

Legislative Consent Memorandum

Criminal Justice Bill

Background

1. This supplementary Legislative Consent Memorandum (LCM) has been lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs, under Rule 9B.3.1(c) of the Parliament's standing orders. The Criminal Justice Bill was introduced in the House of Commons on 14 November 2023. The latest version of the Bill, Explanatory Notes and other supporting documents can be found at [Criminal Justice Bill - Parliamentary Bills - UK Parliament](#).
2. An LCM was lodged with the Scottish Parliament on 21 December 2023 covering Clauses 14 and 21 of the Bill as introduced (see LCM-S6-43 [Legislative Consent Memorandum \(parliament.scot\)](#)).
3. Amendments tabled on 20 December 2023 resulted in further relevant provision to Clauses 1 to 4 being added to the Bill triggering the requirement for a supplementary LCM which was lodged on 13 February 2024. (See LCM-S6-43a [Supplementary Legislative Consent Memorandum \(parliament.scot\)](#)).
4. This is the third LCM for this Bill and recommends consent for an amendment to clause 40 that would add the new serious organised crime offences at sections 1 and 3 of the Bill, which are indicative of a criminal lifestyle, to Schedule 4 of the Proceeds of Crime Act (POCA) 2002 for Scotland.

Content of the Criminal Justice Bill

5. The UK Government has set out that the Bill is intended to amend the criminal law to make provisions about criminal justice including the powers and duties of the police; dealing with offenders; reforms to the confiscation regime under the POCA 2002, the use of monies in suspended accounts; the prevention and detection of crime and disorder; begging, rough sleeping and anti-social behaviour; and for connected purposes.
6. The UK Government has presented the Bill as having seven key objectives to keep communities safe by:
 - strengthening the law to protect the public from violence and intimidation;
 - tackling violence against women and girls;
 - enabling law enforcement agencies to respond to changing technology deployed by criminals;

- equipping law enforcement agencies with the necessary powers to address emerging crime types and threats;
- introducing tougher sentencing;
- enhancing the management of offenders; and
- strengthening public confidence in policing.

7. Further information about the Bill can be found in the original LCM ([Legislative Consent Memorandum \(parliament.scot\)](https://www.parliament.scot/legislative-consent-memorandum)).

Provisions which require the consent of the Scottish Parliament

8. The Bill contains provisions that apply to Scotland and the UK Government has requested legislative consent in relation to Clause 40.

9. An amendment was made to Clause 40, adding new serious organised crime offences to offences listed in Schedule 4 of POCA 2002 (criminal lifestyle offences: Scotland). This amendment is a consequential amendment following on from the subject matter of the first supplementary LCM relating to the creation of new offences in Clauses 1 and 3 of the Criminal Justice Bill (articles for use in serious crime and electronic devices for use in vehicle theft).

10. Under section 142(6) of POCA 2002, Scottish Ministers may, by Order, amend Schedule 4 (lifestyle offences) for Scotland. It would therefore be within Scottish Ministers' devolved competence to make provision in this way and we agree with the UK Government's assessment that the LCM process is engaged as it is for a purpose within the legislative competence of the Scottish Parliament.

Reasons for recommending consent

11. The previous supplementary LCM sought the consent of the Parliament to extend Clauses 1 and 3 regarding articles used in serious organised crime to Scotland.

12. Clauses 1 and 3 include offences that are clearly indicative of a criminal lifestyle. Scottish Ministers agree that they should be added to the list of criminal lifestyle offences in Schedule 4 of POCA 2002. The amendment to Clause 40 provides for that. Consent would ensure these offences can be regarded as a criminal lifestyle offence. It will enhance the tools available to law enforcement and help ensure that such criminals pay back the criminal benefit from their criminality.

13. This aligns with the Scottish Government's approach to tackling serious organised crime. It therefore makes sense to consent to the addition of these offences to Schedule 4 thereby allowing these provisions to commence at the same

time as the rest of the UK and using this legislative vehicle to do so is a sensible approach.

Consultation

14. There has been no specific Scottish Government consultation on those areas requiring legislative consent. However, the Scottish Government has engaged with the Crown Office and Procurator Fiscal Service which is not opposed to adding these offences to Schedule 4.

Financial implications

15. There are no significant financial implications. Monies recovered under POCA are remitted to the Scottish Consolidated Fund. POCA receipts are primarily used to fund the CashBack for Communities Programme. POCA receipts are unpredictable and it is not possible to forecast the levels of receipts that will be remitted to the SCF in any one year.

EU alignment

16. Clause 40 as amended is not relevant to the Scottish Government's policy to maintain alignment with the EU because there is no existing EU legislation in this area.

Conclusion

17. The Scottish Government is supportive of Clause 40 as amended and promotes legislative consent to that provision.

Draft Legislative Consent Motion

18. The draft motion, which will be lodged by the Cabinet Secretary, is:

“That the Parliament agrees that the relevant provisions contained within Clause 40 as amended, of the UK Criminal Justice Bill, introduced in the House of Commons on 14 November 2023 so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Scottish Government
May 2024

This Supplementary Legislative Consent Memorandum relates to the Criminal Justice Bill (UK legislation) and was lodged with the Scottish Parliament on 23 May 2024

Criminal Justice Bill – Supplementary Legislative Consent Memorandum

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