

Supplementary Legislative Consent Memorandum

Border Security, Asylum and Immigration Bill

Background

1. This supplementary Legislative Consent Memorandum (LCM) has been lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs, in accordance with Rule 9B.3.1(a) of the Parliament's Standing Orders.
2. The Border Security, Asylum and Immigration Bill was introduced by the UK Government in the House of Commons on 30 January 2025. The Bill is available on the UK Parliament website via this link: [Border Security, Asylum and Immigration Bill - Parliamentary Bills - UK Parliament](#).
3. An LCM was lodged with the Scottish Parliament on 12 March 2025, and a motion consenting to the relevant provisions was agreed to by the Scottish Parliament on 26 June 2025: [Border Security, Asylum and Immigration Bill | Scottish Parliament](#).
4. The initial LCM noted that the Bill would be introducing interim Serious Crime Prevention Orders (iSCPOs). However, iSCPOs will only be introduced in Scotland for terrorism-related cases. This is a reserved matter and therefore not subject to legislative consent which is why it was left out of the original LCM.
5. However, it is now clear that provisions relating to the breach of an iSCPO will apply in Scotland in all cases, not just those involving terrorism. This is because, were a breach not to apply in all cases, someone subject to an iSCPO in England and Wales may move to Scotland and face no consequences for breaching their iSCPO. Conditions to be attached to each order are entirely for the Courts to determine. As an example, if someone from Liverpool has been charged in connection with the supply of drugs to Scotland (county lines) a condition attached to their iSCPO could be that they are not permitted to travel to Scotland, but without the breach of an order being an offence in Scotland it might not be possible for further action to be taken. The purpose of this approach is to avoid inadvertently enabling the movement of criminality to Scotland.

Content of the Bill

6. The Bill makes provision to improve UK border security and strengthen the asylum and immigration system by creating a framework of new and enhanced powers and offences that reinforce, strengthen and connect capabilities across the relevant government and law enforcement partners which make up the UK's border security, asylum and immigration systems.

7. The Bill currently consists of 63 clauses and two schedules. The full content of the Bill is set out in the original LCM, which is linked at paragraph 3 of this memorandum. The provision that has given rise to this LCM relates to the measures in clauses 52 to 56, which set out amendments to Serious Crime Prevention Orders and introduce iSCPOs for terrorism cases. Clauses 52 to 56 are mostly relevant only to England and Wales, except for terrorism cases under clause 53 and the breach of an iSCPO in non-terrorism cases under clause 53 (see Annex A to the Bill's [Explanatory Notes](#)). The UK Government shares the Scottish Government's view that this is a devolved matter triggering the legislative consent process.

Provisions which require the consent of the Scottish Parliament

8. Clause 53(6) amends section 25(1) of the Serious Crime Act 2007 (offence of failing to comply with order) as follows: after "order" insert "or an interim serious crime prevention order". Under section 25 of the 2007 Act, if a person, without reasonable excuse, fails to comply with a serious crime prevention order they commit an offence. This applies UK-wide. The Bill extends this provision to include failure to comply with an interim serious crime prevention order.

9. The Scottish Government considers that the legislative consent process is engaged as these provisions apply to Scotland for a purpose within the legislative competence of the Scottish Parliament, namely the creation of criminal offences.

Reasons for seeking legislative consent

10. The Scottish Government recommends that the Scottish Parliament consents to this clause, in order to avoid inadvertently enabling the movement of criminality to Scotland that might occur if someone subject to an iSCPO in England and Wales were to move to Scotland and face no consequences for breaching their iSCPO.

Consultation

11. A consultation on the relevant measures was undertaken by the UK Government as part of preparing the provisions, and no major issues arose.

12. The House of Commons call for evidence on the Bill was launched on 14 March 2025. The Public Bill Committee met for the first time on Thursday 27 March 2025 to consider the Bill and hear oral evidence.

13. The Scottish Government has not engaged directly with stakeholders on this provision, although it has had conversations with Police Scotland over the breach offence and how it could be addressed where necessary. The Scottish Government understands that there is already a process by which offenders could be returned to England or Wales. However, as clause 53(6) amends a clause in the Serious Crime Act 2007 that applies UK-wide in a devolved area, the consent of the Scottish Parliament is required.

Post EU scrutiny

14. The Scottish Government has not identified any assimilated law which will be impacted by the Bill.

Conclusion

15. The Scottish Government has concluded that clause 53(6) of the UK Government's Border Security, Asylum and Immigration Bill does require consent from the Scottish Parliament.

16. The Scottish Government recommends that the Scottish Parliament consent to clause 53(6) in the Bill as it stands.

Draft motion on legislative consent

17. The draft motion, which will be lodged by the Cabinet Secretary for Justice and Home Affairs, is:

“That the Parliament agrees that the relevant provisions in the Border Security, Asylum and Immigration Bill, introduced in the House of Commons on 30 January 2025, relating to breach of interim Serious Crime Prevention Orders (iSCPO) (clause 53(6)), so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Scottish Government
November 2025

This Supplementary Legislative Consent Memorandum relates to the Border Security, Asylum and Immigration Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 4 November 2025

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