

LEGISLATIVE CONSENT MEMORANDUM

SERIOUS CRIME BILL

Background

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. References below to clause numbers are as in the Bill as amended on Report in the House of Lords.
6. Part 5, Clause 65(1) to (4) makes amendments to the offence of child cruelty in section 1 the Children and Young Persons Act 1933. The purpose is to ensure that the ill-treatment aspect of the offence includes ill-treatment that is psychological as well as physical. The offence is amended so that it will be an offence to treat a child in a manner likely to cause unnecessary suffering or injury to health (including both physical and psychological suffering or injury). The language of the offence is also modernised so that the word “misdemeanour” is substituted by “offence”.
7. Part 5, Clause 65(5) and (6) make further amendments to section 1 of the Children and Young Persons Act 1933 to extend the offence of child cruelty where a child under three years old is suffocated. At present the offence includes circumstances where a child is suffocated when in bed with a person aged over sixteen who is drunk. The offence is extended to include circumstances where the person over sixteen is under the influence of a prohibited drug. It also removes the requirement for the suffocation to occur in bed. The scope of the offence is therefore widened. These sub clauses were inserted following amendments tabled by Lord Bates on 11 October and agreed at Report stage on 14 October.
8. It is the view of the Welsh Government that Clause 65 as amended 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” (paragraph 15) under Part 1 of Schedule 7 to the Government of Wales Act 2006.
9. The provisions outlined above apply in relation to Wales.
10. The provisions outlined above do not include powers for Welsh Ministers to make subordinate legislation.

Advantages of utilising this Bill rather than Assembly legislation

11. 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. The inter-connected nature of the relevant Welsh and

English administrative systems mean that it is most effective and appropriate for provisions for both to be taken forward at the same time in the same legislative instrument. This will enable the non-devolved partners of the Police and Courts to provide effective partnership and support in delivering a stronger child protection framework.

Financial implications

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

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