

**SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM
(Memorandum No. 4)**

SERIOUS CRIME BILL

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for a purpose that falls within, or modifies the legislative competence of the National Assembly.
2. The Serious Crime Bill (“the Bill”) was introduced in the House of Lords on 5 June 2014. The Bill can be found at:

<http://services.parliament.uk/bills/2014-15/seriouscrime.html>

Summary of the Bill and its Policy Objectives

3. The Bill is sponsored by the Home Office. The UK Government’s principal policy objective for the Bill is to ensure that law enforcement agencies have effective legal powers to deal with the threat from serious and organised crime.
4. The Bill is in six Parts:
 - Part 1 makes provision in respect of the recovery of property derived from the proceeds of crime.
 - Part 2 makes amendments to the Computer Misuses Act 1990.
 - Part 3 provides for a new offence of participating in the activities of an organised crime group and strengthens the arrangements for protecting the public from serious crime and gang-related activity provided for in Part 1 of the Serious Crime Act 2007 and Part 4 of the Policing and Crime Act 2009 respectively.
 - Part 4 provides for the seizure and forfeiture of substances used as drug-cutting agents.
 - Part 5 amends the law in relation to the offences of child cruelty and female genital mutilation, provides for female genital mutilation protection orders and creates a new offence of possession of “paedophile manuals”.
 - Part 6 provides for or extends extra-territorial jurisdiction in respect of the offences in sections 5 (preparation of terrorist acts) and 6 (training for terrorism) of the Terrorism Act 2006 and confers Parliamentary approval (as required by section 8 of the European Union Act 2011) for

two draft Council Decisions under Article 352 of the Treaty of the Functioning of the European Union. Part 6 also contains minor and consequential amendments to other enactments and general provisions, including provisions about territorial application and commencement.

Provisions in the Bill for which consent is sought

5. The consent of the Assembly is sought for the amendments tabled by Theresa May, MP, Home Secretary in the UK Parliament on 12 February 2015.
6. Amendment NC8 replaces the references to child prostitution and pornography in sections 48 to 51 of the Sexual Offences Act 2003 with references to the sexual exploitation of children (without altering the substance of the relevant offences), and also restricts to adults the offence of loitering or soliciting for the purposes of prostitution.
7. Amendment NC9 amends the Female Genital Mutilation Act 2003. It makes provision which places a duty upon persons within a “regulated profession” within England and Wales to make a notification to the Police within one month of their discovery that an act of FGM appears to have been carried out on a girl under the age of 18. Such professions include health care professionals, social care workers and teachers. The way in which a regulated professional may “discover” this information is set out in subsections (3) and (4) of the new section 5B, which will be inserted into the Female Genital Mutilation Act 2003 by this new clause. .
8. Amendment NC10 inserts a new section 5C into the Female Genital Mutilation Act 2003. This introduces a new guidance power which enables the Secretary of State to issue guidance on the effect of that Act and on other matters relating to female genital mutilation (FGM). Subsection (4) requires the Secretary of State to consult Welsh Ministers prior to issuing such guidance.
9. Details of the amendments can be found in the Notices of Amendments given on 12 February.
10. It is the view of the Welsh Government that NC 8 falls within the legislative competence of the National Assembly for Wales in so far as it relates to “protection and well-being of children (including adoption and fostering) and of young adults” (heading 15 – social welfare) under Part 1 of Schedule 7 to the Government of Wales Act 2006 (“GOWA”).
11. It is the view of the Welsh Government that NC9 and NC10 fall within the legislative competence of the National Assembly for Wales in so far as they relate to “protection and well-being of children (including adoption and fostering) and of young adults” (heading 15 – social welfare) under Part 1 of Schedule 7 to GOWA and “Prevention, treatment and alleviation of

disease, illness, injury, disability and mental disorder. Control of disease.”
(heading 9 – health and health services) within Schedule 7 to GOWA.

12. The provisions outlined above apply in relation to Wales.
13. The provisions outlined above do not include powers for Welsh Ministers to make subordinate legislation.

Advantages of utilising this Bill rather than Assembly legislation

14. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practicable and proportionate legislative vehicle to enable these provisions to apply in relation to Wales.
15. Children who are sexually exploited whether for financial gain or other reasons, should not be referred to as prostitutes and should be recognised as victims. The removal of references to ‘child prostitute’ and ‘child prostitution’ in the Sexual Offences Act 2003 (‘the 2003 Act’) does not alter the scope of the relevant offences but does send an important signal as to how society should treat children who are exploited in this way. Sexually exploited children are not criminals and must not be regarded as such. The primary law enforcement response must be directed at perpetrators who groom children for sexual exploitation.
16. FGM is a form of abuse, often perpetrated against children, and as such tackling FGM is a priority for Welsh Government. Due to the interconnected nature of the criminal justice system for England and Wales, it is appropriate to deal with these provisions in this UK Bill and ensure that they come into force in England and Wales at the same time.

Financial implications

17. There are no financial implications for the Welsh Government.

Leighton Andrews AM
Minister for Public Services
February 2015