Shona Robison MSP
Minister for Commonwealth Games and Sport
6 December 2013
Addendum to paragraph 22

Please replace existing paragraph 22 of LCM (S4)22.2 with the following:

22. Extending the provisions in respect of criminalisation and in sentencing (providing for a maximum penalty upon conviction on indictment to imprisonment for a term not exceeding 7 years to a fine or to both) will ensure that forced marriage legislation, the protection it provides and the sanctions that are available to sentencers for those who perpetrate these acts are consistent across the UK.