

LEGISLATIVE CONSENT MEMORANDUM

BIRMINGHAM COMMONWEALTH GAMES BILL

Draft Legislative Consent Motion

1. The draft motion, which will be tabled by the Minister of Justice, is:

***“That this Assembly agrees to the extension to Northern Ireland of a number of provisions within the Birmingham Commonwealth Games Bill relating to the creation of a new offence which prohibits the unauthorised sale or resale of Games tickets.*”**

Background

2. This memorandum has been laid before the Assembly by the Minister of Justice under Standing Order 42A(2). The Birmingham and Commonwealth Games Bill (‘the Bill’) was introduced in the House of Commons on 7 January 2020 and is currently awaiting announcement of its Third reading in the House. The latest version of the Bill can be found at:

<https://services.parliament.uk/Bills/2019-21/birminghamcommonwealthgames.html>

Summary of the Bill and its policy objectives

3. The purpose of the 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 the provisions contained in the Bill extend only to England and Wales, however, others extend to the whole of the United Kingdom.

Provisions which deal with a Devolution Matter

4. The draft motion covers the creation of a new offence which prohibits the unauthorised sale or resale of Games tickets (ticket touting), which falls within the responsibility of the Northern Ireland Executive.
5. It is intended that a person found guilty of this offence is liable on summary conviction, in England and Wales, to a 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 on summary conviction (as is the case in England and Wales) and whilst it is possible to go beyond level 5 on the stand scale (£5,000), fines must be defined (as was the case for the London Olympic Games).

The position in other devolved administrations

7. All of the provisions contained in the Bill will extend to England and Wales. Like Northern Ireland, only limited provisions will extend in Scotland. Legislative Consent Motions were also sought in Wales and Scotland.

Reasons for making the Provisions

8. The Department is of the view that a sound and justifiable case exists for provisions to be made within the Bill to be extended to Northern Ireland.
9. The creation of the 'ticket touting' offence will protect the brand and reputation of the Games; to ensure that tickets are both affordable and accessible; and to prevent criminal activity such as money laundering by criminal gangs.
10. There was concern that £5,000 was a low deterrent given the changing nature of on-line ticket marketing and that there was a need to ensure alignment between the level of fines in Scotland and Northern Ireland, and in so far as possible, with England and Wales.
11. The legislation will not prevent members of the public from legitimately selling spare tickets but rather is 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.
12. The Department sought the views of colleagues in the Department for Communities given their general interest in matters pertaining to sport. They have not raised any concerns in relation to the creation of the new offence, nor the level of fine, and agree the need for parity across the United Kingdom (as far as is possible). The Department for the Economy has also confirmed that they are content from an enforcement of trading standards perspective.

The effect of the provisions

13. The Legislative Consent Motion will enable the 'ticket touting' offence to be prosecuted across the United Kingdom.
14. The provisions in relation to Northern Ireland are relatively minor in nature and are intended to act as a deterrent. They will also cease to exist the day after the Games end.

Reasons for utilising the Bill rather than an Act of the Assembly

15. Ordinarily, these provisions would be legislated for through the Northern Ireland Assembly. However, given that the Bill has already been introduced in the UK Parliament and the legislative constraints in the current mandate it would not prove practical to bring these provisions into operation via an Assembly Bill.

Consultation

16. Consultation has taken place with other key Northern Ireland Departments.

Human Rights and Equality

17. No human rights or equality issues have been identified.

Financial Implications

18. It is possible that some costs could be incurred by the Northern Ireland Courts and Tribunal Service, however, these are likely to be minimal and will be met from existing budgetary provision.

Summary of Regulatory Impact

19. There would not be any significant impact on the business or voluntary sectors.

Engagement to date with the Committee for Justice

20. The Minister of Justice provided written briefing to the Chair of the Committee. An oral briefing was due to be provided to the Committee by a Departmental official on Thursday 19 March 2020. However, due to COVID 19 this did not take place. The Committee subsequently considered the matter at its meeting of Thursday 14 May 2020 where members agreed they were content to extend the provisions in the Westminster Bill to NI by way of an LCM and for the Department to proceed to lay the LCM.

Conclusion

21. The view of the Minister of Justice is that the Assembly should support the terms of the draft legislative consent motion as set out in paragraph 1 of this memorandum.

Department of Justice
15 May 2020