

Parliamentary Bureau - Legislative Consent Memorandum

Sentencing Bill (UK Legislation)

Introduction

1. Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

The Sentencing Bill

2. This LCM was lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs, on 26 November 2025, under Rule 9B.3.1 of the Parliament's Standing Orders.
3. The Sentencing Bill is a UK Government Bill that was introduced in the House of Commons on 2 September 2025. It proposes reforms to sentencing law following an independent sentencing review commissioned by the UK Government, which reported in May 2025. It aims to address the capacity crisis in the prison system in England and Wales to ensure capacity to imprison the most dangerous offenders, and to avoid further use of emergency release processes. It also introduces several changes recommended by the independent sentencing review.
4. On 14 October 2025, the UK Government tabled amendments to the Bill, some of which apply to Scotland. These amendments made this a relevant Bill for the purposes of the legislative consent process.
5. The key provisions which extend to Scotland are found in Schedule 2 and are considered to have minimal operational impact. These provisions change sentencing of offenders who have committed a national security offence, bringing sentencing for these individuals in line with sentencing of terrorist offences. In particular, the amendments relate to the release of these types of prisoners as set out in the Prisoners and Criminal Proceedings (Scotland) Act 1993.
6. The Scottish Government considers that each of the amendments set out in the LCM confer, vary or remove functions of the Scottish Ministers in relation to release of prisoners serving a custodial sentence for a national security offence. Its view is that this is therefore a relevant Bill as the amendments alter the executive competence of the Scottish Ministers. The UK Government's position, as set out in the LCM, is that only one of these amendments engages the legislative consent process, but both governments are in agreement that an LCM is nonetheless required in respect of this Bill.
7. The LCM contains a draft motion seeking the Parliament's consent to the relevant provisions of the Bill.

Designation of lead committee

8. The LCM engages the remit of the Criminal Justice Committee. Its remit is to consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland. The Cabinet Secretary is responsible (among other things) for courts and sentencing.
9. The LCM therefore appears to fall within the remit of the Criminal Justice Committee.
10. The Bill does not currently confer any powers on the Scottish Ministers to make subordinate legislation. As such, the Delegated Powers and Law Reform Committee is not required to consider the LCM under Rule 9B.3.6. However, there is a chance it may do so, at its discretion, under its wider remit.

Recommendation

11. The Bureau is invited to refer, under Rule 9B.3.5, the LCM to the Criminal Justice Committee as lead committee.

Parliamentary Business Team
November 2025