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Your ref:

Our ref: SUB/1160/2011

From: Barbara McAtamney

Date: 09 June 2011

To: Christine Darrah

Summary

Business Area: Justice Policy

Issue: To consult the Committee about the proposal for a Legislative Consent Motion to allow for the increase in the maximum penalty available on conviction for the offence of unauthorised selling of tickets for an Olympics 2012 event.

Restrictions: None.

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

Officials Attending: Gareth Johnston, Head of Justice Strategy Division; Tom Haire, Head of Criminal Law Branch; David Mercer, Justice Strategy 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 London Olympic Games and Paralympic Games



(Amendment) Bill. The provision would increase the maximum penalty for the existing UK-wide offence of unauthorised selling of tickets for events at either of these games.

2. The Bill is being promoted by the Department of Culture, Media and Sport (DCMS). Overall, it makes a number of technical changes to the law governing the running of the games – for example on advertising, trading, ticket sales and traffic management. However, only one clause, the ticket sales provision, would affect Northern Ireland directly.

3. Under section 31 of the London Games Act of 2006 it is an offence throughout the UK to sell an Olympic ticket in a public place, or for profit, without written authorisation from the London Organising Committee. This is a “summary only” offence; in Northern Ireland it is triable in a magistrates’ court. The current maximum penalty for the offence is a level 5 fine (£5,000).

4. It is worth noting that a member of the public will quite legitimately be able to sell a spare ticket at face value to a colleague or family member. Additionally, the London Organising Committee will be operating an exchange system for those who wish to sell on their tickets legitimately.

KEY ISSUES

5. DCMS is concerned about the low deterrent potential of £5,000. This is based on Metropolitan Police threat-assessment information and advice about the lucrative nature of selling real and fake tickets for Olympics events where demand is highest. In summary, this suggests that:

- i) The scale and global significance of the games make them materially different from other sporting and cultural events, and the threat from touting materially higher.



- ii) The amount of money to be made from games tickets is very large. Intelligence shows significant intent from organised criminal groups.
- iii) Illegal sales pose a considerable threat to the country's reputation.

6. DCMS are therefore proposing to increase the maximum fine available on conviction to £20,000. Accordingly, they have included a clause to that effect in their current Bill. The Bill has completed its Commons Committee stage and is waiting for Third Reading. DCMS aims to have the Bill passed by December 2011.

7. In Northern Ireland, though the Department of Culture, Arts and Leisure has a general interest in matters relating to sport, it has no central policy interest in the organisation of the Olympic Games themselves – in practice that falls to DCMS. Accordingly, the Department of Justice, with its broad responsibilities for the framework of criminal penalties in Northern Ireland, is taking the lead on this issue.

8. Before the dissolution of the last Assembly, the Minister had received the agreement of the then Minister for sport in Northern Ireland, Nelson McCausland MLA, that the maximum fine should be increased in Northern Ireland to the same level as is being proposed for England, Wales and Scotland. The Minister has now recently written to the current sport Minister, Caral Ni Chuilin MLA, seeking her agreement to that policy. Given the nature and context of this offence, the Minister believes it would be inappropriate that a different maximum penalty should apply in this jurisdiction.

Legislative Consent Motion

9. Both offences and penalties, and matters in relation to sport, are transferred matters under the Northern Ireland Act 1998. It would therefore normally fall to the Assembly, rather than the Westminster Parliament, to increase the statutory penalty for an offence such as illegal selling of tickets for Olympic events. This is also a devolved matter in Scotland.



10. However, there are a number of factors that militate in favour of allowing this measure to be carried within DCMS's Westminster Bill. The main factor is timeliness. With the ticketing process already under way, it is important to make any legislative amendment as soon as is practicable. A new maximum penalty would only affect ticket sales made after its introduction in law. The Westminster Bill, currently well under way, offers a much faster outcome than the initiation of a Bill through the Assembly. Indeed, an Assembly Bill would not be completed in a timescale that would address the problem concerned. It is also important to note that the proposed penalty provision is straightforward, uncontroversial and time limited.

11. 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 £20,000. An equivalent motion is also being put to the Scottish Parliament to allow DCMS's Bill to extend the new maximum penalty to that jurisdiction.

12. The Committee may wish to note that the Bill, as currently drafted, already includes a provision extending the new maximum penalty uniformly throughout the UK. DCMS fully appreciate that, if the Assembly fails to pass our proposed legislative consent motion, it would have to amend its Bill to remove Northern Ireland from the Bill's scope.

13. The measure would have no regulatory impact or EU implications. 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.

FROM THE OFFICE OF THE MINISTER OF JUSTICE



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NEXT STEPS

14. Subject to the views of the Committee, we aim to put the legislative consent motion to the Assembly as soon as is practicable – potentially, soon after the summer recess.

**BARBARA McATAMNEY
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