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Health and Sport Committee Comataidh Slàinte is Spòrs

Legislative Consent Memorandum on the Birmingham Commonwealth Games Bill (LCM (S5)31)



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Health and Sport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Sport.



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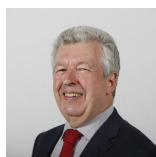


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Background

1. A Legislative Consent Memorandum (LCM) was initially lodged by Jeane Freeman, Cabinet Secretary for Health and Sport, under Rule 9.B.3.1(a) of the Parliament's Standing Orders, and was supported by Joe FitzPatrick, Minister for Public Health, Sport and Wellbeing. The LCM related to the Birmingham Commonwealth Games Bill which was introduced in the House of Lords on 5 June 2019.
2. The Committee considered that the Legislative Consent Memorandum related to the Birmingham Commonwealth Games Bill ("the Bill") at its 24th meeting in 2019, on Tuesday 29 October 2019. The Committee agreed to report to Parliament that it should consent to the UK Parliament legislating in this area.
3. The Bill fell at the dissolution of the 2019 session for the general election. A new, albeit identical, Birmingham Commonwealth Games Bill was introduced in the House of Lords on 7 January 2020. A new Legislative Consent Memorandum was lodged on 30 January 2020 by Jeane Freeman, Cabinet Secretary for Health and Sport, under Rule 9.B.3.1(a) of the Parliament's Standing Orders, and was supported by Joe FitzPatrick, Minister for Public Health, Sport and Wellbeing
4. The Committee considered the Legislative Consent Memorandum related to the Birmingham Commonwealth Games Bill at its 4th meeting in 2020, on Tuesday 18 February 2020. The Committee again agreed to report to Parliament that it should consent to the UK Parliament legislating in this area.

Birmingham Commonwealth Games Bill

5. The Commonwealth Games Bill ['the Bill'] is a UK Government Bill and was introduced in the House of Lords on 5 June 2019.
6. According to the initial House of Lords Library Briefing, the Bill -
 - ” "provides the legal basis for certain time-limited measures in support of the games. These are grouped in four main areas: funding; association with the games; ticket touting, advertising and trading; and transport.ⁱ"
7. The LCM states that the Scottish Government's view is that the subject matter is not wholly reserved. The LCM details that Part 3 of the Bill covers Touting, Advertising and Trading Offences. There are two specific areas within Part 3 of the Bill that relate to matters within the legislative competence of the Scottish Parliament; these are a ticket touting offence and ancillary provisions.
8. The first is the power at Clause 10 which provides that it is a criminal offence for a person to sell, offer to sell, or expose for sale a Games ticket without authorisation from the Organising Committee. The LCM details -
 - ” "Sub-clause 8 provides that a person guilty of an offence under this clause is liable to a fine not exceeding £50,000 in Scotland on summary conviction. Sub-clause 9 provides that any penalty imposed in Scotland will be recoverable under section 221 of the Criminal Procedure (Scotland) Act 1995ⁱⁱ."
9. The second is the provision at Clause 11 which provides that it is an offence if a UK National or person normally resident in the UK acts in a way outside the UK that if done in the UK would constitute an offence. The LCM details -
 - ” "Sub-clause 4 provides that proceedings against a person in Scotland may be taken in the sheriff court in which the person apprehended is taken into custody, or in a sheriff court determined by the Lord Advocateⁱⁱⁱ."

i [House of Lords Library. \(5 June 2019\) Birmingham Commonwealth Games Bill \[HL\] 2017-19](#)

ii [Legislative Consent Memorandum, Birmingham Commonwealth Games Bill](#)

iii [Legislative Consent Memorandum, Birmingham Commonwealth Games Bill](#)

Scrutiny of the Memorandum

10. Scottish Parliament Standing Orders state that an LCM should normally be lodged with the Scottish Parliament two working weeks after the introduction of a relevant Bill in Westminster. The LCM was lodged shortly after the Bill was introduced in June 2019, and again in January 2020.
11. At its meeting on 29 October 2019, and again on 18 February 2020, the Committee considered the LCM. The Committee agreed with the Scottish Government view that it is in the interests of the Scottish people and good governance that the relevant provisions which fall within the legislative competence of the Scottish Parliament should be considered by the UK Parliament.

Conclusion

12. The Committee supports the use of the LCM procedure on this occasion. The LCM includes a draft legislative consent motion in the following terms -

"That the Parliament agrees that the relevant provisions of the Birmingham Commonwealth Games Bill, introduced in the House of Lords on 7 January 2020, relating to ticket touting, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.^{iv}"

Annex A - Minutes of meetings

[24th Meeting , 2019 \(Session 5\) Tuesday 29 October 2019](#)

6. Birmingham Commonwealth Games Bill (UK Parliament legislation): The Committee considered the legislative consent memorandum lodged by Jeane Freeman, Cabinet Secretary for Health and Sport (LCM (S5) 25) and agreed to report to Parliament that it should consent to the UK Parliament legislating in this area.

[4th Meeting. 2020 \(Session 5\) Tuesday 18 February 2020](#)

2. Birmingham Commonwealth Games Bill (UK Parliament legislation): The Committee considered the legislative consent memorandum lodged by Jeane Freeman MSP, Cabinet Secretary for Health and Sport (LCM (S5) 31) and agreed to report to Parliament that it should consent to the UK Parliament legislating in this area.

