

## (SECOND) LEGISLATIVE CONSENT MEMORANDUM

### CRIME AND POLICING BILL

#### Draft Legislative Consent Motion

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

*“That this Assembly endorses the principle of the extension to Northern Ireland of the provisions of the Crime and Policing Bill, as introduced as amendments in the House of Commons and House of Lords, dealing with an offence of child criminal exploitation and civil prevention orders (contained in Part 4 Clauses 40 to 55 and Schedule 5); an enabling power for DfI to make relevant regulations to restrict the granting of replacement driving licences to registered sex offenders in a new name (contained in Clause 94(3)); a new offence of child sexual abuse image-generators (contained in Clause 63); a new offence of child abduction by retention of a child abroad without appropriate consent (contained in Clause 104); Stalking Protection Orders to be available on acquittal and conviction (contained in Clauses 97 and 98); new stalking guidance about disclosure of information by PSNI (contained in Clause 100); Power for law enforcement agencies to access remotely stored electronic data (contained in Clauses 130-137 and 190 and schedule 14); provision regarding the bulk and suspicious sales of knives (contained in Clause 36); Removal of supervision exemption from the definition of regulated activity (contained in Clause 105); Access to driver licensing information measure to expand the lawful purposes for which the police can access the DVLA driving license database (contained in Clause 138); an enabling power to allow regulations to be made which will provide defences to certain offences for authorised testing of CSA related material (New clause to be inserted after clause 84); and new offences to criminalise the possession or publication of pornography portraying strangulation or suffocation (New clause to be inserted after clause 84).”*

## **Background**

2. This Memorandum has been laid before the Assembly by the Minister of Justice under Standing Order 42A (9). The Crime and Policing Bill (“the Bill”) was introduced by the UK Government into the House of Commons on 25th February 2025. This Memorandum, and the clause references within it, relate to the Bill following amendments tabled at Commons Report Stage and Lords Committee Stage.

## **Summary of the relevant parts of the Bill and its policy objectives**

3. The Crime and Policing Bill was introduced in the House of Commons on 25 February 2025 and the current version of the Bill as introduced in the House of Lords contains 15 parts, 203 clauses and 21 schedules. Members will be familiar with the contents of the Bill as I brought forward an earlier LCM which received agreement of the Assembly on 23rd June 2025. The latest version of the Bill can be found at: [Crime and Policing Bill](#).
4. The UK Government has set out that the Bill is intended to support the delivery of the Government’s Safer Streets Mission to halve knife crime and violence against women and girls (“VAWG”) in a decade and increase public confidence in policing and the wider criminal justice system. It aims to support neighbourhood policing and give the police the powers they need to tackle anti-social behaviour, crime and terrorism, whilst introducing reforms to ensure that law enforcement agencies perform to the highest standards expected by the public and focus on front-line policing. Only some of these measures extend to Northern Ireland.
5. Specific elements of the Bill which are of relevance to Northern Ireland are detailed below.

## **Provisions relating to wholly to excepted or reserved matters in Northern Ireland (new amendments tabled at Lords Committee)**

- **Clause 195** – Amendment to the extradition Act 2003 to clarify the operation of the powers in that Act where a person has been convicted in absentia.
- **Schedule 9** - Amendments to ensure that court powers to deprive offenders of images relating to intimate image offences, and the devices containing them, can be used in relation to the offence of breastfeeding voyeurism recording. While this provision generally applies to England and Wales only, equivalent provision is being made for the service courts by amendment to the Armed Forces Act 2006, which applies UK-wide.

## **Provisions which deal with a Devolution Matter**

The devolved areas for which I am seeking further legislative consent for Westminster to legislate are:

- **Clauses 40 to 55 and Schedule 5** - Child criminal exploitation (CCE) offence and civil prevention orders. The introduction of a specific offence in Northern Ireland against the criminal exploitation of children would criminalise any adult over the age of 18 who uses or attempts to use a child under the age of 18 for the purpose of involving the child in criminal activity. The intention is to create an offence which prosecutes the adult as the primary offender against the child; it is not the intention of this provision merely to extend liability to the adult for the underlying offence committed by the child. CCE Prevention Orders are intended to disrupt exploitative behaviours and safeguard children. They will seek to prevent CCE conduct before it occurs or to prevent it from re-occurring, by placing prohibitions or requirements on the subject of the order. This will assist both in seeking to protect and prevent harm to potential victims, and in diverting potential (or recurrent) perpetrators away from the criminal justice system by changing the behaviour and conduct of potential offenders.

- **Clause 94(3)** - Restrictions on granting replacement driving licences to certain Registered Sex Offenders (RSOs) in a new name- an enabling power to enable DfI to make the relevant secondary legislation enabling restriction to be made. This would ensure NI is aligned with similar provision already made for England and Wales and Scotland in the Bill and supports Clause 94(1) from LCM1.
- **New clause to be inserted after Clause 63** - Child sexual abuse image generator offence. This has already been provided in the Bill for England and Wales and is also to be provided for Scotland.
- **Clause 104** - Protects children by closing a current gap in the law relating to child abduction to make it an offence for a parent (or other guardian or carer), who has lawfully taken a child out of the UK, to detain that child abroad for longer than the permitted period without attaining the appropriate consent or the authority of a court order.
- **Clause 97 and 98** - Stalking protection orders on acquittal and conviction. This will allow stalking protection orders to be made by the court at the end of criminal proceedings (on acquittal or conviction).
- **Clause 100** - New stalking guidance about disclosure of information by police forces. This new guidance will provide a process for police to give victims of stalking the right to know the identity of their perpetrator.
- **Clause 36** - provision regarding the bulk and suspicious sales of knives which introduces a duty on sellers to report any reportable sales of bladed articles and makes it an offence for a seller to fail to comply.
- **Clause 105** - Removal of the supervision exemption from the definition of regulated activity (this is a DoH measure which has been included at the request of the Minister for Health). Removes the current supervision exemption under the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007. At present, individuals working with children in supervised roles are not classed as engaging in regulated activity and therefore cannot be checked against the barred lists. Removing this exemption means supervised roles will now fall within

the definition of regulated activity, making these individuals eligible for an Enhanced Disclosure check with a barred list check. This change strengthens safeguarding by closing a loophole that allowed barred individuals to work under supervision.

- **New clause to be inserted after Clause 84** – new offences to criminalise the possession and publication of pornography portraying strangulation and suffocation.
- **New clause to be inserted after clause 84** – provides an enabling power to allow the Secretary of State (UKG) to make regulations on a UK-wide basis to provide defences to relevant offences. This will enable authorised persons to test technology relevant to specific child sexual abuse material, without recourse.

#### **Provisions which include both transferred and excepted/reserved matters:**

The areas for which I am seeking further legislative consent for Westminster to legislate are:

- **Clauses 130-137 and 190 and Schedule 19** - Access to remotely stored electronic data (RSED). These provisions clarify the powers and safeguards for the search and seizure of RSED from an account linked to a device subject to a search warrant.
- **Clause 138** (Access to driver licensing information) measure to expand the lawful purposes for which the police can access the DVLA driving license database.

#### **Reasons for making the Provisions**

6. The provisions in the Crime and Policing Bill that would be extended to Northern Ireland deal with a number of issues that would tackle serious and organised crime, economic crime and sexual-related crime and increase public safety across Northern Ireland. While the provisions that would extend to Northern Ireland are primarily in the criminal justice sphere, creating new offences and more effectively dealing with

serious and organised crime, there are also a number of measures that importantly deal with the protection of victims.

7. The Bill contains various measures that are intended to support the delivery of the Government's Safer Streets Mission to halve knife crime and violence against women and girls ("VAWG") in a decade and increase public confidence in policing and the wider criminal justice system. It aims to support neighbourhood policing and give the police the powers they need to tackle anti-social behaviour, crime and terrorism, whilst introducing reforms to ensure that law enforcement agencies perform to the highest standards expected by the public and focus on front-line policing.
8. The measures that are covered by this Memorandum will see a number of positive changes in terms of strengthening the law to protect the public from economic; sexual-related and serious organised crime; enabling law enforcement agencies to respond to changing technology deployed by criminals; equipping law enforcement agencies with the necessary powers to address emerging crime types and threats; and ensure appropriate sentencing for those convicted of new offences.

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

9. I fully appreciate that it is preferable that the Assembly legislate on devolved matters, however, the constraints on the legislative programme in this mandate mean that it would not be possible to achieve equivalent legislation via an Assembly Bill within the same timescale as can be achieved in the Westminster Bill. In addition, a number of the provisions in the Bill, which relate to devolved matters, will apply across the UK.
10. It is therefore recommended that the most appropriate approach is to request legislative consent from the Assembly for Westminster to legislate on behalf of Northern Ireland in relation to the specific provisions of the Crime and Policing Bill as set out above.

## **Consultation**

11. The Department of Justice has engaged with stakeholders and operational partners across the justice sector on these proposals who are supportive for the measures to be introduced and in particular the maintenance of parity with England and Wales as far as possible.
12. For a number of organisations, where they operate across the UK this provides operational consistency. The new provisions are considered particularly important in relation to those aspects where offences may occur throughout the UK.
13. Time will be required following the passage of the legislation for operational arrangements, relevant guidance, and any associated technological changes to be put in place in order that the measures can be used as effectively as possible by operational partners.
14. The Department will continue to engage with operational partners as the additional measures are introduced.

## **Human Rights and Equality**

15. A copy of the Government's Human Rights Memorandum can be found at [ECHR Memo.pdf](#)
16. The Department's assessment is that the proposals are considered to be compliant. The Department has liaised with the Northern Ireland Human Rights Commission in relation to the amendments.
17. The Department has engaged with the Northern Ireland Human Rights Commission in relation to all amendments tabled at Commons Report stage and those planned for Lords Committee stage. The Commission has advised that the ECHR analysis provided by the UK Government appears to be broadly sound with clauses appropriately drafted.
18. In relation to Remotely Stored Electronic Data powers they advised that the Department should seek assurance from the Home Office that authorisation at the level of a senior officer rather than judicial authorisation is sufficient to meet the requirements of Article 8 powers

as they expect this will be discussed as the Bill progresses through the House of Lords. Officials have sought this assurance from the Home Office who advised that there is no requirement for judicial authorisation to extract information from an electronic device that has been seized because the device likely contains evidence of a criminal offence. They also highlight the safeguards being put in place, including limiting the extraction of information from online accounts to accounts that have been previously accessed from such a device and, in many cases, are simply an extension for applications running on those devices, and that only information that is necessary and proportionate should be extracted under these powers. A Code of Practice will also be put in place.

19. A screening exercise has also been considered in relation to Article 2 Windsor Framework implications. It is considered that the provisions in the Crime and Policing Bill which will extend to Northern Ireland will not result in a diminution of rights, safeguards and equality of opportunity provisions or discrimination protections. The provisions in the Bill which will extend to Northern Ireland are considered to be compliant with Article 2(1).

### **Financial Implications**

20. There are not considered to be significant financial implications arising from the measures contained in the Bill proposed to extend to Northern Ireland.

### **Summary of Regulatory Impact**

21. There is not considered to be a regulatory impact in terms of the provisions dealing with devolved matters as regards employment as well as costs to businesses, charities, social economy and the voluntary sector.

## **Engagement to date with the Committee for Justice**

22. The Department has engaged extensively with the Committee for Justice providing oral and written briefings on the measures above along with regular updates and answering queries raised.

## **Requirement for a third LCM**

23. I would like to advise members of the possibility of a third LCM in relation to this Bill. Along with E&W and Scotland, we were required to remove provisions in relation to strengthened age verification requirements for the online sale and delivery of knives and crossbows (Clauses 31-35) due to a convention preventing the UK Government from making contested amendments at Lords Committee Stage.
24. The provisions have therefore been withdrawn, with the UK Government's intention to re-introduce them at Lords Report stage.
25. Should there be an opportunity before the end of the Lords Report stage, it is my intention to bring forward a third LCM before the Assembly.
26. If this is not possible, it would be necessary to bring forward in a future NI Bill, in the next mandate.

## **Conclusion**

27. It is my view that, in the interests of an improved ability to deal with serious organised crime and economic crime, as well as providing increased protection for victims, that so far as the provisions of the Bill deal with a devolution matter, they should extend to Northern Ireland.