Justice Committee

19th Report, 2013 (Session 4)

Legislative Consent Memorandum on the Anti-social Behaviour, Crime and Policing Bill (LCM(S4) 22.3)

Published by the Scottish Parliament on 13 December 2013
Justice Committee

Remit and membership

Remit:

To consider and report on:

a) the administration of criminal and civil justice, community safety and other matters falling within the responsibility of the Cabinet Secretary for Justice; and

b) the functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.

Membership:

Christian Allard
Roderick Campbell
John Finnie
Christine Grahame (Convener)
Alison McInnes
Margaret Mitchell
Elaine Murray (Deputy Convener)
John Pentland
Sandra White

Committee Clerking Team:

Irene Fleming
Joanne Clinton
Ned Sharratt
Christine Lambourne
The Committee reports to the Parliament as follows—

UK Bill and Legislative Consent Memorandum (LCM(S4) 22.3)

1. The Anti-social Behaviour, Crime and Policing Bill was introduced in the House of Commons on 9 May 2013. The Bill covers a wide range of issues including anti-social behaviour; dangerous dogs; firearms; forced marriage; community remedies; extradition and policing matters.

2. An amendment to the Bill tabled in the House of Commons on 26 November would extend restrictions on the possession of firearms to those who receive a suspended sentence in England and Wales.\(^1\) Currently such restrictions only apply to those sentenced to a term of imprisonment. This amendment prompted a second\(^2\) supplementary Legislative Consent Memorandum (LCM) to be lodged on 5 December 2013, which would ensure that a person subject to a suspended sentence from courts in England and Wales would also be prohibited from possessing a firearm in Scotland.

3. The LCM explains that the consent of the Scottish Parliament is required as the definition of firearm includes air weapons, which are now within the legislative competence of the Scottish Parliament.\(^3\) The LCM also states that “the amendment is a technical one and no consultation took place”.\(^4\)

4. The LCM includes a draft legislative consent motion to be lodged by the Cabinet Secretary for Justice, as follows:

   “That the Parliament agrees that the relevant provisions of the Anti-social Behaviour, Crime and Policing Bill, introduced in the House of Commons on 9 May 2013, relating to restrictions on the possession of firearms by persons

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\(^1\) There is no direct equivalent to suspended sentences.
\(^2\) The first LCM on the Bill lodged on 29 May 2013 covered provisions relating to witness protection, dangerous dogs and the Police Negotiating Board. A supplementary LCM lodged on 11 October covered provisions on forced marriage, certain civil protection orders and firearms.
\(^3\) Legislative Consent Memorandum, paragraph 8.
\(^4\) Legislative Consent Memorandum, paragraph 9.
who have received suspended sentences from courts in England and Wales, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.”

Committee consideration

5. The Parliamentary Bureau formally referred the LCM to the Committee for consideration on 10 December 2013. The Committee agreed on 10 December to report directly to the Parliament on the LCM as it did not raise any concerns.

6. The Anti-social Behaviour, Crime and Policing Bill does not confer any powers on the Scottish Ministers to make subordinate legislation and therefore, the LCM does not engage the remit of the Delegated Powers and Law Reform Committee.

RECOMMENDATION

7. The Committee recommends that the Parliament approves the legislative consent motion on the Anti-social Behaviour, Crime and Policing Bill (LCM(S4) 22.3) to be lodged by the Scottish Parliament.
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