

Criminal Justice Committee
Wednesday 1 October 2025
25th Meeting, 2025 (Session 6)

Legislative consent memorandums on the Crime and Policing Bill (UK Parliament legislation)

Note by the Clerk

1. On 16 May, a Legislative Consent Memorandum (LCM) [LCM-S6-57](#) was lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs and has been referred to the Criminal Justice Committee for scrutiny.
2. This LCM relates to proposed UK Government legislation – the Crime and Policing Bill – currently being considered by the UK Parliament.
3. A supplementary LCM ([LCM-S6-57a](#)) was lodged on 12 June 2025 and a second supplementary LCM ([LCM-S6-57b](#)) was lodged on 1 August 2025.

Crime and Policing Bill

4. The Crime and Policing Bill was introduced by the UK Government in the House of Commons on 25 February 2025.
5. The Bill and associated documents can be viewed on the [UK Parliament website](#).
6. The Bill on introduction makes provision about anti-social behaviour, offensive weapons, offences against people (including sexual offences), property offences, the criminal exploitation of persons, sex offenders, stalking and public order, the powers of the police, the border force and other similar persons. It also makes provisions about confiscation; about the police; about terrorism and national security, and about international agreements relating to crime; and about the criminal liability of bodies; and for connected purposes.
7. The Bill on introduction was made up of 15 Parts (137 Clauses) and 17 Schedules. The following provisions initially triggered the process of requesting the consent of the Scottish Parliament that the provisions be extended to Scotland because they touch upon devolved matters:
 - 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 are 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 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;
 - regarding the criminal liability of bodies corporate and partnerships where a senior manager commits an offence.
6. Following amendments agreed to at the Public Bill Committee stage in the UK Parliament, the Bill was expanded to 15 Parts (172 Clauses) and 18 Schedules. Two sets of amendments were identified by the Scottish Government as triggering the LCM process and prompted the need for a supplementary LCM. These relate to:
- online advertising of unlawful weapons: civil penalties; and
 - powers of the British Transport Police and Ministry of Defence Police.
7. The Bill was further expanded to 16 Parts (203 Clauses) and 21 Schedules following amendments tabled on 10 June,. Four new areas were identified as triggering the LCM process, prompting a second supplementary LCM:
- offence of child criminal exploitation;
 - remote storage provisions for electronic data;
 - the creation of barred/advisory lists for the National Crime Agency and the British Transport Police; and
 - amendments to the Proceeds of Crime Act 2002.
8. The Bill is currently progressing through the UK Parliament and is at 2nd Reading stage in the House of Lords, having completed its passage in the Commons. The Bill had its first reading in the Lords on 19 June 2025. The date for its second reading has yet to be announced.

Legislative consent procedure

9. Under the Sewel Convention, the UK Parliament does not normally legislate on devolved matters, or to alter the legislative competence of the Parliament or the executive competence of the Scottish Government, without the consent of the

Scottish Parliament. Consent is given by means of a resolution of the Parliament in the chamber.

10. Under Chapter 9B of the Standing Orders, the Scottish Government must lodge a legislative consent memorandum (LCM) in relation to each UK Parliament Bill that contains a provision (“relevant provision”) that would require the Parliament’s consent under the Convention. Sometimes the Scottish Government may be required to lodge one or more supplementary LCMs during the passage of a Bill. It is also possible for an LCM to be lodged by an individual MSP.
11. Every LCM lodged is referred to a lead committee for scrutiny, and may also be referred to other committees. If the Bill confers power on the Scottish Ministers to make subordinate legislation, the Delegated Powers and Law Reform Committee (DPLRC) must also consider the LCM and may report on it to the lead committee.
12. Once the lead committee has reported, the Scottish Government normally lodges a motion on legislative consent for consideration in the Chamber. Such a motion may give consent to relevant provision in the Bill, refuse consent to such provision, or a mixture of the two. A draft of the motion is normally included in the LCM.

The Scottish Government’s LCM and supplementary LCMs

13. In its initial [LCM](#), the Scottish Government recommended that the Scottish Parliament consent to the following:
 - Cuckooing (as detailed in paragraph 7 of the LCM);
 - Management of sex offenders (paragraph 12);
 - Offences relating to electronic devices for use in vehicle theft (paragraph 14) and including in the Scottish POCA Criminal Lifestyle Schedule (paragraph 16);
 - Expanding the lawful purposes for which the police can access the DVLA driving license database (paragraph 17);
 - Proceeds of crime: expenses protections (paragraph 19);
 - Implementation of international law enforcement information sharing agreements (paragraphs 20 to 22) and;
 - Criminal liability of bodies corporate and partnerships where senior manager commits offence (paragraph 24)
14. The Scottish Government’s reasons for recommending consent to the above provisions are outlined in paragraphs 29 and paragraphs 38 to 43 of the LCM.
15. The Scottish Government recommended that consent be **withheld** to the clauses detailed in **paragraphs 9 and 10** of the LCM. However, amendments tabled by the UK Government on 10 June, **removed** these clauses. This amended these provisions out of the Bill.
16. The draft motion on legislative consent is as follows:

“That the Parliament, in relation to the Crime and Policing Bill, consents to Clauses 32 to 34 and Part 2 of Schedule 5 (Cuckooing); Clauses 59 to 63 and 66 to 68 and Schedule 9 (Management of sex offenders); Clauses 78 and 79 (Offences relating to electronic devices for use in vehicle theft); Clause 95 (Expanding the lawful purposes for which the police can access the DVLA driving license database); Clause 103 (Proceeds of crime: expenses protections); Clauses 127 to 129 and 133 (Implementation of international law enforcement information sharing agreements); Clause 130 (Criminal liability of bodies corporate and partnerships where senior manager commits offence) being considered by the UK Parliament and refuses to consent to Clause 35(4)(b) (amendment to the Proceeds of Crime Act 2002 (POCA) Scottish Criminal Lifestyle Schedule to include the cuckooing offence) and to Clause 55 (relating to the issue of guidance about disclosure of information by police for the purpose of sex offending) being considered by the UK Parliament.”

Supplementary LCM

17. The [supplementary LCM](#) relates to amendments to two areas of the Bill:

- online advertising of unlawful weapons: civil penalties (paragraph 8 of the supplementary LCM)
- powers of British Transport Police and Ministry of Defence Police (paragraph 13)

18. The Scottish Government recommends that the Scottish Parliament consents to the clauses relating to these areas. These were clauses 10 to 24 and clause 116 in the Bill on introduction (now clauses 12 to 26 and clause 126 in the amended version of the Bill).

19. The Scottish Government’s reasons for recommending consent to the above clauses are outlined in paragraphs 15 to 18 of the supplementary LCM.

20. The draft motion on legislative consent is as follows:

“That the Parliament, in relation to the Crime and Policing Bill, consents to Clauses 10 to 24 and Schedule 4 (online advertising etc. of unlawful weapons: civil penalties) and Clause 116 (powers for British Transport Police) being considered by the UK Parliament.”

Second supplementary LCM

21. The [second supplementary LCM](#) relates to amendments to four areas of the Bill and the Scottish Government recommends that the Scottish Parliament consent to the following:

- offence of child criminal exploitation (paragraph 10 of the second supplementary LCM);
- remote storage provisions for electronic data (paragraph 13);
- the creation of barred/advisory lists for the National Crime Agency and the British Transport Police (paragraphs 15 and 16); and

- amendments to the Proceeds of Crime Act 2002 (paragraphs 18 and 20 to 25).
22. The Scottish Government's reasoning for recommending consent to the above clauses is outlined in paragraphs 27 to 30 of the second supplementary LCM.
23. The draft motion on legislative consent is as follows:

"That the Parliament agrees that the relevant provisions in the Crime and Policing Bill introduced on the 25 February 2025, and subsequently amended, relating to clause 40 (child criminal exploitation), clauses 130-137 and Schedule 14 (RSED), clauses 157-158, 160-165 and Schedule 19 (creation, maintenance and checking of barred and advisory lists for NCA/BTP/MDP/CNC), and schedule 18 (POCA), so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament."

Further supplementary LCMs

24. Whilst the Bill is proceeding in the UK Parliament, there is scope for further amendments to be agreed to which may trigger the need for consent procedures. The clerks don't have any details on this but the Committee should be aware of this possibility. Should this arise, the Convener will make arrangements for any additional, supplementary LCM to be considered by the Committee.

Scrutiny by DPLR Committee

25. The LCM and both supplementary LCMs were considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meetings on 2 and 23 September 2025. The DPLRC's [report](#) on the LCMs was published on 26 September 2025.
26. At the meeting of 2 September the DPLRC agreed that it was content with the delegated powers listed in paragraph 5 of its report.
27. At that meeting the DPLRC also agreed to send questions to [the Scottish Government](#) and to [the UK Government](#) in relation to certain delegated powers.
28. A [response was received from the Scottish Government](#). No response has yet been received by the UK Government.
29. The DPLRC report makes various recommendations and draws a number of the delegated powers in the Bill to the attention of the Criminal Justice Committee. These are as follows:
- Clause 89: New section 86B of the Sexual Offences Act 2003 (paragraphs 39 to 60 of the report). In particular, paragraph 59 which reads:

As regards the power in new section 86B(3) of the Sexual Offences Act 2003, the Committee notes that the definition of qualifying premises is

key to the new provisions regarding notification by registered sex offenders proposing to enter premises where children are present.

As such, the Committee recommends that a definition of qualifying premises insofar as relating to Scotland should be provided on the face of the Bill, with a power being taken to amend that definition, if considered appropriate.

- Clause 138: New section 71 of the Criminal Justice and Court Services Act 2000 - power to make information-sharing regulations for police and law enforcement about DVLA information (paragraphs 148 to 163)
- Schedule 19: Special police forces: barred person lists and advisory lists (paragraphs 164 to 191)
- Clause 192: Power to implement international agreements on sharing information for law enforcement purposes (paragraphs 192 to 211)

Evidence session

30. At this meeting, the Committee will take evidence on the LCM and the two supplementary LCMs from the Cabinet Secretary for Justice and Home Affairs and her officials.

Decision

31. After hearing from the Cabinet Secretary, the Committee will be invited to decide what recommendation to make to the Parliament – in particular, whether to recommend agreement to the Scottish Government's draft motions.

Report

32. The Committee is required to report to the Parliament on the LCMs currently published. One option is for the Committee to agree to consider a draft report, in private, at its next meeting. Alternatively, it could delegate responsibility to the Convener to finalise the wording of a short report reflecting the outcome of today's meeting.

Clerks to the Committee
September 2025