

Criminal Justice Committee
Wednesday 18 March 2026
11th Meeting, 2025 (Session 6)

Fourth supplementary legislative consent memorandum on the Crime and Policing Bill (UK Parliament legislation)

Note by the Clerk

1. On 2 March 2026, a supplementary Legislative Consent Memorandum (LCM), [LCM-S6-57d](#) was lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs in relation to the UK Government's Crime and Policing Bill ("the Bill").
2. It is the fourth supplementary LCM ("fourth sLCM") lodged in relation to the Bill and has been referred to the Criminal Justice Committee.
3. The Committee considered the Scottish Government's initial LCM, [LCM-S6-57](#) and two supplementary LCMs, [LCM-S6-57a](#) and [LCM-S6-57b](#) at [its meeting of 1 October 2025](#) and reported on them in its [7th Report, 2025](#). The Committee recommended to the Parliament that consent be given to the relevant provisions covered by the LCM and both supplementary LCMs.
4. The third supplementary LCM, [LCM-S6-57c](#) was considered by the Committee at its [meeting of 25 February 2026](#). The Committee recommended to the Parliament that consent be given to the relevant provisions covered by the third supplementary LCM in its [7th Report, 2026](#).

Crime and Policing Bill

5. The Crime and Policing Bill was introduced by the UK Government in the House of Commons on 25 February 2025.
6. The Bill and associated documents can be viewed on the [UK Parliament website](#).
7. The Bill as amended makes provision about anti-social behaviour, offensive weapons, offences against people (including sexual offences), property offences, the criminal exploitation of children, sex offenders, stalking and public order; makes provision about powers of the police, the border force and other similar persons; makes provision about confiscation; makes provision about the police; makes provision about terrorism and national security, and about international agreements relating to crime; makes provision about the criminal liability of bodies; and for connected purposes
8. A number of provisions in the Bill on introduction triggered the legislative consent process and an LCM was lodged on [16 May 2025](#).

9. Further amendments triggered the legislative consent process and supplementary LCM(s) were lodged on [12 June 2025](#), [1 August 2025](#) and [19 December 2025](#).
10. On 13 February 2026, further amendments were tabled to strengthen the legal duties on sellers, couriers, contractors and collection point operators involved in the remote sale of knives and crossbows and other weapons. These changes will ensure that such items are delivered directly to the purchaser, who must be verified as being at least 18 years old. It is also proposed to remove the requirement to add civilian employees to the Civil Nuclear Constabulary (CNC) and British Transport Police (BTP) advisory lists when allegations are made after the employee resigns or retires. Amendment to clause 179 will ensure that the definition of “law enforcement employer” is applied consistently. **These amendments require the consent of the Scottish Parliament.**
11. Amendments were also tabled removing the reasonable belief test from child criminal exploitation, making minor drafting amendments to Child Sexual Abuse 2 (CSA) image generators and making provision for pre-commencement consultation on police access to driver licensing information. **These do not require the consent of the Scottish Parliament because they are technical amendments and the clauses are covered in a previous supplementary LCMs.**
12. An amendment to remove the reasonable belief test in the child criminal exploitation offence at clause 41 (previously clause 40) has been tabled by the UK Government. The Bill and the second Supplementary legislative consent memorandum lodged on 1 August 2025 noted that the perpetrator committed the offence if the child is under the age of 13 or if they do not reasonably believe that the child is aged 18 or over. Stakeholders, including the Crown Office and Procurator Fiscal Service, and Police Scotland, raised concerns about the inclusion of the reasonable belief test in the Bill. Scottish Government officials have had significant engagement with the Home Office in relation to this. Consequently, the UK Government has now tabled an amendment to remove the test so that prosecutors no longer have to prove that the adult did not reasonably believe that the child was aged 18 or over.
13. **As this is an amendment of the provision which is within the limits of consent previously provided by Parliament, no further parliamentary consent is required.** The Committee has already recommended to the Parliament that this offence should be extended to Scotland, following its consideration of the second supplementary LCM in October 2025.
14. Amendments were tabled on 23 February 2026 in regard to clauses 67 and 69 on CSA image generators and possession of advice or guidance about CSA or CSA images, which clarify how the CSA image generator offence will operate in Scotland. The amendments to clause 67 are technical changes and make a minor but important clarification to the definition of a CSA image generator, stating that “CSA image generators” also includes services. The amendments to clause 69 are minor drafting changes. **As these are largely technical changes, the Scottish Government considers that no further parliamentary consent is**

required once they have been tabled, as the original provisions were covered in the third supplementary legislative consent memorandum.

15. The provision around police access to driver licencing information at clause 154 (formerly clause 138) has been amended. The clause contains a statutory requirement for the Secretary of State to consult with the Scottish Ministers before making such regulations and the code of practice. To enable the swift implementation of these provisions, the UK Government has tabled amendments to the Bill to provide that pre-commencement consultation satisfies the requirement to consult under this clause. A further amendment has also been tabled so that the aforementioned regulations will now be subject to the draft affirmative procedure within the UK Parliament
16. **The Scottish Government considers that the technical nature of these amendments means that they do not require legislative consent.** The substantive elements of the clause were previously covered within the original LCM which was considered last year by the Committee and the Delegated Powers and Law Reform Committee. The Scottish Government anticipates that the Secretary of State will write shortly to the Scottish Ministers to formally consult on the draft regulations and Code of Practice. This will provide an opportunity for Scottish Ministers to comment on the draft regulations and a draft Code of Practice prior to these being laid by the Secretary of State. As previously indicated to the aforementioned committees, it is the intention of the Scottish Government, where possible, to inform the committees in writing of its response to such consultation.
17. The Bill is continuing to progress through the UK Parliament and is currently at Report stage in the House of Lords.

Legislative consent procedure

18. 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.
19. 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.
20. 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.

21. 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 fourth supplementary LCM

22. The Scottish Government recommends that the Scottish Parliament consent to the following areas as set out in the [fourth sLCM](#):
- **Clauses 31-35 – remote sale of knives etc.:** these clauses relate to where knives, crossbows and other weapons are sold remotely. The amendments to existing clauses strengthen legal requirements falling on sellers, couriers, contractors and collection point operators to ensure items are delivered directly to the buyer who must be aged at least 18 **(detailed in paragraphs 20 and 21 of the fourth sLCM)**.
 - **Clause 179 and Schedule 21 – Interpretation of sections 173 to 178:** these amendments aim to ensure that the definition of “law enforcement employer” is applied consistently across clauses 173 to 178, and remove the requirement to add civilian employees to the British Transport Police (BTP) advisory lists. While the BTP is a UK-wide special police force it carries out devolved law enforcement functions in Scotland **(as set out in paragraphs 22 and 23)**

23. The Scottish Government's reasoning for recommending consent to the above clauses is set out in **paragraphs 24 and 25 of the fourth sLCM**.

24. The Scottish Government intends to lodge a Motion on Legislative Consent covering the content of this supplementary LCM and also the original LCM plus the first three supplementary LCMs. The draft motion on legislative consent is:

“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 clauses 31-35 (remote sale of crossbows and knives), and clause 179 and Schedule 21 (Barred Persons Lists and Advisory Lists), so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Scrutiny by DPLR Committee

25. The fourth sLCM is due to be considered by the Delegated Powers and Law Reform Committee (DPLRC) at its meeting on 17 March 2026. The clerks will provide a copy of its report when it is published or provide an oral update at the meeting.

Evidence session

26. At this meeting, the Committee will take evidence on the fourth sLCM from the Cabinet Secretary for Justice and Home Affairs and her officials.

Decision

27. 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 motion.

Report

28. The Committee is required to report to the Parliament on the fourth supplementary LCM. 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
March 2026