

Legislative Consent Memorandum

National Security (State Threats) Bill

Background

1. This memorandum has been lodged by Neil Gray MSP, Cabinet Secretary for Justice, in accordance with Rule 9B.3.1(a) of the Parliament's standing orders.
2. The National Security (State Threats) Bill ("the Bill") was introduced by the UK Government in the House of Commons on 9 June 2026. The Bill is available on the UK Parliament website at [National Security \(State Threats\) Bill - Parliamentary Bills - UK Parliament](#).

Content of the Bill

3. The Bill makes provision for a new regime for designating bodies that are involved in threat activity linked to a foreign power, within a framework modelled on proscription under the Terrorism Act 2000.
4. Clause 1 of the Bill amends the National Security Act 2023 to introduce new clauses 33A and 33B. Clause 33A creates a power for the Secretary of State to designate a body via regulations if they reasonably believe that the body is, or has been, involved in foreign power threat activity, and considers that designating the body is necessary to protect the safety or interests of the United Kingdom. Clause 33B makes provision for the "designated body condition" which is met in relation to a person's conduct if (a) the conduct in question, or a course of conduct of which it forms part, is carried out for or on behalf of a designated body and (b) the person knows, or having regard to other matters known to them ought reasonably to know, that to be the case.
5. Clause 2 amends the 2023 Act to add new offences relating to designated bodies. These offences include supporting a designated body (section 17A), assisting a designated body (17B) and obtaining etc. material benefits from a designated body (17C).
6. Clause 3 makes provision for removal of designation (including appeals), the tribunal for the purposes of section 7 of the Human Rights Act, and immunity.

Provisions which require the consent of the Scottish Parliament

7. Paragraph 5 of the Schedule of the Bill amends Part 2 of Schedule 5ZB of the Criminal Procedure (Scotland) Act 1995 to add the new offences (introduced by clause 2) to the list of offences specified for the purpose of section 205ZC. Section 205ZC provides that where a person is convicted on indictment of an offence specified in Part 2 of Schedule 5ZB and they are not sentenced to life imprisonment, an order for lifelong restriction, an extended sentence or a serious terrorism sentence, if the court imposes a custodial sentence, the offender must be released subject to a licence under Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) for a further period of 1 year.

8. Adding those offences to Part 2 of Schedule 5ZB expands the class of prisoners to whom specific provisions on release will apply under Part 1 of the 1993 Act. The effect of this is that prisoners serving a sentence of imprisonment for those new offences will become subject to the release arrangements for national-security and terrorist offenders set out in Part 1 of the 1993 Act. Section 1AB of the 1993 Act provides for the restricted eligibility for release on licence of prisoners serving a terrorist sentence or a sentence imposed under section 205ZC of the 1995 Act. By adding these new offences to Part 2 of Schedule 5ZB, they will therefore be within scope of the release arrangements under section 1AB. It will then place a requirement on the Scottish Ministers to refer any such prisoners to the Parole Board for Scotland after serving two thirds of their sentence (per section 1AB(3)). This therefore confers a new function on the Scottish Ministers in respect of such prisoners.

9. It would also bring such prisoners within scope of section 3A of the 1993 Act which makes provision requiring Scottish Ministers to refer certain prisoners (including those serving a sentence imposed under section 205ZC) where their case has previously been referred, not less than one year following the Board’s disposal. This amendment will extend that requirement of Scottish Ministers to refer such prisoners (serving custodial sentences for the new offences listed in clause 2) to the Parole Board in the same way. Therefore, conferring a new function on Scottish Ministers in respect of such prisoners.

10. The Scottish Government considers that paragraph 5 of the Schedule confers functions of the Scottish Ministers in relation to release of prisoners serving custodial sentences for the offences being introduced by the Bill.

11. The Scottish Government therefore considers that this is a relevant Bill and that an LCM is required on the basis that the amendments to the Criminal Procedure (Scotland) Act 1995 alter the executive competence of the Scottish Ministers.

12. The UK Government does not share this view, and have indicated their position that as the Bill relates to national security it is entirely reserved.

This Legislative Consent Memorandum relates to the National Security (State Threats) Bill (UK legislation) and was lodged with the Scottish Parliament on 17 June 2026

Reasons for recommending legislative consent

13. Consenting to the amendment of the Criminal Procedure (Scotland) Act 1995, by paragraph 5 of the Schedule to the Bill, would ensure that the sentencing and release applied in Scotland for affected individuals convicted of the new offences created in the main body of the Bill, will be the same as the regime that is proposed to be applied in the rest of the UK.

14. This will provide for a consistent approach across the whole of the UK, and prevent the conditions in Scotland becoming less stringent than that applied in the rest of the UK.

Consultation

15. Given that the UK Government did not share the final text of the proposed Bill prior to its introduction on 9 June 2026, there has not been an opportunity for the Scottish Government to consult with stakeholders in regard to the potential effects of the proposed changes to Scottish legislation detailed in the Schedule to the Bill.

16. The Scottish Government will notify the Scottish Prison Service, Parole Board for Scotland, and Social Work Scotland of the effects of changes to the regime of sentencing, release and post-release supervision that would arise from the proposed change. Given that there are very few individuals who are convicted of such offences, it is not expected that the change will have a substantial impact on their operations.

Financial implications

17. There would be minimal financial impact to Scottish justice sector arising from the changes to sentencing and release processes set out in the amendments to Scottish legislation. Given that there are few individuals who would be sentenced, released and supervised under such offences (and any of those that received long sentences as a result would already be supervised following their release), any adjustments to operations that might be required would be supported from within existing operating budgets.

Other relevant considerations

18. The Scottish Government understands that the intention is that the Bill be passed ahead of the UK Parliament summer recess (16 July for the House of Commons). As such, there will be no scope to consider the Bill at a later date for the Scottish Parliament, given its summer recess begins on 27 June.

19. The expedited timetable, set by the UK Government, and the limited engagement from the UK Government prior to the Bill's introduction, has led to a serious risk of the Sewel Convention being breached and resulted in reduced scrutiny for the Scottish Parliament.

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Post EU scrutiny

20. This legislation is not considered to be relevant to the Scottish Government's policy to maintain alignment with the EU because in the time available to consider the Bill's provisions it has not identified any relevant EU law on state threats within the competence of the Scottish Parliament.

Conclusion

21. The Scottish Government has concluded that paragraph 5 of the Schedule to the National Security (State Threats) Bill triggers the requirement for an LCM.

22. The Scottish Government is recommending consent to ensure that the sentencing and release applied in Scotland for affected individuals will be the same as the regime that is proposed to be applied in the rest of the UK. This will provide for a consistent approach across the whole of the UK, and prevent the conditions in Scotland becoming less stringent than that applied in the rest of the UK.

23. On that basis, the Scottish Government intend to lodge the draft Motion below.

Draft motion on legislative consent

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

“That the Parliament, noting that the National Security (State Threats) Bill, introduced to the House of Commons on 9 June 2026, makes provision that alters the executive competence of the Scottish Ministers, agrees to give consent to such provision as made by paragraph 5 to the Schedule to the Bill.”

Scottish Government
June 2026

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