

FROM THE OFFICE OF THE JUSTICE MINISTER



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FROM: Departmental Assembly Liaison Officer

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TO: CHRISTINE DARRAH

**INCREASED PENALTY FOR UNAUTHORISED SALE OF BIRMINGHAM
COMMONWEALTH GAMES TICKETS – REQUEST FOR LEGISLATIVE CONSENT
MOTION**

Summary:

Business Area: Justice Policy

Issue: To consult the Committee about the proposal for a Legislative Consent Motion to allow for an increase in the maximum penalty available on summary conviction for the offence of unauthorised selling of tickets for the Birmingham Commonwealth Games 2020 Event.

Action Required: To provide the Department with the Committee's views on the proposal.

Officials Attending: Brian Grzymek, Head of Criminal Justice Policy and Legislation Division.

Background:

The purpose of this paper is to inform the Justice Committee that the Minister of Justice proposes to put a Legislative Consent Motion to the Assembly in relation to a provision in a Westminster Bill, the Birmingham Commonwealth Games Bill. The provision will increase the maximum penalty for the existing UK-wide offence of unauthorised selling of tickets for events at the games.

2. The Birmingham Commonwealth Games Bill, which is being taken forward by the Department of Culture, Media and Sport (DCMS), was introduced to the UK Parliament

prior to the return of the Assembly. The purpose of this Bill is to provide a number of temporary operational measures required to support the delivery of the Birmingham Commonwealth Games in 2022. A number of provisions contained in the Bill extend only to England and Wales (e.g. traffic management, etc.); others extend to the whole of the UK.

3. The Bill provides for the creation of a new offence which prohibits the unauthorised sale or resale of Games tickets (ticket touting). It is the offences and penalties aspect of the Bill which require a Legislative Consent Motion. The creation of the ‘ticket touting’ offence will protect the brand and reputation of the Games; ensure that tickets are both affordable and accessible; and prevent criminal activity such as money laundering by criminal gangs.

4. The offence is intended to apply to the person putting up the ticket for re-sale either in person (e.g. outside a venue), or through print or online media (e.g. on a ticketing platform unauthorised by the Organising Committee) and will extend to activity in the UK and overseas. The legislation will not prevent members of the public from legitimately selling spare tickets.

5. It is intended that a person found guilty of this offence will be liable on summary conviction in England and Wales, to an unlimited fine; or on summary conviction in Scotland or Northern Ireland, to a fine not exceeding £50,000.

6. This is a ‘summary only’ offence and is triable in a magistrates’ court. In Northern Ireland we do not have unlimited fines for summary convictions (as is the case in England and Wales) and generally penalties do not exceed level 5 (£5,000) on the standard scale. Whilst it is possible to go beyond level 5 on the standard scale, fines must be defined.

Key Issues:

7. DCMS is concerned about the low deterrent of £5,000 and considers that, given the changing nature of the on-line ticketing market, the penalties should be commensurate with those contained in the most recent ticketing related legislation. The

offences and penalties are aimed at cases where the purchase is made electronically through the use of software designed for that purpose, and where the intent is to obtain financial gain.

8. In the absence of the Assembly, prior to the introduction of the Bill the DCMS Permanent Secretary wrote to ensure that the Department was content, in principle, with the specific provisions which extend to Northern Ireland.

9. Departmental officials have engaged with colleagues across the Northern Ireland Civil Service in relation to this Bill. Specific views were sought from colleagues within Sports Branch, Department for Communities (DfC), who have a general interest in matters pertaining to sport. DfC has not raised any concerns in relation to the creation of the new offence, nor the level of fine, and agrees the need for parity across the UK. There has also been engagement with the Department for Economy (DfE) which has a responsibility for enforcement matters. The proposed Legislative Consent Motion was considered and agreed by the Executive on 2 March 2020.

10. The Bill was due to have its third reading in the House of Lords on 4 March before moving to the House of Commons.

Legislative Consent Motion:

11. Offences and penalties, and matters in relation to sport, are transferred matters under the Northern Ireland Act 1998. As such it would normally fall to the Assembly, rather than the Westminster Parliament to increase the statutory penalty for an offence of this nature.

12. However, there are a number of factors in favour of agreeing that these provisions remain within DCMS's Bill, primarily timeliness. As the Bill has already been introduced it offers a much faster outcome than the initiation of a Bill through the Assembly in what is likely to be a very packed legislative programme. An Assembly Bill would not be completed in the required timescale.

13. Given the nature and context of this offence it would be inappropriate that a different maximum penalty should apply in this jurisdiction. It is also important to note that we believe the proposed provision is straightforward and uncontroversial.

14. We therefore propose, by means of a legislative consent motion, to seek the Assembly's agreement that DCMS's Bill be used to increase the maximum penalty for this offence in Northern Ireland to £50,000. Equivalent legislative consent motions for the creation of the offence with similar penalties are being put forward in Scotland and Wales.

15. The Committee may wish to note that the Bill, as currently drafted already contains a provision extending the penalties throughout the UK.

16. The measure would have no regulatory impact. In financial terms, the measure would not affect the cost of enforcing the offence, though if anyone were to be convicted of the offence in Northern Ireland a higher fine might be received by the court.

Next Steps:

17. Subject to the views of the Committee, we aim to put the legislative consent motion to the Assembly at the earliest opportunity.

Departmental Assembly Liaison Officer