

LEGISLATIVE CONSENT MEMORANDUM

BIRMINGHAM COMMONWEALTH GAMES BILL [HL] 2019-20

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 any purpose within, or which modifies the legislative competence of the National Assembly.
2. The Birmingham Commonwealth Games Bill (the “Bill”) was introduced in the House of Lords on 7 January 2020. The Bill can be found at:

<https://services.parliament.uk/Bills/2019-20/birminghamcommonwealthgames.html>

Policy Objective(s)

3. The UK Government’s stated policy objectives are to address a small number of areas which require a legislative response in respect of the preparations for the Commonwealth Games, which are due to take place in Birmingham in 2022.

Summary of the Bill

4. The Bill is sponsored by the Department for Digital, Culture, Media and Sport.
5. The Bill makes provision for the Commonwealth Games that are to be held principally in Birmingham in 2022 and for connected purposes.
6. This Bill provides for the delivery of a small number of temporary operational measures required to support successful delivery of the Commonwealth Games in 2022 to be held predominantly in Birmingham. 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.

Provisions in the Bill for which consent is required

7. Part 3 – Touting, Advertising and Trading Offences - Touting
Section 10 creates a temporary new offence to tout a Games ticket under specific circumstances. A person guilty of an offence under this section is liable to a fine.

8. Schedule 2 Section 10 – Ticket Touting: Providers Of Information Society Services

Schedule 2 is ancillary to the main ticketing offence in Section 10. It 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 section 10.

9. Consent is required for these sections because they fall within the legislative competence of the National Assembly for Wales in so far as they relate to the promotion of tourism and the economy of Wales. Although 'consumer protection' is a reserved matter under Schedule 7A of the Government of Wales Act 2006, the purpose of these provisions is to protect the brand and reputation of sporting venues in Wales which in turn helps to promote tourism and the economy of Wales which are both devolved matters.

10. Additionally, the provisions also fall within the legislative competence of the National Assembly for Wales in so far as they relate to the local authority functions of making byelaws. Preventing obstruction or nuisance by ticket touting could be something which falls within the good rule and government power in section 235 of the Local Government Act 1972. As the Assembly could legislate on these matters, then it could potentially legislate about the powers of local authorities to make byelaws where touting is causing a nuisance within its area.

Reasons for making these provisions for Wales in the Birmingham Commonwealth Games Bill

11. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill. 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 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.

Financial implications

12. There are no direct additional financial implications for the Welsh Government resulting from this Bill.

13. Part 3 of the Bill, Touting, Advertising and Trading Offences – Touting creates a new offence to tout a Games ticket under specific circumstances. A person guilty of an offence under this section is liable to a fine. The Justice Impact Assessment undertaken by the DCMS indicated that, based on the number of prosecutions for ticketing offences in London 2012 and the 2014 Glasgow Commonwealth Games there

would be fewer than five cases brought under the offence each year from when tickets go on sale to 2022 across the UK. The implication for Wales is therefore potential for one prosecution case at the most. DCMS has confirmed they have agreed to meet any downstream costs to the justice system in England and Wales arising from prosecutions under this offence.

Conclusion

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 practical and proportionate legislative vehicle to enable the provisions to apply in Wales.

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