

The Welsh Government's Legislative Consent Memorandum on the Birmingham Commonwealth Games Bill

October 2019

Background

The Bill

Overview

1. The Birmingham Commonwealth Games Bill received its first reading in the House of Lords on 5 June 2019 and is sponsored by the Department for Digital, Culture, Media and Sport.

2. The explanatory notes to the Bill (as introduced) state that:

“This Bill provides for a number of operational measures required to support the delivery of the 2022 Commonwealth Games to be held predominantly in Birmingham (and venues across the West Midlands). It provides United Kingdom ministers and the Organising Committee with the powers necessary to ensure delivery of aspects of the Games relating to funding of the Organising Committee, provisions regarding



association with the Games, ticket touting, advertising and trading and transport.”¹

3. Annex A to the explanatory notes sets out the UK Government's assessment of territorial extent and application in the United Kingdom.²

4. In addition, the explanatory notes state:

“We note that aspects of advertising and trade are reserved in Schedule 5 to the Scotland Act 1998 and Schedule 7A to the Government of Wales Act 2006, but consider the main purpose of the provisions is to host a successful sports event, in particular, to protect the commercial rights of sponsors and provide a good Games experience for spectators.”³

5. The Bill completed Report Stage in the House of Lords on 24 July 2019.

The Welsh Government's Legislative Consent Memorandum

6. In accordance with Standing Orders 29.1 and 29.2, a Legislative Consent Memorandum (LCM) is required because provisions within the Bill modify or fall within the National Assembly's legislative competence.

7. On 19 June 2019, the Deputy Minister for Culture, Sport and Tourism laid before the National Assembly an LCM in respect of the Bill.⁴

8. On 25 June 2019, the Business Committee referred the LCM to this Committee, and the Economy, Infrastructure and Skills Committee for consideration. The Business Committee set a reporting deadline of 3 October 2019.⁵

¹ [Birmingham Commonwealth Games Bill: Explanatory Notes](#), June 2019

² [Birmingham Commonwealth Games Bill: Explanatory Notes, Annex A](#), June 2019

³ [Birmingham Commonwealth Games Bill: Explanatory Notes, Annex A](#), June 2019

⁴ [Welsh Government, Legislative Consent Memorandum, Birmingham Commonwealth Games Bill, June 2019](#)

⁵ [Business Committee, Timetable for consideration of the Legislative Consent Memorandum on the Birmingham Commonwealth Games Bill](#), June 2019

- 9.** Paragraphs seven to 10 of the LCM set out the Welsh Government's assessment of which provisions in the Bill require consent, namely clause 9 and Schedule 1.⁶
- 10.** Clauses 9(1) to (3) establish 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 offence is committed where it is carried out in a public place, in the course of a business (including at face value or below), or where the intention is for any person to make a profit from the sale of the ticket.
- 11.** It does not cover a person giving away their ticket informally for free or for payment of up to the face value of the ticket, unless this activity takes place in a public place.
- 12.** Clause 9(3)(d) also makes it an offence to advertise that a ticket is available for purchase. However, by virtue of subsection (4), this does not apply where a person advertises that a Games ticket is available to purchase from someone else and the person advertising the ticket did not know, or could not be expected to know, that the ticket was being touted.
- 13.** Schedule 1(2) provides exceptions from the commission of the offence, subject to conditions, for service providers who act as mere conduits, who cache information, or who store information without knowledge that its provision constitutes an offence under clause 9. Once they become aware that their services are being used for touting tickets, however, the service provider must withdraw those services in the shortest reasonable time.
- 14.** Paragraph 11 of the LCM sets out the Welsh Government's reasons why including provision for Wales in the Bill is appropriate:⁷

“The Bill creates a temporary offence around touting Games tickets. It is therefore appropriate to deal with these provisions in this UK Bill as it represents the most practical and proportionate legislative vehicle to enable the provisions to apply in Wales. It is also practical for reasons of

⁶ Welsh Government, Legislative Consent Memorandum, Birmingham Commonwealth Games Bill, June 2019

⁷ Welsh Government, Legislative Consent Memorandum, Birmingham Commonwealth Games Bill, June 2019

timing and coherence. Taking the ticket touting offence forward in this UK Bill will enable it to be enacted across Wales at the same time as England.”

Committee consideration

15. We considered the Welsh Government's LCM in respect of the Bill at our meetings on 15 July and 16 September 2019.⁸

Our view

16. We note the Welsh Government's assessment that clause 9 of and Schedule 1 to the Bill (as introduced) require consent. We also note the Welsh Government's reasons as to why, in its view, making provision for Wales in the Bill is appropriate.

17. We further note that the UK Government's assessment is that clauses 12 to 28 of and Schedule 2 to the Bill (as introduced) would also be within the legislative competence of the National Assembly. In our view, consent to these clauses and Schedule is not necessary.

⁸ Constitutional and Legislative Affairs Committee, 15 July 2019 and 16 September 2019
