

Supplementary Legislative Consent Memorandum

Crime and Policing Bill

Background

1. This memorandum has been lodged by Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs, in accordance with Rule 9B.3.1(c) of the Parliament's Standing Orders.
2. The Crime and Policing Bill was introduced by the UK Government in the House of Commons on 25 February 2025. The Bill is available on the UK Parliament website via this link: [Crime and Policing Bill - Parliamentary Bills - UK Parliament](#). The Bill has recently completed the Public Bill Committee stage (14 May 2025) before it will move to the Report stage in the House of Commons.
3. This supplementary legislative consent memorandum (supplementary LCM) relates to amendments to two areas (online advertising of unlawful weapons: civil penalties and powers of British Transport Police and Ministry of Defence Police) which were added to the Bill through amendments tabled on 24 April 2025 and agreed to on 8 May 2025 at the Public Bill Committee stage.

Content of the Bill

4. 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; to make provision about powers of the police, the border force and other similar persons. It also makes provision 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.
5. A number of provisions in the Bill on introduction triggered the legislative consent process as follows:
 - 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 present. The clauses also contain provisions relating to restrictions on applying for replacement identity documents in new name and powers of entry and search in certain circumstance.

- 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. A [Legislative Consent Memorandum](#) relating to the relevant content of the Bill on introduction was lodged on 16 May 2025.

Provisions which require the consent of the Scottish Parliament

7. The provisions that have been amended into the Bill at the Public Bill Committee Stage that apply to Scotland and trigger the legislative consent process are as follows.

Clauses 10 to 24 and Schedule 4 – online advertising etc. of unlawful weapons: civil penalties

8. Clauses 10 to 24 and Schedule 4 introduce new civil penalties for online companies and their senior managers should they fail to take down illegal knife and offensive weapons content when notified of it by the police.

9. The powers being granted to the police will allow them to issue content removal notices to online marketplaces, social media platforms and search engines. The notices will require relevant content to be removed within 48 hours. If it is not, then a company and an executive designated as their content manager would be liable to civil penalty notices of up to £60,000 and £10,000 respectively. In cases of a failure of a company to designate a UK-based executive as a content manager, a civil penalty of up to £60,000 would be available to use.

10. Safeguards are built into the scheme with companies able to seek a review of a notice as well as a general right for companies and content manager executives to make representations to the police. There will also be a process of challenge of notices through the courts.

11. The Scottish Government considers that the LCM process is engaged as these provisions apply to Scotland for a purpose within the legislative competence of the Scottish Parliament, namely taking steps to prevent the advertisement, sale and supply of unlawful weapons in Scotland. The UK Government considers that the provisions are wholly reserved as coming under “internet services” under reservation C10 in schedule 5 of the Scotland Act 1998 and does not consider that the legislative consent process is engaged.

12. The Scottish Government considers that that the C10 reservation is concerned with the infrastructure and facilities that enable the functioning of the internet rather than services provided on the internet. The Scottish Government considers that the purpose of these provisions is a devolved one as it relates to criminal justice and that it would be within the legislative competence of the Scottish Parliament to make provision with the same effect of these provisions for Scotland. The Scottish Government therefore considers that the Scottish Parliament’s consent is required in respect of these provisions.

Clause 116 – powers for British Transport Police

13. Clause 116 provides for amendments relating to British Transport Police and Ministry of Defence Police so as to ensure that public order legislation applies appropriately to the British Transport Police (BTP) and Ministry of Defence Police (MDP).

14. The Scottish Government agrees with the UK Government’s assessment that the provisions as they apply to BTP officers operating in Scotland engage the LCM process because railway policing in Scotland is devolved. Sections 14 and 14A of the Public Order Act 1986 (the 1986 Act) allow for the imposing of conditions on public assemblies and for prohibiting trespassory assemblies that take place in an open-air location. This restriction limits the scope of these powers where a public assembly or a trespassory assembly takes place at a railway station, where that station is not open air. The new clause amends the 1986 Act definitions and the suggested fix explicitly relates to areas where BTP operate – such as railways stations and tracks – as places where conditions can be applied without requiring them to be open-air spaces.

Reasons for seeking legislative consent

Clauses 10 to 24 and Schedule 4 – online advertising etc. of unlawful weapons: civil penalties

15. The Scottish Government considers consent is needed, while the UK Government do not consider consent is needed.

16. Notwithstanding the disagreement with the UK Government in respect of the triggering of a requirement for legislative consent, the Scottish Government recommends that the Scottish Parliament supports the online advertising clauses so that a UK-wide approach is taken for these measures.

17. The Scottish Government is not aware of major service providers being based in Scotland and it makes sense for a UK-wide approach to be adopted to ensure a comprehensive legal position is established to avoid any loopholes being created in different nations of the UK. The UK Government indicates that knives and weapons that are illegally marketed to encourage violence are commonly sold online and these new powers will help address this issue. The Scottish Government agrees with this analysis and considers the provisions extending to Scotland are beneficial at a time when there is no suitable legislative vehicle in Scotland to achieve similar provision.

Clause 116 – powers for British Transport Police

18. The Scottish Government recommends that the Scottish Parliament supports this clause to allow BTP officers operating in Scotland the ability to properly exercise the powers conferred in the public order legislation within their jurisdiction.

Consultation

19. Consultation on the relevant measures was undertaken by the UK Government as part of preparing the provisions and no major issues arose.

Financial implications

20. In light of the operation of the new online advertising powers being a UK-wide scheme, implications for Police Scotland may be limited. The UK Government has indicated implementation of the new UK-wide powers will be progressed through the National Police Chiefs' Council through which Police Scotland will be involved.

21. There are no financial implications in relation to the extension of the public order measures to British Transport Police.

Other relevant considerations

22. There are likely to continue to be both Government and non-government amendments to this Bill as it progresses through Parliament as there is keen interest in this area of policy. There may be further Legislative Consent Memoranda required where any amendments trigger the requirement for legislative consent.

Post EU scrutiny

23. The Scottish Government has not identified any assimilated law which has been impacted by the Bill.

Conclusion

24. The Scottish Government has concluded that relevant clauses amended into the Bill at the Public Bill Committee stage require consent from the Scottish Parliament. While there is agreement between governments as to the need for legislative consent for clause 116, there is disagreement between governments on the need for legislative consent for clauses 10 to 24 and schedule 4.

25. The Scottish Government recommends that the Scottish Parliament consents to clauses requiring consent as follows:

- Online advertising etc. of unlawful weapons: civil penalties – clauses 10 to 24 and Schedule 4
- Powers for British Transport Police – clause 116

Draft motion on legislative consent

26. The draft motion, which will be lodged by the Cabinet Secretary for Justice and Home Affairs, is:

“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.”

Scottish Government
June 2025

This Supplementary Legislative Consent Memorandum relates to the Crime and Policing Bill (UK legislation) and was lodged with the Scottish Parliament on 12 June 2025

Crime and Policing Bill – Supplementary Legislative Consent Memorandum

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