Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Cabinet Secretary for Justice, is:

“That the Parliament agrees that the relevant provisions of the Crime and Courts Bill, introduced in the House of Lords on 10 May 2012, relating to the establishment of the National Crime Agency; provisions for a new drug-driving offence; and to allow those detained in Scotland by immigration officers to be able to access legal advice on the same terms as those detained by police officers; so far as these matters fall within the legislative competence of the Scottish Parliament or alter the functions of Scottish Ministers, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by Kenny MacAskill, Cabinet Secretary for Justice, under Rule 9.B.3.1(a) of the Parliament’s Standing Orders. The Crime and Courts Bill was introduced in the House of Lords on 10 May 2012. The latest version of the Bill can be found at:

http://services.parliament.uk/bills/2012-13/crimeandcourts.html

Content of the Crime and Courts Bill

3. The main purpose of the Crime and Courts Bill will be to repeal the legislation that established the UK Serious Organised Crime Agency (SOCA) and the National Policing Improvement Agency (NPIA), and replace both agencies with the new National Crime Agency (NCA). The Bill will establish the NCA based on similar legislative provisions as SOCA currently has and Scottish Government officials have ensured that the necessary legislative safeguards that existed for SOCA’s operational activity in Scotland have been replicated in legislation to set up the NCA.

4. The Bill also seeks to introduce a new “drug-driving” offence which will cover Scotland as well as England and Wales. Action in this area is reserved, but one aspect of the new offence (the power to set the drug-driving limits that will trigger the new offence) is being executively devolved to Scottish Ministers and the Scottish Government will work with UK Government in taking forward plans for the new offence.

5. The Bill will also aim to increase the transparency and efficiency of the appointments process for Justices of the UK Supreme Court, and other judicial office-holders.

6. In addition, the Bill looks to extend the range of powers afforded to immigration officers, which is largely a matter for the UK Government, as these powers will only be exercised in relation to immigration crimes. However, there are implications for the Scottish Justice system as the proposals would extend the powers of UKBA immigration officers operating in Scotland to bring their procedures into line with UKBA Customs officers and other Scottish law enforcement agencies.
7. A further consequence of these immigration changes is an amendment to Legal Aid arrangements in Scotland to ensure that those people detained by immigration officers in Scotland can access legal advice on the same terms as those detained by police officers following the Cadder judgement.

8. The Bill therefore contains provisions that fall within the legislative competence of the Scottish Parliament and extending those provisions to Scotland has made the Bill a relevant Bill for a Legislative Consent Motion under the Standing Orders of the Scottish Parliament.

Provisions which relate to Scotland

9. There are three specific aspects of the Bill that relate to Scotland and that will require the legislative consent of the Scottish Parliament. These are:
   - the establishment of the National Crime Agency;
   - setting the limits for and the ability to specify the controlled substances that will trigger the new drug-driving offence; and
   - consequential amendments associated with the extension of the powers of UKBA immigration officers.

10. Full details of the individual clauses of the Bill that relate to Scotland and an explanation of why they require the consent of the Scottish Parliament are included at Annex A.

Reasons for seeking a Legislative Consent Motion

National Crime Agency

11. It is essential that provisions about the way in which NCA officers can operate in Scotland come into force at the same time as the National Crime Agency is created. The Crime and Courts Bill seeks to clarify the interfaces between the National Crime Agency, and both the Police Service of Scotland and Crown Office and Procurator Fiscal Service. Crime prevention and detection is devolved in Scotland, as is the investigation and prosecution of crime in Scotland, which is carried out under the direction of the Lord Advocate. It would not make sense for the devolved aspects of these interfaces to remain undefined pending legislation in the Scottish Parliament. Further, the proposed provisions relating to devolved matters in Scotland must be part and parcel of the legislation required to set up the National Crime Agency to ensure an effective response to serious and organised crime, economic crime, and child exploitation throughout the United Kingdom. Therefore, it is vital that these devolved provisions are put in place seamlessly in accordance with establishment of the NCA.

12. As crime prevention and detection and the investigation and prosecution of crime is devolved, these provisions fall within the legislative competence of the Scottish Parliament and therefore require the consent of the Scottish Parliament. These provisions also confer new functions on Scottish Ministers.
Powers of Immigration Officers/Legal Aid

13. New powers are to be afforded to immigration officers across the UK over four areas in connection with their role of investigating serious and organised immigration crime. These proposals will in effect bring the powers of UKBA immigration officers (across the UK) into line with UKBA customs officers and in certain cases into line with the criminal justice system in Scotland. It therefore appears sensible to allow these proposals to proceed to ensure a consistent and efficient approach is taken to the investigation of immigration criminality across the UK. These proposals relate to reserved matters, since the powers are only exercisable in relation to immigration/nationality offences.

14. As a consequence of these proposals, a change to the Legal Aid (Scotland) Act 1986 is also being proposed. This change will ensure that those people detained by immigration officers in Scotland will have the same right to legal advice and access to the police station duty scheme run by the Scottish Legal Aid Board as those detained by police officers following the Cadder judgement. The result of the changes to the legal aid legislation is to alter the powers of the Scottish Ministers and will require the legislative consent of the Scottish Parliament.

Drug-driving offence

15. The ability to set the drug-driving limits as part of the new drug-driving offence in Scotland will be a useful additional tool in helping to make Scotland’s roads safer with less lives being lost. The purpose of the new offence is to enable effective action to be taken without the need to prove impairment on a case-by-case basis. In line with our approach on drink-driving, it may have been preferable to devolve all responsibility relating to the creation of the new drug-driving offence, but nonetheless, having the power to set the drug-driving limits is a useful responsibility to have as part of our desire to improve road safety in Scotland. As this provision will confer new functions on Scottish Ministers, in relation to setting the limits for drug-driving (and the ability to specify the controlled substances the new offence is to apply to) in Scotland, it will require the legislative consent of the Scottish Parliament.

Consultation

16. The provisions in relation to the National Crime Agency in the Bill have been drafted following a detailed UK Government consultation process (Policing in the 21st Century: Reconnecting the Police and the People) to seek views on the establishment of the National Crime Agency – the responses to the consultation were published by the Home Office in December 2010. In addition, Scottish Government officials have considered the legal and policy implications of all aspects of the Bill and have sought the views of the Association of Chief Police Officers in Scotland (ACPOS) and for the Crown Office in producing advice on whether or not the provisions should extend to Scotland.

17. There has been no specific consultation by the UK Government on the proposed new offence for drug-driving to date. However, the UK Government have established an independent expert panel to consider the setting of the drug-driving limits, which is expected to report later in the year and the output of that group will be carefully considered by the Scottish Government before taking forward these proposals.
Financial Implications

18. No additional direct costs to the Scottish Government or any significant additional direct costs to the Scottish Criminal Justice Sector are envisaged as a result of the NCA provisions.

19. The new drug-driving offence should mean that it is easier to prosecute drug-drivers in the future, with the additional number of prosecutions depending, in part, on the levels set for the drug-driving limits. It is expected that any additional costs arising can be met from the current running costs of the Scottish justice system.

20. We anticipate only minimal impact on expenditure at the most as a result of the changes to be made to the legal aid arrangements. Currently, immigration officers arrange for Scottish police officers to detain about 100 people a year in Scotland. In future, they will be able to make these detentions themselves.

Conclusion

21. Extending the relevant provisions in the Bill to apply in Scotland will ensure that an efficient and effective law enforcement response to serious organised crime, economic crime, child exploitation and immigration crime can be throughout the United Kingdom. These are all crimes that have no respect for borders or boundaries and must be tackled across multiple jurisdictions and the proposals in the Crime and Courts Bill will seek to provide measures to address these acts of criminality. In addition, the proposals for a new drug driving offence will ensure that more effective action can be taken against irresponsible drivers who take drugs and get behind the wheel.

22. It is the view of the Scottish Government that it is in the interests of the Scottish people and good governance that the relevant provisions as outlined above which fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

Scottish Government
May 2012
ANNEX A

CRIME AND COURTS BILL – LEGISLATIVE CONSENT MEMORANDUM

Detail on provisions which relate to Scotland

1. The following paragraphs describe the specific provisions, for which consent is sought in terms of the Legislative Consent Motion, and provide background on their application in Scotland.

Part 1 – The operation of the National Crime Agency in relation to Scotland

2. Policy Intent: To extend to Scotland specific provisions on how the proposed new National Crime Agency (NCA) will operate in Scotland and to ensure an optimum working relationship with the Police Service of Scotland.

3. Background: The Bill will establish this new Agency which will have some UK functions and some functions limited to England and Wales only. Specifically, the NCA will replace and take on all of the functions of the UK-wide Serious Organised Crime Agency (SOCA) and will also take on some of the functions previously exercised by the UK National Police Improvement Agency. In general, these provisions will mean that officers working for the NCA will continue to have a UK-wide remit. From a Scottish perspective, the proposals to establish the NCA will largely replicate the role and operational arrangements of SOCA that currently exist in Scotland. As organised crime does not respect borders and boundaries, the Bill will provide the flexibility to allow NCA officers to have an operational role in Scotland.

4. The main aspects of the Bill will therefore:

- Require that Scottish Ministers are consulted in the process of setting the strategic priorities for the NCA, preparing the NCA’s annual report and in the preparation of an NCA framework document. In addition, the Bill creates a requirement that a copy of the annual plan and framework document must be laid in the Scottish Parliament;
- Requires that Scottish police officers are under a general duty to co-operate with NCA officers and also allows for requests for assistance to be made by the Director General of the NCA to the Chief Constable of the Police Service of Scotland and from the Chief Constable of the Police Service of Scotland to the Director General of the NCA;
- Require a high level agreement between the NCA and the Scottish Ministers, expressly setting out how the powers and privileges of a constable are to be exercised by NCA agents in Scotland;
- Require that an Assistant Chief Constable (or someone of higher rank) within the Police Service of Scotland agrees with the Director General of the NCA when NCA officers can exercise the powers and privileges of a constable in Scotland in respect of a particular operation;
• Require that any inspections of the NCA (in relation to their activities in Scotland) must only be conducted after consulting Scottish Ministers and provide that any resulting inspection may be jointly carried out between HM Inspectorate of Constabulary and HM Inspectorate of Constabulary for Scotland; and

• Ensure that all NCA officers operating in Scotland are subject to the direction of the Lord Advocate and Procurators Fiscal as regards the investigation and prosecution of crime.

5. **The provisions:** Part One of the Crime and Courts Bill deals with the establishment, activities and powers of the NCA in 16 clauses. These are as follows:

**Clauses 1 to 4 – The NCA and its officers**

• Clause 1, along with Schedule 1 and elements of Schedule 3, will establish the NCA - consisting of NCA officers. It is to be under the direction and control of one of its officers, to be known as the Director General of the NCA. The NCA is specifically to have the function (“the crime – reduction function”) of securing that efficient and effective activities to combat organised crime and serious crime are carried out. This section also imposes a function on the NCA to discharge its crime reduction function by securing improvements in co-operation between persons who carry out activities to combat organised crime or serious crime and by securing improvements in the co-ordination of activities – which will include Scottish law enforcement agencies. Although the NCA will be a UK organisation, provision has been made to ensure that it can operate alongside and in support of the Police Service of Scotland, as well as preserving the unique role of the Lord Advocate in relation to the investigation and prosecution of crime in Scotland. NCA officers will only be permitted to carry out activities in Scotland in relation to an offence which it suspects has been committed (or is being committed) with the agreement of the Lord Advocate. Finally, this section makes provision for the NCA to charge for any goods or services it provides. There is no statutory requirement for Scottish Ministers to provide a financial contribution towards the annual funding grant paid to the NCA - any such grant contribution would be the subject of separate discussion and agreement between the Home Office, the NCA and the Scottish Government. Given that the majority of the functions of investigating, preventing and combating crime are devolved to the Scottish Parliament, the provisions in section 1 which confer on the NCA functions of combating crime are, to the extent that the crime which they are tasked with combating is “devolved”, a matter which the Scottish Parliament has legislative competence in respect of. As a result, legislative consent will be required.

• Clause 2, along with Schedule 16 provides the circumstances under which the Secretary of State can bring forward an order to modify or amend the functions that the NCA can perform. This section specifically provides that it would be possible in the future for the NCA
to take on counter terrorism functions if a relevant order was made. In such circumstances the Secretary of State would be required undertake a consultation on any such proposals.

- **Clause 3** sets out the arrangements for setting the strategic priorities of the NCA and requires the Secretary of State to determine strategic priorities for the NCA in consultation with Scottish Ministers. This will ensure that Scottish Ministers are able to influence the priorities of the NCA as they relate to the organisations activities in Scotland. The imposition of a function on a UK Minister to consult Scottish Ministers, altering Scottish Ministers executive competence, will therefore require the legislative consent of the Scottish Parliament.

- **Clause 4**, along with Schedule 2 concentrates on the operational responsibilities of the Director General of the NCA and on specifying timescales and consultation arrangements as regards producing an annual plan, an annual report and a framework document for the NCA. This section requires that the annual plan, which the NCA must issue, must set out how it intends to exercise its functions in Scotland. In addition, the arrangements provide that the Secretary of State must consult (and where appropriate obtain consent of) Scottish Ministers before these documents are issued (as they relate to Scotland) and thereafter Scottish Ministers must lay a copy of the Annual Report and Framework Document before the Scottish Parliament. As this will confer new functions on Scottish Ministers, altering Scottish Ministers executive competence, this clause will require the consent of the Scottish Parliament.

Clauses 5 to 10 – Other functions etc.

- **Clause 5**, along with Schedule 3 sets out the relationships between the NCA and other agencies that it will work with and along side. This section provides that the Director General of the NCA may perform a task if a chief officer of a UK police force (or UK law enforcement agency) requests the DG to perform it. Accordingly, this section also allows a chief officer of a UK police force (including the Chief Constable of the Police Service of Scotland) or a UK Law Enforcement Agency to perform a task if the Director General of the NCA requests them to do so. This is essentially replicating the existing voluntary assistance arrangements that are in place between SOCA and the police forces in Scotland. In addition, this section imposes a general duty on Scottish Constables to co-operate with NCA officers; a reciprocal duty between the NCA and UK police forces on the exchange of information; provides powers for Scottish Ministers to direct the DG of the NCA to assist the Police Service of Scotland (with the UK Government’s consent); and empowers Scottish Ministers to direct the Chief Constable of the Police Service of Scotland to provide specified assistance to the NCA if it appears to be appropriate for the NCA to receive directed assistance from a Scottish Chief Constable. So far as this clause provides for co-operation and voluntary
assistance between bodies for investigating and combating devolved crime, in or as regards Scotland, it is for a purpose within the Scottish Parliament's competence. As this clause also confers on Scottish Ministers powers of direction, which alters Scottish Ministers executive competence, this requires the consent of the Scottish Parliament.

• Clause 6, along with Schedule 7 provides a statutory duty for the Director General of the NCA to publish information in relation to its functions and other NCA matters (including performance information). The exact types of information that will be published will be set out in more detail in the NCA’s Framework Document, which itself will be laid before the Scottish Parliament. The intention behind these provisions is that the NCA should be an open and transparent organisation and that the public should have access to a wide range of information about what the NCA is doing, how it is performing, its internal procedures and its current assessment of the threat from serious and organised crime. In so far as the NCA is exercising functions which are, or could be devolved, a duty to publish information about those “devolved” NCA functions is within the legislative competence of the Scottish Parliament and will require the consent of the Parliament.

• Clause 7, along with Schedule 7, sets out the arrangements for information gateways to facilitate the sharing of information with the NCA and also covers the restrictions that will be in place on the disclosure of certain types of information. These proposals will allow certain information to be disclosed to the NCA, if the disclosure is made for the purposes of the exercise by the NCA of any of its functions. This clause will enable a person to disclose information to the NCA in relation to its “devolved” functions. It would be competent for the Scottish Parliament to create an entitlement for a person to provide information to a law enforcement agency for the purposes of a devolved function conferred on such an agency, and accordingly the Scottish Parliament’s consent will be required in this area.

• Clause 8, along with Schedule 4 modifies various aspects of the law in England and Wales and allows the Director General of the NCA to provide assistance to overseas Governments. In addition, this section creates new offences of assaulting or obstructing a member of an NCA-led international joint investigation team. In Scotland, the penalty for committing such an offence would be up to a maximum of 12 months imprisonment and/or a fine (not exceeding level 5 for assault and not exceeding level 3 for obstruction). Creating such offences would be within the Scottish Parliament’s legislative competence in so far as it applies to any member exercising functions in relation to devolved crime, in or as regards Scotland. The consent of the Scottish Parliament will therefore be required for this provision.

• Clause 9, along with Schedule 5 provides the Director General of the NCA, in relation to any customs matter, the same powers as the Commissioners of HM Revenue and Customs and allows the Secretary
of State to designate the Director General of the NCA as a person having the powers and privileges of a constable (in England and Wales), the powers and privileges of an officer of Revenue and Customs and the powers and privileges of an immigration officer. The consent of Scottish Ministers is not required before these powers can be designated because these relate to legislation which is reserved to the UK Parliament. However, under Schedule 5 of the Bill, all NCA officers (including the Director General) will, where appropriate, be subject to the role of the Lord Advocate and the procurator fiscal in the same way that the police in Scotland are. The Bill does not allow for the Director General of the NCA to be given the powers of a constable in Scotland (or in Northern Ireland) as there appeared to be no sound operational rationale for the DG to have these powers in the devolved administrations. The powers of a Revenue and Customs Officer and an immigration officer are to be exercised in relation to reserved matters and therefore will not require the consent of the Scottish Parliament.

- Clause 10, along with Schedule 5 sets out the arrangements that cover the operational powers of NCA officers. This section permits the Director General of the NCA to designate any other NCA officer as a person having police powers and privileges of a constable - in Scotland this will provide them with all the powers and privileges of a Scottish constable. As policing is devolved in Scotland, before such powers can be conferred upon a member of the NCA, certain conditions must be met. These arrangements have been carefully constructed to ensure that the powers and privileges of a Scottish constable are only exercisable by NCA officers if a “Scottish general authorisation” or a “Scottish operational authorisation” is in force. A “Scottish general authorisation” requires agreement between Scottish Ministers and the Director General about the exercise of the powers and privileges of Scottish constables by NCA officers and a “Scottish operational authorisation” requires agreement between a Scottish constable above the rank of Assistant Chief Constable and the DG about the exercise of the powers and privileges of Scottish constables in relation to a specific operation. In addition, this section also sets out that any NCA officer with the powers of a constable in Scotland must comply with any instructions given by the Lord Advocate or a Procurator Fiscal in relation to the investigation of offences. Finally, a range of new offences are also contained within this section to create offences of impersonating an NCA officer; resisting or wilfully obstructing an NCA officer; and assaulting an NCA officer. The Bill proposes that as a consequence of committing such an offence in Scotland would be that the person would be liable for a sentence of up to 12 months and/or a fine (up to level 3 for obstructing and up to level 5 for assault or impersonation). The authorisation provisions confer functions on Scottish Ministers (and the Police Service of Scotland). This alters Scottish Ministers’ executive competence and will require the consent of the Scottish Parliament. Also, the offences provisions above would be within the Scottish Parliament’s legislative competence in so far as
they apply to any member exercising functions in relation to devolved crime, in or as regards Scotland. The consent of the Scottish Parliament will therefore be required for these provisions.

*Clauses 11 to 16 – General*

- Clause 11, along with Schedule 6 covers the inspection and complaints arrangements for the NCA. This section provides that before requesting any inspection into the NCA that would fall to be carried out wholly or partly in Scotland, the Secretary of State must consult Scottish Ministers and thereafter HM Inspectorate of Constabulary must consult HM Inspectorate of Constabulary for Scotland to decide whether or not to carry out such an inspection jointly with Scottish inspectors. Following any inspections of this type, the Secretary of State must provide Scottish Ministers with a copy of the published report and a copy of the response that the Director General produces to any such reports must also be provided to Scottish Ministers. As these provisions impose a function on a UK Minister to consult Scottish Ministers, which alters the Scottish Ministers’ executive competence. They will therefore require the legislative consent of the Scottish Parliament.

- Clause 12, along with Schedule 7 contains a range of detailed provisions relating to the restrictions on disclosure of information by NCA officers – including information obtained from HM Revenue and Customs, personal customs information, personal revenue information, social security information and intelligence service information. These provisions also cover the interaction between NCA officers and Scottish Ministers, and NCA officers and the Lord Advocate in relation to information connected to Part 3, 5 and 6 of the Proceeds of Crime Act 2002. The section also sets out the circumstances under which information disclosed by an NCA officer to the Lord Advocate can be further disclosed. The section also proposed that an offence of wrongful disclosure of information which breaches a list of duties outlined in Schedule 7 would be liable for punishment of a sentence of up to 12 months and/or a fine (not exceeding the statutory maximum) in Scotland. As this provision could relate to information concerning devolved matters (e.g. proceeds of crime relating to devolved crime), these provisions are within the Scottish Parliament's legislative competence and will therefore require the consent of the Scottish Parliament.

- Clause 15, along with Schedule 8 abolishes the existing UK Serious Organised Crime Agency (SOCA) and the National Police Improvement Agency – as the majority of the functions of these organisations will either transfer into the NCA or be taken on by other existing UK Government bodies. As a result of abolishing these two bodies, a number of consequential amendments to Scottish legislation are being proposed, largely to replace the names of the abolished bodies with terminology to cover the new National Crime Agency. The
amendments also seek to add NCA officers to the list of individuals that are excused from jury duty in Scotland. These transitional/consequential amendments are within the Scottish Parliament’s legislative competence to the extent that they apply to devolved matters and the consent of the Scottish Parliament will therefore be required for these provisions.

Part 3 – Miscellaneous and general

6. **Policy Intent:** To provide new powers to immigration officers across the UK and to create a new proposed drug-driving offence for driving or being in charge of a motor vehicle with the concentration of a controlled drug above the specified limit.

7. **Background:** The Bill will seek to strengthen the enforcement powers of immigration officers of the UK Border Agency (UKBA) – these specific matters will be reserved and therefore are the responsibility of the UK Government. As a consequence of these proposals, an amendment to the Legal Aid (Scotland) Act 1986 is being proposed. This amendment will ensure that those people detained by immigration officers in Scotland can access legal advice on the same terms as those detained by police officers following the Cadder judgement and the subsequent Criminal Procedure (Legal Assistance, Detention and Appeals) (Scotland) Act 2010. A Section 104 Order taken forward in 2011 has already extended these rights in Scotland in respect of HMRC detentions and UKBA detentions carried out by customs officials.

8. The Bill also seeks to introduce a new “drug driving” offence which will cover Scotland as well as England and Wales. It is currently an offence to drive while being impaired due to drugs, but this requires prosecutors to demonstrate impairment of the driver to prove the offence. The purpose of the new offence is to enable effective action to be taken without the need to prove impairment on a case by case basis. The Bill will confer on Scottish Ministers executive competence to make regulations in an area where legislative competence continues to be reserved. The Scotland Bill has devolved the power for the Scottish Ministers to set the drink driving limit while leaving all other aspects of the drink driving offence (e.g. penalties for the offence) still within the responsibility of the UK Government - the new drug driving offence is proposed to operate in exactly the same way. Scottish Ministers will carefully consider how we will take forward plans to establish drug driving limits in Scotland, and will wish to consider the report and recommendations on drug-driving of the UK Government’s expert panel that has been established to look at the detail of this proposal.

9. **The provisions:** Part Three of the Crime and Courts Bill deals with matters relating to immigration, border control and drug-driving in four clauses. The relevant clauses are as follows:
Clauses 24 to 26 – Border control

- Clause 26, along with Schedule 14 provides for the extension of the powers of UKBA immigration officers to bring their powers into line with UKBA customs officers. This section sets out the new powers which will allow immigration officers: to undertake intrusive covert investigations; to undertake proceeds of crime investigations into immigration crimes; to detain suspects and obtain common law search warrants in Scotland; and to have cross-border powers of arrest. These proposals relate to reserved matters, since the powers are only exercisable in relation to immigration/nationality offences. However, the consequential amendments to the Legal Aid (Scotland) Act 1986 alter the Scottish Ministers’ executive competence (in relation to their regulation making power under that Act) and will therefore require the consent of the Scottish Parliament.

Clause 27 – Drugs and Driving

- Clause 27, along with Schedule 15 sets out a new offence of driving, or being in a charge of, a motor vehicle with concentrations of specified controlled substances in excess of specified levels. This section provides Scottish Ministers with the power to make regulations that will both specify the controlled substances the new offence is to apply to, and set the applicable limit for each. Scottish Ministers will carefully consider the report and recommendations of the UK Government’s expert panel that has been established to look at this matter before making any final decisions in this area. Any resulting regulations from these proposals will have to be brought before the Scottish Parliament for scrutiny and debate. As this provision will confer new functions on Scottish Ministers it will require the legislative consent of the Scottish Parliament.