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Justice Committee Comataidh a' Cheartais

Offensive Weapons: Legislative consent memorandum considered by the Justice Committee



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Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/justice-committee.aspx>



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Background

1. The Offensive Weapons Billⁱ was introduced in the House of Commons on 20 June 2018.
2. The Bill contains provisions which are intended to have effect in Scotland (either in full or in part) which would either alter or affect the legislative competence of the Scottish Parliament or the executive competence of the Scottish Ministers. As such, it is a “relevant Bill” under Chapter 9B of the Standing Orders and consequently one requiring the consent of the Scottish Parliament.
3. Accordingly, the Cabinet Secretary for Justice, under Rule 9B.3.1(a) of the Parliament's Standing Orders, lodged a Legislative Consent Memorandumⁱⁱ (LCM) on the Bill on 3 September 2018.

ⁱ [Offensive Weapons Bill \(HC Bill 265\)](#)

ⁱⁱ [Offensive Weapons Consent Memorandum](#)

Provisions which relate to Scotland

4. The Bill covers a mixture of reserved and devolved policy matters. A number of clauses in the Bill fall in reserved areas, such as the new offence of sale of corrosive products to under 18s. However, some fall in a devolved area or extend the executive competence of the Scottish Ministers. As such, certain provisions in the Bill are subject to legislative consent by the Scottish Parliament. Details of the aspects of the Bill which require an legislative consent motion can be found in the [LCM](#).

Consultation

5. The UK Government consulted on the proposals in the Bill in Autumn 2017 and was available to all parts of the UK. Approximately 60% of responses related to the firearms proposals and 30% to the online sales of bladed articles.
6. A [summary of the consultation](#) is available online.

Financial implications

7. The Bill is not expected to have significant financial implications as it is expected the new offences created will act as a deterrent, and that retailers will adhere to the new restrictions created.

Consideration by the Delegated Powers and Law Reform Committee

8. The Delegated Powers and Law Reform Committee considered the LCM at its meetings on 25 September and 2 October and its [report](#) considers the powers delegated to the Scottish Ministers. The Delegated Powers and Law Reform Committee was content with the proposed powers and procedures.

Justice Committee scrutiny

9. The Committee considered the LCM at its meeting on 23 October 2018.
10. The Cabinet Secretary for Justice told the Committee—

” ... the area of law is a complex mix of reserved and devolved... One option would have been to legislate for the devolved areas through a bill in the Scottish Parliament, but it is preferable to have a UK-wide framework on the issues. The desire to have consistent laws operating across the UK is sensible in this case.”ⁱⁱⁱ
11. He added—

” ... the Scottish and UK Governments have worked constructively together on devolved areas contained in the bill, in particular in relation to a new restriction on the sale of knives and other bladed articles.”^{iv}
12. During questioning, a member of the Committee raised concerns around a potential impact on the safety of retail workers, which the Cabinet Secretary committed to consider further. This related to the possible public order issues that could arise if retail workers had to enforce a prohibition on the sale of certain products that could be used as an offensive weapon.
13. Both the Cabinet Secretary and some members of the Committee also raised concerns about the delays in the Bill's consideration at Westminster. The Cabinet Secretary noted “we will continue to work collaboratively with the UK Government”, adding “It is a hugely important piece of legislation, and not just for Scotland.”^v

ⁱⁱⁱ Official Report, 23 October 2018, col. XX

^{iv} Official Report, 23 October 2018, col. XX

^v Official Report, 23 October 2018, col. 53

Recommendation

14. The Committee is supportive of the UK Government legislating in the areas set out in the Legislative Consent Memorandum on the Offensive Weapons Bill. The Committee therefore recommends that the Parliament approves the legislative consent motion on the Offensive Weapons Bill, to be lodged by the Scottish Government.

Annex: Draft legislative consent motion

“That the Parliament agrees that the relevant provisions of the Offensive Weapons Bill, introduced in the House of Commons on 20 June 2018, relating to the creation of new offences in respect of corrosives, stop and search powers in relation the new offence of possession of a corrosive substance in public, certain procedural provisions relating to the corrosives offences, a new defence specific to remote sales relating to the existing offence of sale of bladed articles to under 18s, a new offence of delivery of bladed articles to residential premises, a new offence of delivery of bladed articles to under 18s when purchased remotely from outwith the UK, changes to the definition of a flick knife, a new offence of possession in all place of certain knives and offensive weapons, arrangements for disposal of these certain knives and offensive weapons, and prohibition of certain firearms and commencement powers, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

