

Supplementary Legislative Consent Memorandum

Armed Forces Bill

Background

1. This memorandum has been lodged by Neil Gray MSP, Cabinet Secretary for Justice, in accordance with Rule 9B.3.1(c) of the Parliament's standing orders. It should be read in conjunction with the Scottish Government's previous memorandum on the Bill ([LCM-S6-73](#)).

2. The Armed Forces Bill ("the Bill") was introduced by the UK Government in the House of Commons on 15 January 2026 and reintroduced on 14 May 2026. The Bill is available on the UK Parliament website at: [Armed Forces Bill - Parliamentary Bills - UK Parliament](#).

Content of the Bill

3. The Bill makes provision to renew the Armed Forces Act 2006 for a further five years. It seeks to: make provision extending the scope of the Armed Forces Covenant; establish the Defence Housing Strategy; give Defence personnel powers to use approved equipment to detect, prevent and defeat drone related offences at Defence sites; improve victim support in the Service Justice System; align legislation on public protection for those sentenced to imprisonment by Service Courts for certain serious offences within the civilian criminal justice system; extend the remit of the Armed Forces Commissioner to cover the Royal Fleet Auxiliary; replace the Reserve Forces and Cadets Associations with a new national non-departmental public body that will take on its functions; expand the pool of Reserves and enable seamless transfer between regular and reserve forces; enable the Ministry of Defence Police to deal with offences that cross national borders; enable service personnel (or civilian personnel subject to service discipline) to be detained where their mental health poses significant risk to themselves or others whilst deployed overseas, and; amend the Oil and Pipelines Act 1985 to expand the energy sources and fuels in relation to which the Oil and Pipelines Agency may exercise its defence-related functions.

4. A [legislative consent memorandum](#) relating to the relevant content of the Bill on introduction was lodged on 26 February 2026. The Motion on Legislative Consent was taken in the [Chamber](#) on 24 March 2026.

5. This supplementary LCM relates to amendment 30 tabled on 22 May 2026 and agreed by the [UK Parliament on 2 June](#), which adds new clauses 8(4) and 8(5)

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to the Bill concerning enforcement of service restraining orders (SROs) by the civilian courts.

6. This is part of the UK Government's approach to use the Bill to update the armed services justice system so it operates more effectively in line with policies operating in the civilian justice systems of the UK.

Provisions which require the consent of the Scottish Parliament

7. Clause 8(4) makes provision to enable Scottish courts to have jurisdiction in relation to SROs imposed by a Court Martial or Civilian Service Court where the person against whom the order is made ceases to be subject to service law or discipline.

8. The clause provides that where a Court Martial or Service Court makes an SRO against a person under section 229 of the Armed Forces Act 2006, and that a person is no longer either subject to service law or a civilian subject to service discipline (i.e., they are a veteran or have left the civilian role within the armed services that meant they were subject to service discipline), the SRO is to be treated as a non-harassment order made by a Sheriff Court under section 234A of the Criminal Procedure (Scotland) Act 1995.

9. This means that it would be a criminal offence in Scots law for such a person to breach the conditions of an SRO and the Scottish courts would be able to hear applications to vary or revoke an SRO. Equivalent provision is made to treat SROs as if they are restraining orders under the Protection from Harassment Act 1997 in England and Wales, or under the Protection from Harassment (Northern Ireland) Order 1997 in Northern Ireland.

10. Clause 8(5) makes provision to disapply section 109 of the Victims Witnesses and Justice Reform (Scotland) Act 2025 ("the 2025 Act") in relation to restraining orders which are so only because they have been deemed so as a result of clause 8 of the Bill. This is a technical amendment intended to avoid duplication of regimes, because the Scottish courts will already have jurisdiction in relation to such orders by virtue of clause 8(4).

Reasons for recommending legislative consent

11. Section 28(8) of the Scotland Act 1998 recognises that the UK Government will not normally legislate with regard to devolved matters without the consent of the Scottish Parliament. Devolution Guidance Note 10 states that Bills require the consent of the Scottish Parliament if they contain provisions applying to Scotland and which are for devolved purposes or if they alter the legislative competence of the Scottish Parliament or the executive competence of the Scottish Ministers.

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12. The Scottish Government and UK Government are of the view that clauses 8(4) and 8(5) apply to Scotland for a devolved purpose, namely the powers of the Scottish civilian courts in relation to SROs in circumstances where the person against whom the SRO is made has left the Armed Forces and is no longer subject to service law or discipline. Those powers do not relate to the armed forces reservation.

13. The Scottish Government recommends granting legislative consent as the amendments will ensure that the same protections are in place in Scotland for people whom an SRO is made to protect that will exist in the other jurisdictions in the UK. It would avoid a situation whereby someone in Scotland, in contrast with the rest of the UK, would have to make an application to the court for a civil protective order to obtain the protection that would otherwise be provided by the SRO. While section 109 of the 2025 Act, once commenced, would be of assistance, the more bespoke solution provided for these particular orders by these amendments is preferable. Although it would be possible to legislate on the matter through the Scottish Parliament, the Bill is the legislation that is making changes across the UK in this area and a consistent approach within one legislative vehicle to make the necessary changes that will ensure that protection is in place across the whole of the UK at the earliest opportunity.

Consultation

14. Consultation on relevant measures was undertaken by the UK Government prior to the Bill's introduction. The UK Government consulted with the Scottish Government with regard to how the amendments should be framed so as to work in the context of Scots law. There has not been separate formal consultation on this matter by the Scottish Government as the policy is to ensure protections for victims remain robust and this is in line with general Scottish Government policy on victim protection.

Financial implications

15. It is not anticipated that there are any significant financial implications. While there may be additional prosecutions in Scottish courts for alleged breaches of the conditions of an SRO, any financial costs may be offset by the fact that this may enable the justice system to intervene before the person subject to the SRO goes on to commit a more serious offence. It will also result in savings for any person who would otherwise need to apply to the civil courts for a non-harassment if they wished to put back in place the protections they had under the terms of the SRO.

Post EU scrutiny

16. We have not identified any assimilated law which has been impacted by the Bill.

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Conclusion

17. The Scottish Government has concluded that the relevant clauses amended into the Bill require consent from the Scottish Parliament.

18. The Scottish Government recommends that the Scottish Parliament consent to clause 8(4) and clause 8(5).

Draft motion on legislative consent

19. The draft motion, which will be lodged by the Cabinet Secretary for Justice, is:

“That the Parliament, noting that the Armed Forces Bill, introduced in the House of Commons on 15 January 2026 (reintroduced on 14 May 2026), makes provision that falls within the legislative competence of the Parliament, agrees to give consent to such provision as is made by clause 8(4) and clause 8(5).

Scottish Government
June 2026

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