Justice Committee

Terrorism Prevention and Investigation Measures Bill (LCM(S4) 6.1)

Letter from the Law Society of Scotland

In relation to the above Bill and the draft Legislative Consent Memorandum (LCM), lodged by the Cabinet Secretary for Justice, which was before the Justice Committee on the 8 November.

The Law Society of Scotland have given careful consideration to the draft LCM, the evidence provided by the Justice Secretary and the relevant parts of the TPIM Bill, which touch on those areas of law devolved and falling within the legislative competence of the Scottish Parliament.

In relation to Schedule 5 (Police powers on entry search and seizure) and Schedule 6 (Taking of relevant physical data and samples). The Society understands the legitimate aims that these provisions are seeking to achieve and have no further comments on these.

In relation to Clause 26, which provides for temporary power for imposition of enhanced measure. The Society note that the proposed amendment, as tabled by Lord Henley on the 9 November provides that the ‘The Secretary of State must obtain the consent of the Scottish Ministers to the inclusion in a temporary enhanced TPIM order of any provision’, which the Justice Secretary also refers to in his LGM. The Society welcome the amendment providing for consent, but are concerned that the consent required is that of Scottish Ministers, as opposed to the Scottish Parliament. However, it’s acknowledged that the circumstances may dictate that a temporary enhanced TPIM may be required during a period where the Scottish Parliament is in recess.

If you have any questions, or wish to discuss anything, please do not hesitate to contact me.

Brian Simpson
The Law Society of Scotland
Law Reform
14 November 2011