



Department of

Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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FROM THE OFFICE OF THE JUSTICE

MINISTER

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FROM: CLAIRE McCORMICK

DATE: 26 JANUARY 2021

TO: CHRISTINE DARRAH

POLICE, CRIME, SENTENCING AND COURTS BILL

SUMMARY

Business Areas: Policing Policy & Strategy Division and Criminal Justice Policy and Legislation Division

Issue: Legislative Consent Motion to enable inclusion of provisions in the forthcoming Westminster policing and crime Bill.

Action Required: Members are asked to consider the proposal to include an additional provision in the Legislative Consent Motion.

Introduction

The Committee was briefed on 14 January on the proposal to bring forward a Legislative Consent Motion (LCM) to give effect to certain provisions included in the forthcoming Westminster policing and crime Bill (the Bill) (the title of which has now changed as per above). The Committee raised some queries with officials at the session, to which this paper responds. The Home Office has since advised that a further provision in the Bill



engages the LCM process. This is in respect of powers for police in England and Wales to seize evidence relating to the location of human remains outside of a criminal investigation. This letter seeks the Committee's view on including this provision in the Legislative Consent Motion to allow the powers contained in the Bill to be exercised in Northern Ireland.

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Queries Raised

2. Members will recall that the Executive was also considering the proposal at its meeting on 14 January and officials were asked to provide an update once the Executive had made its decision. I can confirm that the Executive agreed to the proposal to bring forward the LCM.

3. Members asked whether there might be a role for PCSPs in relation to the use of additional receipts from the National Driver Offender Retraining Scheme (NDORS) scheme. Pending the legislation being passed and subject to the outcome of discussions with DoF, it is expected that opportunities to bid for funding to support local road safety initiatives would be available. This would allow PCSPs, Road Safety Committees and charities to make application for projects that are aligned with the aims of the Safety Camera Scheme, namely to make NI's roads safer. Allocation of the funding would be overseen by the Northern Ireland Road Safety Partnership Board.

4. In terms of timescale, the Home Office advised on 14 January that the introduction of the Bill to Parliament has been delayed by at least two weeks. A new date for its introduction has not yet been confirmed. We will update the Committee on the timescale for the Bill and laying of the LCM once we have a confirmed date and will also share the contents of the Bill as soon as they are available.

Powers to seize evidence relating to the location of human remains outside of a criminal investigation

5. As noted above, following the oral evidence session on 14 January the Home Office advised us of a further provision that would engage the LCM process. The



additional provision will provide new powers police in England and Wales to apply to the an order to access special procedure that may relate to the location of human

for the courts for material remains.

The provisions will apply to England and Wales only. However, they also provide conditions under which police can apply to the courts for access to special procedure material or excluded material under these new powers,

mirroring Schedule 1 to the Police and Evidence Act 1984 (PACE), which provides conditions for search warrants applied for section 8 of PACE. The measures include for orders issued in England and Wales to be executed in Scotland and Northern Ireland, under the Summary Jurisdiction (Process) Act 1881 and Petty Sessions (Ireland) Act 1851 respectively, similar to the existing provisions in PACE.

Criminal similar under provisions

6. Essentially, the Home Office is seeking to ensure consistency across jurisdictions and replicate the existing provisions contained within PACE. The purpose of these clauses is to help the police to locate human remains in situations where it is not currently possible to do so. This legislation will allow officers to apply for a search warrant or production order to obtain access to and seize material and information that may indicate the location of a deceased person’s remains without the need for it to count as evidence in the investigation of a criminal offence, as currently required when applying for search warrants. The clauses mirror as far as is possible provisions for obtaining search warrants and production orders within the Police and Criminal Evidence Act 1984 (PACE).

7. In effect, this ensures that a warrant or order issued by a court in England and Wales under these powers and endorsed by a court in Northern Ireland may be executed in Northern Ireland (and vice versa). Section 29 of the 1851 Act provides equivalent provisions between England and Wales and Northern Ireland.

8. Officials have engaged with the Police Service of Northern Ireland to advise them of the potential for warrants/orders to be executed in Northern Ireland. PSNI has advised that it is supportive of this provision.



9. The Home Office anticipates that this power will be used very rarely. It is, while unlikely, conceivable that an order could be sought where a person has died in England or Wales but an individual living in another part of the UK is thought to hold information pertaining to the location of relevant human remains. The extension of the legislation is primarily to avoid a situation where the tests under these provisions would be met but a person's location within the UK prevents the warrant or order being effected.

Need for an LCM

10. As officials advised during the oral briefing, it would not be possible to achieve equivalent legislation via an Assembly Bill within the same timescale as could be achieved in the Westminster Bill. In addition, the Bill is UK wide and will enable us to ensure consistency of approach across jurisdictions on matters that will be of benefit here.

Next Steps

11. The Minister would be grateful for the Committee's approval to enable these provisions to be included in a Legislative Consent Memorandum to be laid before the Assembly, once we have confirmation of the Bill's introduction to Parliament. Officials will, of course, assist with any further queries the Committee may have.

CLAIRE McCORMICK DALO