

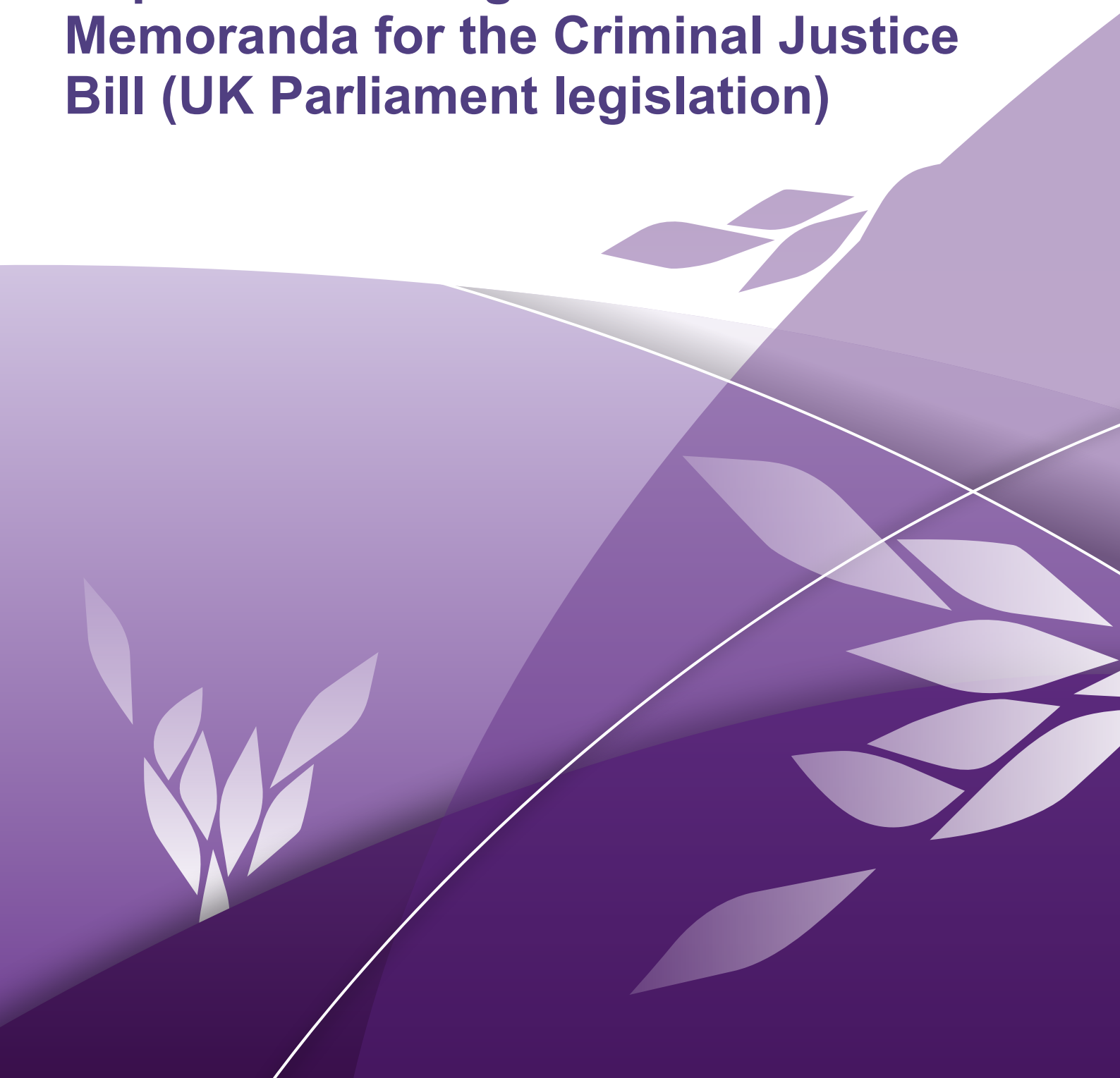


The Scottish Parliament  
Pàrlamaid na h-Alba

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## **Criminal Justice Committee**

# **Report on the Legislative Consent Memoranda for the Criminal Justice Bill (UK Parliament legislation)**



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# Criminal Justice Committee

To consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.



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Scottish Conservative  
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Scottish National Party



**Pauline McNeill**  
Scottish Labour

# Introduction

1. At its meeting on 15 May 2024, the Criminal Justice Committee ("the Committee") considered two Legislative Consent Memoranda ("LCM") lodged by the Scottish Government in relation to the [Criminal Justice Bill](#) which is currently before the UK Parliament.
2. The LCMs in question are LCM-S6-43 and LCM-S6-43a

# UK Criminal Justice Bill

3. The Criminal Justice Bill (“the Bill”) was introduced by the UK Government in the House of Commons on 14 November 2023. As of 15 May 2024, the Bill is at Report Stage in the House of Commons. It has yet to be considered by the House of Lords.
4. The UK Government has set out that the Bill:

“is intended to amend the criminal law to make provisions about criminal justice including the powers and duties of the police; dealing with offenders; reforms to the confiscation regime under the Proceeds of Crime Act 2002, the use of monies in suspended accounts; the prevention and detection of crime and disorder; begging, rough sleeping and anti-social behaviour; and for connected purposes.”<sup>i</sup>
5. A [detailed description of the provisions of the Bill](#) is available online.

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<sup>i</sup> LCM-S6-43: <https://www.parliament.scot/-/media/files/legislation/bills/lcms/criminal-justice-bill/legislative-consent-memorandum.pdf> (Page 1)

## **LCM-S6-43**

6. [LCM-S6-43](#) was lodged by the Scottish Government on 21 December 2023.
7. The Bill contains provisions that apply to Scotland and the UK Government has requested legislative consent in LCM-S6-43 in relation to Clause 14 and Clause 21.
8. Clause 14 of the Bill provides for a corporate body or partnership to be held criminally liable where a senior manager commits any offence while acting within the actual or apparent scope of their authority, replacing provisions in the [Economic Crime and Corporate Transparency Act 2023](#) which were confined to specified economic crimes.
9. Clause 21 of the Bill enables the Secretary of State to make regulations about access to driver licence records by the police and other law enforcement agencies.
10. The Scottish Government is supportive of Clause 14 and Clause 21 of the Bill and recommends legislative consent be granted to both.



## LCM-S6-43a

11. During the passage of the Bill through the House of Commons, amendments were tabled on 20 December 2023 which have resulted in further relevant provision requiring the consent of the Scottish Parliament to be sought.
12. The latest version of the [Criminal Justice Bill, as amended](#) , along with its Explanatory Notes and other supporting documents [is also available online here](#).
13. Consequently, a supplementary LCM, namely [LCM-S6-43a](#) was lodged by the Scottish Government on 13 February 2024.
14. The Bill contains provisions that apply to Scotland and the UK Government has requested legislative consent in relation to Clauses 1 to 4. Responsibility for some of these measures is intermingled, with Clauses 1 and 2 of the Bill.
15. Clauses 1 and 2 of the Bill introduce new offences to criminalise the possession, importation, manufacture, adaptation, supply and offering to supply of articles for use in serious crime. Articles specified include pill presses, vehicle concealments and templates to print 3D firearms. It is already an offence to possess, buy or produce component parts for a 3D-printed gun. These Clauses contain provision for the Secretary of State to add further articles, by regulation, as required and to consult with the Scottish Ministers before doing so. These provisions would extend to Scotland and fall within the legislative competence of the Scottish Parliament insofar as they relate to creating new criminal offences in relation to serious crime and therefore, necessitate legislative consent.
16. Clauses 3 and 4 of the Bill make it a criminal offence to possess, import, make, adapt, supply or offer to supply and possess electronic devices for use in vehicle theft. Police are increasingly seeing organised crime groups using electronic devices such as signal jammers, signal amplifiers, devices used to access a vehicle's 'CAN bus' (wiring system), and a device which when touched against the door handle of the vehicle can process the signal from the vehicle and calculate an unlock code to gain entry and start the vehicle. These provisions would extend to Scotland and fall within the legislative competence of the Scottish Parliament insofar as they create new criminal offences in relation to theft of vehicles and therefore necessitate legislative consent.
17. The Scottish Government is supportive of Clauses 1 to 4 of the Bill and recommends that legislative consent be granted to both.

## Scrutiny by other committees

18. The Delegated Powers and Law Reform (DPLR) Committee considered and [reported](#) on both LCMs at its meeting on 5 March 2024.
19. In its report, the DPLR Committee made various recommendations in relation to the various delegated powers set out in the Criminal Justice Bill as they relate to those provisions which require the consent of the Scottish Parliament.
20. The DPLR Committee was content with the various powers conferred on the Secretary of State by the Bill in relation to those provisions which require the consent of the Scottish Parliament.

## Scrutiny by the Committee

21. On 15 May 2024, the Committee took oral evidence on the LCMs from Angela Constance, Cabinet Secretary for Justice and Home Affairs, Scottish Government ("the Cabinet Secretary").
22. The Cabinet Secretary set out the content of the LCMs and the reasons the Scottish Government was content with consent being given for the UK Parliament to legislate for Scotland in the relevant policy areas.
23. One Member of the Committee asked why the clause in the Bill relating to online child exploitation was not being extended to Scotland. The Cabinet Secretary explained that this had been looked at but ministers felt that existing legislation in Scotland on this was adequate but that the situation would be kept under review.
24. Following a debate, Committee Members indicated they were content that the Parliament should give its consent to both LCMs.
25. The Cabinet Secretary indicated that further amendments have now been made to the Bill in the House of Commons in relation to devolved matters. This will require a further LCM to be lodged to seek the consent of the Scottish Parliament for those changes. However, these amendments were not made in time for an additional LCM to be lodged by the Scottish Government so that it could be considered alongside the LCMs referred to in this report.
26. Any further LCMs to be lodged in relation to the Criminal Justice Bill as it makes its way through the UK Parliament, will be considered by the Committee at a later date for a decision on whether to recommend consent.

# Conclusions

27. **The Criminal Justice Committee recommends to the Parliament that consent be given for the relevant provisions covered by LCM-S6-43 and LCM-S6-43a.**

