LEGALISATIVE CONSENT MEMORANDUM

London Olympic Games and Paralympic Games (Amendment) Bill

Draft Legislative Consent Motion

1. The draft motion, which will be lodged by the Cabinet Secretary for Health, Wellbeing and Cities Strategy, is:

“That the Parliament agrees that the relevant provisions of the London Olympic Games and Paralympics Games (Amendment) Bill introduced in the House of Commons on 16 March 2011, relating to the advertising and street trading and ticket touting provisions, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Background

2. This memorandum has been lodged by Nicola Sturgeon, Cabinet Secretary for Health, Wellbeing and Cities Strategy, under Rule 9.B.3.1(a) of the Parliament's standing orders. The London Olympic Games and Paralympic Games (Amendment) Bill was introduced in the House of Commons on 16 March 2011. The latest version of the Bill can be found at:


Content of the London Olympic Games and Paralympic Games (Amendment) Bill

3. The Bill amends the London Olympic Games and Paralympic Games Act 2006 (“the 2006 Act”). It is a Bill of limited provisions concerning only the advertising and street trading, ticket touting and traffic management provisions of the 2006 Act. In this Memorandum the Glasgow Commonwealth Games Act 2008 is referred to as “the 2008 Act”.

4. As Olympic events will be held in Glasgow as part of the football competition, the provisions of the Bill concerning advertising and street trading and ticket touting are relevant to Scotland. A previous LCM was passed by the Scottish Parliament for the 2006 Act.

Provisions Which Extend to Scotland

5. Sections 4-8 of the Bill which concern traffic management do not extend to Scotland.

6. The ticket touting provision, section 3, extends to Scotland and seeks to amend the 2006 Act to increase the maximum fine for the Olympic and Paralympic Games ticket touting offence from £5,000 to £20,000. Analysis by the Metropolitan Police led them to recommend an increase in the maximum penalty available in order to provide a more effective deterrent and response to organised touting by criminal gangs. The offence will remain a summary only offence. Whilst generally Scottish courts do not impose financial penalties in excess of £10,000 for summary only offences, the Scottish Government is satisfied that this is an exceptional case.
7. The advertising and street trading provisions of the Bill will extend to Scotland and seek changes in two areas. First, section 2 modifies the parliamentary procedure and notice provisions to which advertising and street trading regulations are subject, from affirmative procedure in all cases to affirmative procedure for the first regulations only. This is intended to provide a practical means for the regulations to be amended by negative procedure if, for example, a Games venue or the scheduled time for an event needs to be changed at short notice after the principal regulations have been made. This is the position under the 2008 Act.

8. Section 1, as introduced, proposes that articles infringing the advertising and street trading regulations be dealt with by Olympic Delivery Authority enforcement officers in all cases. The section requires police constables to hand over any infringing articles to enforcement officers, with such articles being dealt with under a new legal regime based on the London Local Authorities Act 1990. The Scottish Government promoted an amendment (tabled on 1 September) in the House of Commons to reinstate the principle enshrined in the 2006 and 2008 Acts that the enforcement powers of enforcement officers should be shared with the Scottish police. Although it is anticipated that the police will wish to focus on safety and security matters, they should be empowered to deal with all Games issues in as close a manner as possible to their normal procedures.

9. Section 1, as it will be amended pursuant to the amendment tabled, affords flexibility to the police service in Scotland and the Olympic Delivery Authority to agree the best approach to enforcing the advertising and street trading regulations. Where infringing articles are seized by or delivered to the police, the position will remain as it is under the 2006 and 2008 Acts. Where infringing articles are seized by or delivered to enforcement officers, the special regime in proposed sections 31A – 31E will apply, with modifications promoted by the Scottish Government to reflect Scottish practice. These modifications reflect that the prosecuting authority will always be the Crown Office and Procurator Fiscal Service and not the Olympic Delivery Authority (as in England and Wales); an unrealistic time limit for prosecution and an inapplicable reference to the prosecuting authority being awarded the costs of prosecution have therefore been removed.

10. As the advertising and street trading and the ticket touting provisions fall within the legislative competence of the Scottish Parliament there is a requirement for the UK Government to seek the legislative consent of the Scottish Parliament in accordance with the Sewel Convention.

Reasons for seeking legislative consent

11. The legislative consent route is the correct approach for this UK Bill as the provisions which extend to Scotland are of a fairly minor and technical nature and the Bill, as amended, will not have significant policy implications. The alternative route would be to take forward Scottish primary legislation which would be a disproportionate use of resources to accommodate the provisions referred to above. Any alternative approach is also unlikely to deliver the regulations within the required timescales. A previous LCM was agreed for similar provisions in 2006.

Consultation

12. The Scottish Government has consulted internally and with the Crown Office and Procurator Fiscal Service, Strathclyde Police, the Scottish Crime and Drug Enforcement...
Agency, ACPOS, Glasgow City Council and the Olympic Delivery Authority. The amendment tabled in the House of Commons on 1 September was promoted at the request of the Crown Office and police forces.

Financial Implications

13. There are limited resource implications for this Bill and these will be met from within existing budgets.

Conclusion

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

September 2011