

SUPPLEMENTARY LEGISLATIVE CONSENT MEMORANDUM

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING BILL

Draft Legislative Consent Motion

1. The draft motion to be lodged by the Cabinet Secretary for Justice is:

“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 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.”

Background

2. The Parliament passed a previous Legislative Consent Motion (LCM) for the Bill on 8 October 2013 for provisions which related to the abolition of the Police Negotiating Board, dangerous dogs law and witness protection law. A first supplementary LCM was lodged in the Parliament on 8 November covering provisions on forced marriage, a new firearms offence relating to the possession for sale or transfer of any prohibited weapon, and enforcement of civil prevention orders under the Sexual Offences Act 2003.

3. This further supplementary memorandum has been lodged by Kenny MacAskill, Cabinet Secretary for Justice, under Rule 9.B.3.1(c) (i) of the Parliament’s Standing Orders. The Bill was introduced in the House of Commons on 9 May 2013 and further amendments tabled on 26 November 2013. The latest version of the Bill can be found at:

<http://services.parliament.uk/bills/2013-14/antisocialbehaviourcrimeandpolicingbill.html>

Content of the Anti-Social Behaviour, Crime and Policing Bill

4. The provisions of the Bill do not generally extend to Scotland but, as a result of earlier changes, certain provisions do now extend to or affect Scotland. These elements include:

- making a criminal offence of forcing a person into marriage
- changes to dangerous dogs law
- changes to firearms law
- changes to civil prevention orders under the Sexual Offences Act 2003, and
- reforms to policing.

Provisions which relate to Scotland

5. Responsibility for the majority of firearms policy and legislation is reserved to the UK Government and is set out in the Firearms Act 1968 and subsequent legislation. Section 21 of the 1968 Act regulates the possession of firearms by those previously

convicted of a crime. In general terms such prohibition relates to those people who have been sentenced to a term of imprisonment.

6. The UK Government proposes to amend the Bill by inserting a new clause which seeks to ensure that those who have received a suspended sentence in the courts in England and Wales would be subject to the same prohibitions on possessing a firearm.

Reason for seeking a Legislative Consent Motion

7. There is no direct Scottish equivalent to suspended sentences. While sentencing may be deferred in Scotland, this is generally used where the court wishes more information before proceeding to sentence, or where sentence is deferred for good behaviour or for compensation to be paid.

8. The Legislative Consent Motion is required, however, to ensure that the change to section 21 will operate so that a person subject to an England & Wales suspended sentence will be prohibited from possessing a firearm in Scotland. The general definition of firearm in the Act includes air weapon, so to that extent the Bill will legislate on what are now devolved matters as a result of the Scotland Act 2012, namely air weapons. As this is therefore within the legislative competence of the Scottish Parliament the consent of the Parliament is required.

9. The remainder of the prospective amendment, affecting section 58(2) of the 1968 Act, does not relate to Scotland, or makes transitional provision on the above.

Consultation

10. The amendment is a technical one and no consultation took place.

Financial Implications

11. There are likely to be no additional financial implications as a result of the firearms changes.

Conclusion

12. The Scottish Government considers that extending the relevant provisions in the Bill to apply in Scotland is a sensible and appropriate step which will ensure the effective implementation UK-wide firearms policy. It is the view of the Scottish Government that it is in the interests of the Scottish people and good governance that the relevant change outlined above, which falls within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

**Scottish Government
November 2013**