

Supplementary Legislative Consent Memorandum

Crime and Policing 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(c) of the Parliament's Standing Orders.
2. The Crime and Policing Bill was introduced by the UK Government in the House of Commons on 25 February 2025. The Bill is available on the UK Parliament website via this link: [Crime and Policing Bill - Parliamentary Bills - UK Parliament](#).
3. An LCM was lodged with the Scottish Parliament on 16 May 2025: [Crime and Policing Bill | Scottish Parliament Website](#).
4. Amendments tabled on 24 April 2025 resulted in the requirement for a [Supplementary Legislative Consent Memorandum](#), which was lodged on 12 June 2025.
5. Further amendments tabled on 10 June 2025 resulted in the requirement for a [Second Supplementary Legislative Consent Memorandum](#), which was lodged on 1 August 2025. That supplementary LCM should also have included Clause 41 in relation to proving an offence (of child criminal exploitation) under Clause 40. Clause 41 was inadvertently overlooked at that point and is therefore included in this supplementary LCM.
6. Further amendments were subsequently tabled on [27 October](#), [3 November](#) and [12 November 2025](#), extending to Scotland provisions covering offensive weapons, online sales of knives and crossbows, child criminal exploitation prevention orders, child sex abuse image generators, possession of advice or guidance about creating child sexual abuse (CSA) or CSA images, and providing for a technology testing defence and creating new offences relating to pornographic images of strangulation or suffocation in Scotland. This is the third supplementary LCM for this Bill.
7. The next print of the Bill will be published on conclusion of the House of Lords Committee Stage.

Content of the Bill

8. The Bill is intended to tackle serious violence, child sexual abuse and violence against women and girls, equip the police and others with the powers they need to combat antisocial behaviour, crime and terrorism and rebuild public confidence in policing and the wider criminal justice system.

9. The Bill as amended makes provision about anti-social behaviour, offensive weapons, offences against people (including sexual offences), property offences, the criminal exploitation of children, sex offenders, stalking and public order; makes provision about powers of the police, the border force and other similar persons; makes provision about confiscation; makes provision about the police; makes provision about terrorism and national security, and about international agreements relating to crime; makes provision about the criminal liability of bodies; and for connected purposes.

10. A number of provisions in the Bill on introduction triggered the legislative consent process as follows:

- to create a new offence of “cuckooing” – controlling another’s home for criminal purposes;
- to set out new provisions relating to the management of sex offenders, including notification requirements in relation to name changes, absence from sole or main residence, and, in the case of child sex offenders, if entering premises where children present. The clauses also contain provisions relating to restrictions on applying for replacement identity documents in a new name, and powers of entry and search in certain circumstances;
- to create new offences relating to the possession and supply of electronic devices where there is a reasonable suspicion that this is for use in vehicle theft;
- to expand the lawful purposes for which the police can access the DVLA driving license database;
- to protect enforcement authorities from paying expenses during civil recovery proceedings, preventing the court from ordering expenses against them unless the authority acted unreasonably, dishonestly or improperly;
- to expand the list of criminal lifestyle offences in the Scottish Schedule 4 of the Proceeds of Crime Act 2002;
- to confer parallel powers on the Scottish Ministers and the Secretary of State to make regulations to implement future international agreements as they relate to the sharing of information for law enforcement purposes, and to require the Secretary of State to consult with devolved authorities before making regulations in a devolved area; and
- regarding the criminal liability of bodies corporate and partnerships where a senior manager commits an offence.

11. Further amendments referenced in the previous two supplementary legislative consent memoranda triggered the legislative consent process as follows:

- To introduce new civil penalties for online companies and their senior managers should they fail to take down illegal knife and offensive weapons content when notified of it by the police;
- to make amendments to public order legislation so the British Transport Police can police protests within their jurisdiction that aren't 'in open air', which could include stations and railway tracks;
- to create a new offence of child criminal exploitation;
- to amend existing legislation to provide a UK wide legal power for police to search and extract remotely stored electronic data (RSED) during criminal investigations and border stops to determine an individual's involvement in terrorism and hostile state activity and to allow police to extract RSED for lawful purposes; and to add a new targeted authorisation for intercepting communications, avoiding the need for a separate IPA warrant if access to RSED is already authorised;
- to provide for the creation of barred/advisory lists for the National Crime Agency (NCA), British Transport Police (BTP) the Ministry of Defence Police (MDP) and the Civil Nuclear Constabulary (CNC) and that all law enforcement employers must consult the lists before employing a person to carry out law enforcement functions; and
- to make amendments to the Proceeds of Crime Act 2002 (POCA)

Provisions which require the consent of the Scottish Parliament

12. The Bill contains provisions that apply to Scotland and the UK Government has requested legislative consent in relation the following clauses:

Clause 28 – Maximum penalty for offences relating to offensive weapons

13. Clause 28 makes changes to the maximum penalties for a number of offensive weapons offences. These offences are:

- The offence of manufacturing, selling, hiring, or offering for sale or hire, exposing or having in possession for the purpose of sale or hire, or lending or giving to other persons certain prohibited weapons;
- The offence of possession in private of certain prohibited weapons;
- The offence of sale of knives and certain other weapons to under 18s (under 16s for knives for domestic use); and
- The offence of manufacturing, selling, hiring, or offering for sale or hire, exposing or having in possession for the purpose of sale or hire, or lending or giving to other persons certain dangerous weapons.

14. The existing maximum custodial penalties for each of these offences is six months. This is being increased to 2 years.

15. 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, criminal law relating to weapons is devolved, and therefore this clause requires the consent of the Scottish Parliament.

Clause 36 - Create a duty to report remote sale of knives etc. in bulk

16. Clause 36 creates a duty to report remote sales of knives etc. in bulk. Breach of this duty will be an offence. The Scottish Government will issue guidance in relation to this duty under guidance powers as amended in the Offensive Weapons Act 2019.

17. 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, it would be within the Scottish Parliament's legislative competence to place sellers in Scotland under this duty, and therefore its consent is required.

Clause 41 – Proving an offence under clause 40 [Offence of child criminal exploitation]

18. Clause 41 provides further clarity around what activity needs to be proved to establish guilt for an offence under clause 40 (Offence of child criminal exploitation).

19. Under this clause, an offence is committed where the adult intended to cause a child to commit an offence. It makes it clear that if the adult intended to have the child commit criminality outside of the part of the UK in which it would be an offence, it is sufficient for the prosecutor to show that the adult intended the child to carry out the act, which, if done in that part of the UK the adult was acting in, would constitute an offence.

20. The clause also puts beyond doubt that the exploitation of children who are under the age of criminal responsibility is captured by the offence.

21. The legislative consent process is engaged as these provisions apply to Scotland for a purpose within the legislative competence of the Scottish Parliament, namely devolved matters concerning child protection as related to child criminal exploitation.

22. Please note that this clause should have been included with the child criminal exploitation offence (clause 40) in the [second supplementary LCM](#) lodged on 1 August 2025. It is included here to rectify that omission.

New clauses after clause 55 and after Schedule 5 - Child criminal exploitation prevention orders: Scotland

23. New clauses after clause 55 and after schedule 5 relate to child criminal exploitation prevention orders, which are civil orders that can enable prohibitions or requirements to be imposed by courts on adults involved in child criminal exploitation. The intention is to protect children from being criminally exploited and to prevent the adult from future offending. The orders are varied in what they can do, in that they can prohibit an adult from doing anything described in the order and will require the adult to follow restrictions imposed on them (including notifying the police of their address and of any changes or use of aliases or other names). Each prohibition or requirement can only be contained if it is deemed necessary to protect children or a child from being exploited to engage in criminality.

24. The order must be for a defined period of two years as a minimum or until a further order is granted.

25. The Sheriff has the power to impose an interim child criminal exploitation prevention order during court proceedings, if they consider it necessary, lasting for a fixed period or until the determination of an application for an order.

26. The Chief Constable of Police Scotland will be able to apply for child criminal exploitation prevention orders and prosecutors can make an application for an order on an adult who has been convicted of an offence, acquitted through special defence, found unfit for trial or successfully appeals against their conviction.

27. The Bill includes a clause to make it an offence for an adult, without reasonable excuse, to fail to comply with a child criminal exploitation prevention order made in England, Wales, Scotland or Northern Ireland. Similarly, there is a clause that makes it a criminal offence if an adult fails to comply with the notification requirements imposed on them as part of their order.

28. The legislative consent process is engaged as these provisions apply to Scotland for a purpose within the legislative competence of the Scottish Parliament, namely devolved matters concerning child protection as related to child criminal exploitation.

New clause after clause 63 - Child sex abuse image generators: Scotland

29. A new clause after clause 63 makes it illegal to possess, create or distribute AI tools designed to create Child Sexual Abuse (CSA) materials. The offence includes a prison sentence of up to 5 years. There are defences where a person can prove the offence involving a CSA image-generator was for the purposes of the prevention, detection or investigation of crime, or for the purposes of criminal proceedings; or that they were acting as a member of the intelligence agencies in the exercise of its functions; or as part of Ofcom's online safety functions. Internet intermediaries are exempt if they merely provide network access or transmission

without initiating, selecting recipients or altering content. They must act promptly to remove or disable access upon gaining actual knowledge that the information was, or contained, a CSA image-generator, to maintain this defence. There is also a delegated power conferred upon the Secretary of State to permit relevant organisations to possess CSA image generators for an appropriate purpose, for example testing to determine the capabilities of the models to prevent future crime.

30. 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 criminal law, which is a devolved matter.

New clause after clause 64 - Possession of advice or guidance about child sexual abuse or CSA images: Scotland

31. A new clause after clause 64 makes it an offence to possess advice or guidance that teach potential offenders about abusing children sexually or creating CSA images (so-called 'paedophile manuals'). "Abusing children sexually or creating CSA images" means doing anything that constitutes an offence under the applicable Scots laws referenced in this amendment. It will include pseudo-photographs and prohibited images and will ensure consistency between the approach taken for 'real' CSA materials and AI-generated abuse imagery. The offence includes a prison sentence of up to 3 years.

32. The Scottish Government considers that the legislative consent process is engaged as this provision applies to Scotland for a purpose within the legislative competence of the Scottish Parliament, namely criminal law, which is a devolved matter.

New clauses after clause 84 – Obscenity etc offences: technology testing defence, and technology testing defence: meaning of "relevant offence"

33. New clauses after clause 84 introduce a regulation-making power for the Secretary of State (SoS) to introduce a 'technology testing defence' for persons authorised by the SoS to carry out technology testing activities to prevent or detect prohibited materials, which fall under specific obscenity offences relevant to Scotland.

34. The offences for which the technology testing defence is to be available are set out in a new clause, "technology testing defence: meaning of "relevant offence". In Scotland, the relevant offences are set out in the Civic Government (Scotland) Act 1982, Sexual Offences (Scotland) Act 2009, and the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. These provisions relate to obscene material, extreme pornography, non-consensual intimate images, CSA image generators, and indecent photographs of children.

35. The SoS must consult the Scottish Ministers before making regulations under this section containing provision that would be within the legislative competence of the Scottish Parliament. The regulations can also include provision on how authorisations are given, how conditions are applied and revoked, and cost recovery. There is also a power for the SoS to prescribe consequences of non-compliance with conditions, including creating criminal offences punishable by a fine.

36. The power provides that the SoS can also prescribe a criminal offence where a company causes harm, e.g. through recklessness or grossly negligent non-compliance, and stems from the risk that a company conducting testing might not be sufficiently incentivised to comply with conditions if there is no sanction attached. Providing this power ensures that the SoS can respond should issues around adherence and control arise later.

37. 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 criminal law, which is a devolved matter.

New clause after clause 84 - Pornographic images of strangulation or suffocation: Scotland

38. Amendments to be inserted after clause 84 create new offences of possession and publication of pornographic images which depict acts of strangulation or suffocation in a manner which is realistic and explicit. There are defences to the offences provided with the effect that the accused person did not know and had no reason to believe that the material which they published/were in possession of depicted strangulation or suffocation, where the person in possession of the images features in those images and they do not depict actual strangulation or suffocation, or where the material had previously received a classification from the British Board of Film Classification. Maximum penalties for the offences are provided (for the offence of possession of pornographic images of strangulation or suffocation up to 2 years imprisonment, and for the offence of publication of such images up to 5 years imprisonment).

39. 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 devolved matters concerning the law relating to pornography.

Reasons for seeking legislative consent

Clause 28 – Maximum penalty for offences relating to offensive weapons

40. The Scottish Government recommends that the Scottish Parliament consents to these clauses as the Scottish Government supports the steps taken to strengthen certain aspects of offensive weapons law. The changes being made relate to

legislation on offensive weapons, which operates across the nations of the UK, and it is a sensible use of the legislative consent process for the changes to extend to Scotland.

Clause 36 - Create a duty to report remote sale of knives etc. in bulk

41. The Scottish Government recommends that the Scottish Parliament consents to these clauses as the Scottish Government supports the steps taken to strengthen certain aspects of offensive weapons law. It is a sensible use of the legislative consent process for the changes to extend to Scotland.

Clause 41 – Proving an offence under clause 40 [Offence of child criminal exploitation]

42. The Scottish Government recommends that the Scottish Parliament consents to this clause so that a UK-wide approach is taken to address the current legislative gap and to disrupt the criminal exploitation of children by adult perpetrators.

New clauses after clause 55 and after Schedule 5 - Child criminal exploitation prevention orders: Scotland

43. The Scottish Government recommends that the Scottish Parliament consents to these clauses so that a UK-wide approach is taken to support vulnerable victims and disrupt the activities of adult perpetrators who criminally exploit children. Those responsible for child criminal exploitation have no respect for borders and will exploit any perceived gaps in legislation, so it is vital that the orders extend across the four nations.

New clause after clause 63 - Child sex abuse image generators: Scotland

44. The Scottish Government recommends that the Scottish Parliament consents to this clause. Its introduction reflects the increasing use of generative AI and other technology, and the proposal is an attempt to address concerns highlighted by Police Scotland and online safety campaigners to deter and criminalise all forms of online child sexual abuse and exploitation (CSAE). By extending these laws to Scotland, the Scottish Parliament would also demonstrate alignment with UK legislation.

New clause after clause 64 - Possession of advice or guidance about child sexual abuse or CSA images: Scotland

45. The Scottish Government recommends that the Scottish Parliament consents to this clause. There are already relevant laws in England and Wales concerning so-called 'paedophile manuals', so the introduction of this offence in Scotland would demonstrate alignment with wider UK legislation. The proposed amendments also reflect the increasing use of generative AI and other technologies, and aim to

address concerns raised by Police Scotland and online safety campaigners to deter and criminalise all forms of online CSAE.

New clauses after clause 84 – Obscenity etc offences: technology testing defence, and Technology testing defence: meaning of “relevant offence”

46. The Scottish Government recommends that the Scottish Parliament consents to these clauses. The defence, and a new criminal offence regarding breach of conditions, are appropriate and will ensure that authorised persons, e.g. specific technology companies, can examine and limit the ability of existing and emerging technology to develop CSA material and other harmful imagery. It will ensure that there is consistency across the UK in how these regulations are applied.

New clause after clause 84 - Pornographic images of strangulation or suffocation: Scotland

47. The Scottish Government recommends that the Scottish Parliament consents to this clause in view of significant concerns about the extent to which the availability and easy access to pornographic images depicting strangulation or suffocation have risked normalising such behaviour in ‘real world’ sexual activity. It will ensure that the law in this area is consistent across the whole of the UK.

Consultation

48. Consultation on the relevant measures was undertaken by the UK Government as part of preparing the provisions and no major issues arose.

49. The House of Commons call for evidence on the Bill was launched on 14 March 2025.¹ The Public Bill Committee met for the first time on Thursday 27 March 2025 to consider the Bill and hear oral evidence.²

50. There has been some initial engagement with stakeholders in Scotland to understand views on the provisions for which legislative consent is required.

51. **With regard to clause 28 and clause 36** (offensive weapons and duty to report bulk sales of knives), the amendments tabled reflect engagement between respective governments to ensure suitability for Scots law.

52. **With regard to clause 41** (proving the offence of child criminal exploitation (clause 40), Scottish Government officials engaged with the Crown Office and Procurator Fiscal Service (COPFS) and Police Scotland on the provision alongside the offence of child criminal exploitation. No specific concerns were raised on the drafting of this clause.

¹ [Crime and Policing Bill: call for evidence - UK Parliament](#)

² [PBC187 Crime and Policing 1st 15th Compilation 14_05_2025.pdf](#)

53. **With regard to new clauses after clauses 55 and after Schedule 5** (child criminal exploitation prevention orders: Scotland), Scottish Government officials have engaged with COPFS and Police Scotland. Both partners were given early sight of the provisions and are supportive of the measures.

54. **With regard to new clauses after clauses 63 and after clauses 64** (child sexual abuse imagery and possession of guidance on such), the Scottish Government engaged with Police Scotland and COPFS as the proposals were introduced and the amendments tabled reflect engagement between respective governments to ensure suitability for Scots law. The National Strategic Group on Child Sexual Abuse and Exploitation, which brings together stakeholders from across statutory partners, third sector and academia, were also sighted on these provisions.

55. **With regard to new clauses after clause 84** (technology testing defence), the Scottish Government engaged COPFS and Police Scotland and the amendments tabled reflect engagement between respective governments to ensure suitability for Scots law.

56. **With regard to new clauses after clause 84** (pornographic images of strangulation or suffocation: Scotland), the amendments tabled reflect engagement between respective governments to ensure suitability for Scots law.

Financial implications

57. **With regard to clauses 28 and clause 36** (offensive weapons and duty to report bulk sales of knives), there are no significant financial implications.

58. **With regard to clause 41** (proving the offence of child criminal exploitation (clause 40), there are no financial implications.

59. **With regard to new clauses after clause 55 and after Schedule 5** (child criminal exploitation prevention orders: Scotland), Scottish Government officials are engaging with Police Scotland to understand if there are any financial implications.

60. **With regard to new clauses after clause 63 and after clause 64** (child sexual abuse imagery and possession of guidance on such), there are no financial implications. However, the provisions would provide additional powers to Police Scotland in pursuing offenders and facilitators of online CSAE which could generate an increase in activity for its National Child Abuse Unit, which provides the national lead for such offences.

61. **With regard to new clauses after clause 84** (technology testing defence), there are no significant financial implications.

62. **With regard to new clauses after clause 84** (pornographic images of strangulation or suffocation: Scotland), there are no significant financial implications.

Other relevant considerations

63. There are likely to continue to be both UK Government and non-Government amendments to this Bill as it progresses through the UK Parliament, as there is keen interest in this area of policy. There may be further supplementary LCMs required where any amendments trigger the requirement for legislative consent.

Post EU scrutiny

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

Conclusion

65. The Scottish Government has concluded that relevant clauses within the Bill require consent from the Scottish Parliament.

66. The Scottish Government recommends that the Scottish Parliament consents to clauses requiring consent as follows:

- Increase the maximum penalties for certain offences relating to offensive weapons (adjustments to clause 28);
- Create a duty to report remote sale of knives etc. in bulk (adjustments to clause 36);
- Extend the clause on proving the offence of child criminal exploitation (clause 41);
- Create new child criminal exploitation prevention orders: Scotland (new clauses after clause 55 and after Schedule 5);
- Extend new offences in relation to child sex abuse image-generators to Scotland (new clause after clause 63);
- Create a new offence of possession of advice or guidance about child sexual abuse or CSA images (new clause after clause 64);
- Create a power for the Secretary of State to make regulations providing a defence to certain offences which may be committed in the course of technology testing (new clauses after Clause 84);
- Create new offences relating to pornographic images of strangulation or suffocation to Scotland (new clauses after clause 84).

Draft motion on legislative consent

67. 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 Crime and Policing Bill, introduced in the House of Commons on 25 February 2025, and subsequently amended, relating to clause 28 (offensive weapons), clause 36 (duty to report bulk sale of knives), clause 41 (proving the offence of child criminal exploitation at clause 40), new clauses after clause 55 and Schedule 5 (child criminal exploitation prevention orders: Scotland), new clause after clause 63 (child sexual abuse image-generators: Scotland), new clause after clause 64 (possession of advice or guidance about creating child sexual abuse or CSA images), new clauses after clause 84 (technology testing defence), and new clauses after clause 84 (pornographic images of strangulation or suffocation), so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Scottish Government
December 2025

This Supplementary Legislative Consent Memorandum relates to the Crime and Policing Bill (UK Parliament legislation) and was lodged with the Scottish Parliament on 19 December 2025

Crime and Policing Bill – Supplementary Legislative Consent Memorandum

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