

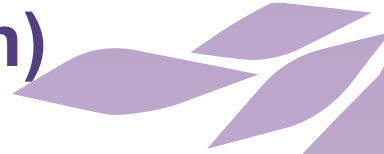


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Criminal Justice Committee

Report on the Legislative Consent Memorandum and Supplementary Legislative Consent Memorandums for the Crime and Policing 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.

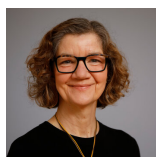


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Introduction

1. At its meeting on Wednesday 1 October 2025, the Criminal Justice Committee considered Legislative Consent Memorandum ("LCM") [LCM-S6-57](#), a supplementary LCM ([LCM-S6-57a](#)) and a second supplementary LCM ([LCM-S6-57b](#)). These were lodged by the Scottish Government in relation to the Crime and Policing Bill which is currently being considered by the UK Parliament.
2. This report summarises the Committee's consideration of the LCM and both supplementary LCMs.

Outline of the UK Bill

3. The Crime and Policing Bill was introduced by the UK Government in the House of Commons on 25 February 2025.
4. The Bill and associated documents can be viewed on the [UK Parliament website](#).
5. The Bill on introduction makes provision about anti-social behaviour, offensive weapons, offences against people (including sexual offences), property offences, the criminal exploitation of persons, sex offenders, stalking and public order, the powers of the police, the border force and other similar persons. It also makes provisions about confiscation; about the police; about terrorism and national security, and about international agreements relating to crime; and about the criminal liability of bodies; and for connected purposes.
6. On introduction, the Bill was made up of 15 Parts (137 Clauses) and 17 Schedules. The following provisions initially triggered the process of requesting the consent of the Scottish Parliament that the provisions be extended to Scotland because they touch upon devolved matters:
 - to create a new offence of “cuckooing” – controlling another's home for criminal purposes;
 - to set out new provisions relating to the management of sex offenders including notification requirements in relation to name changes, absence from sole or main residence, and, in the case of child sex offenders, if entering premises where children are present. The clauses also contain provisions relating to restrictions on applying for replacement identity documents in a new name and powers of entry and search in certain circumstances;
 - to create new offences relating to the possession and supply of electronic devices where there is a reasonable suspicion that this is for use in vehicle theft;
 - to expand the lawful purposes for which the police can access the DVLA driving license database;
 - to protect enforcement authorities from paying expenses during civil recovery proceedings, preventing the court from ordering expenses against them unless the authority acted unreasonably, dishonestly or improperly;
 - to expand the list of criminal lifestyle offences in the Scottish Schedule 4 of the Proceeds of Crime Act 2002;
 - to confer parallel powers on Scottish Ministers and the Secretary of State to make regulations to implement future international agreements as they relate to the sharing of information for law enforcement purposes and to require the Secretary of State to consult with devolved authorities before making regulations in a devolved area;
 - regarding the criminal liability of bodies corporate and partnerships where a senior manager commits an offence.

7. Following amendments agreed to at the Public Bill Committee stage in the UK Parliament, the Bill was expanded to 15 Parts (172 Clauses) and 18 Schedules. Two sets of amendments were identified by the Scottish Government as triggering the LCM process and prompted the need for a supplementary LCM. These relate to:
 - online advertising of unlawful weapons: civil penalties; and
 - powers of the British Transport Police and Ministry of Defence Police.
8. The Bill was further expanded to 16 Parts (203 Clauses) and 21 Schedules following amendments tabled on 10 June. Four new areas were identified as triggering the LCM process, prompting a second supplementary LCM:
 - offence of child criminal exploitation;
 - remote storage provisions for electronic data;
 - the creation of barred/advisory lists for the National Crime Agency and the British Transport Police; and
 - amendments to the Proceeds of Crime Act 2002.
9. The Bill is currently progressing through the UK Parliament and is at 2nd Reading stage in the House of Lords, having completed its passage in the Commons. The Bill had its first reading in the Lords on 19 June 2025. At the time of writing, the date for its second reading has yet to be announced.

The Scottish Government's LCM and supplementary LCMs

10. In its initial [LCM](#), the Scottish Government recommended that the Scottish Parliament consent to the following:
 - Cuckooing (as detailed in paragraph 7 of the LCM);
 - Management of sex offenders (paragraph 12);
 - Offences relating to electronic devices for use in vehicle theft (paragraph 14) and including in the Scottish POCA Criminal Lifestyle Schedule (paragraph 16);
 - Expanding the lawful purposes for which the police can access the DVLA driving license database (paragraph 17);
 - Proceeds of crime: expenses protections (paragraph 19);
 - Implementation of international law enforcement information sharing agreements (paragraphs 20 to 22) and;
 - Criminal liability of bodies corporate and partnerships where senior manager commits offence (paragraph 24)
11. The Scottish Government's reasons for recommending consent to the above provisions are outlined in paragraphs 29 and paragraphs 38 to 43 of the LCM.
12. The Scottish Government recommended that consent be **withheld** to the clauses detailed in **paragraphs 9 and 10** of the LCM. However, amendments tabled by the UK Government on 10 June, **removed** these clauses. This amended these provisions out of the Bill.
13. The draft motion on legislative consent is as follows:

“That the Parliament, in relation to the Crime and Policing Bill, consents to Clauses 32 to 34 and Part 2 of Schedule 5 (Cuckooing); Clauses 59 to 63 and 66 to 68 and Schedule 9 (Management of sex offenders); Clauses 78 and 79 (Offences relating to electronic devices for use in vehicle theft); Clause 95 (Expanding the lawful purposes for which the police can access the DVLA driving license database); Clause 103 (Proceeds of crime: expenses protections); Clauses 127 to 129 and 133 (Implementation of international law enforcement information sharing agreements); Clause 130 (Criminal liability of bodies corporate and partnerships where senior manager commits offence) being considered by the UK Parliament and refuses to consent to Clause 35(4)(b) (amendment to the Proceeds of Crime Act 2002 (POCA) Scottish Criminal Lifestyle Schedule to include the cuckooing offence) and to Clause 55 (relating to the issue of guidance about disclosure of information by police for the purpose of sex offending) being considered by the UK Parliament.”

Supplementary LCM-S6-57a

14. The [supplementary LCM](#) relates to amendments to two areas of the Bill:

- online advertising of unlawful weapons: civil penalties (paragraph 8 of the supplementary LCM)
 - powers of British Transport Police and Ministry of Defence Police (paragraph 13)
15. The Scottish Government recommends that the Scottish Parliament consents to the clauses relating to these areas. These were clauses 10 to 24 and clause 116 in the Bill on introduction (now clauses 12 to 26 and clause 126 in the amended version of the Bill).
16. The Scottish Government's reasons for recommending consent to the above clauses are outlined in paragraphs 15 to 18 of the supplementary LCM.
17. The draft motion on legislative consent is as follows:
- “That the Parliament, in relation to the Crime and Policing Bill, consents to Clauses 10 to 24 and Schedule 4 (online advertising etc. of unlawful weapons: civil penalties) and Clause 116 (powers for British Transport Police) being considered by the UK Parliament.”

Second Supplementary LCM-S6-57b

18. The [second supplementary LCM](#) relates to amendments to four areas of the Bill and the Scottish Government recommends that the Scottish Parliament consent to the following:
- offence of child criminal exploitation (paragraph 10 of the second supplementary LCM);
 - remote storage provisions for electronic data (paragraph 13);
 - the creation of barred/advisory lists for the National Crime Agency and the British Transport Police (paragraphs 15 and 16); and
 - amendments to the Proceeds of Crime Act 2002 (paragraphs 18 and 20 to 25).
19. The Scottish Government's reasoning for recommending consent to the above clauses is outlined in paragraphs 27 to 30 of the second supplementary LCM.
20. The draft motion on legislative consent is as follows:
- “That the Parliament agrees that the relevant provisions in the Crime and Policing Bill introduced on the 25 February 2025, and subsequently amended, relating to clause 40 (child criminal exploitation), clauses 130-137 and Schedule 14 (RSED), clauses 157-158, 160-165 and Schedule 19 (creation, maintenance and checking of barred and advisory lists for NCA/BTP/MDP/CNC), and schedule 18 (POCA), so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Consideration by the Delegated Powers and Law Reform Committee

21. The LCM and both supplementary LCMs were considered by the Delegated Powers and Law Reform Committee ("DPLRC") at its meetings on 2 and 23 September 2025. The DPLRC's [report](#) was published on 26 September 2025.
22. At its meeting of 2 September the DPLRC agreed that it was content with the delegated powers listed in paragraph 5 of its report.
23. At that meeting the DPLRC also agreed to send questions to [the Scottish Government](#) and to [the UK Government](#) in relation to certain delegated powers.
24. A [response was received from the Scottish Government](#) on 16 September 2025 . The [UK Government responded](#) on 29 September 2025.
25. The DPLRC report makes various recommendations and draws a number of the delegated powers in the Bill to the attention of the Criminal Justice Committee. These are as follows:
 - Clause 89: New section 86B of the Sexual Offences Act 2003 (paragraphs 39 to 60 of the report). In particular, paragraph 59 which reads:

As regards the power in new section 86B(3) of the Sexual Offences Act 2003, the Committee notes that the definition of qualifying premises is key to the new provisions regarding notification by registered sex offenders proposing to enter premises where children are present.

As such, the Committee recommends that a definition of qualifying premises insofar as relating to Scotland should be provided on the face of the Bill, with a power being taken to amend that definition, if considered appropriate.
 - Clause 138: New section 71 of the Criminal Justice and Court Services Act 2000 - power to make information-sharing regulations for police and law enforcement about DVLA information (paragraphs 148 to 163)
 - Schedule 19: Special police forces: barred person lists and advisory lists (paragraphs 164 to 191)
 - Clause 192: Power to implement international agreements on sharing information for law enforcement purposes (paragraphs 192 to 211)

Consideration by the Committee and recommendation

26. At its meeting of [1 October 2025](#), the Committee took evidence on the LCM and the two supplementary LCMs from Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs ("the Cabinet Secretary") and Alison Morris, Organised Crime Unit, Scottish Government.
 27. In her opening statement, the Cabinet Secretary set out the Scottish Government's reasoning for recommending legislative consent to the relevant provisions in the Bill. She also drew the Committee's attention to some of the Bill's provisions including the creation of new offences relating to the criminal exploitation of children and cuckooing.
 28. The Cabinet Secretary told the Committee that there are likely to be more amendments to the Bill, which will trigger a further supplementary LCM. It is expected that the additional amendments will be tabled around mid-October 2025 and will include measures covering offensive weapons, child criminal exploitation prevention orders and online child sex abuse.
 29. Members discussed a number of the provisions in the Bill with the Cabinet Secretary including the proposals on future international agreements as they relate to information sharing for law enforcement purposes, cuckooing, the potential for further amendments to be lodged by the UK Government around child sexual abuse and exploitation online and the likelihood of further supplementary LCMs being required.
 30. In response to questions regarding clause 95 of the Bill, the Cabinet Secretary explained that it is about broadening the range of persons who can access the DVLA's licence data, so that those records are available for wider policy and law enforcement purposes, and to ensure that police officers can access that information quickly when they have an operational need to do so.
 31. Alison Morris further explained that at the moment, the data in question can be used only for the investigation of road traffic offences, but the intention is to extend the provisions to a broader range of offences. The Cabinet Secretary agreed to write to the Committee with further details on this point.
32. **The Criminal Justice Committee recommends to the Parliament that consent be given for the relevant provisions covered by LCM-S6-57, LCM-S6-57a and LCM-S6-57b.**

