



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Criminal Justice Bill — Legislative Consent  
Motions: Department of Justice

11 April 2024

# NORTHERN IRELAND ASSEMBLY

## Committee for Justice

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**Members present for all or part of the proceedings:**

Ms Joanne Bunting (Chairperson)  
Miss Deirdre Hargey (Deputy Chairperson)  
Mr Doug Beattie  
Mr Maurice Bradley  
Mr Stewart Dickson  
Mr Alex Easton  
Mrs Sinéad Ennis  
Mrs Ciara Ferguson  
Mr Justin McNulty

**Witnesses:**

Dr Veronica Holland	Department of Justice
Ms Jane McNeill	Department of Justice

**The Chairperson (Ms Bunting):** We have with us Dr Veronica Holland, who is the head of organised crime branch, and Jane McNeill, who is a deputy principal in organised crime branch. Ladies, I apologise for the delay.

**Dr Veronica Holland (Department of Justice):** We knew that the meeting was running on, so it is fine.

**The Chairperson (Ms Bunting):** We have taken a lot of evidence today, and the meeting has been running on, so I offer our sincere apologies for that. Obviously, this is a serious issue for us. I invite you to make your presentation, and then a number of us will, undoubtedly, ask questions.

**Dr Holland:** Good afternoon, and thank you for the opportunity for Jane and me to brief you on the Criminal Justice Bill and the legislative consent motions (LCM). It is much appreciated. I plan to spend five minutes speaking broadly, going through the Bill and the devolved, reserved and excepted matters, and then I will spend about the same amount of time dealing with the Committee's queries from the previous meeting. I hope that that approach is OK.

Before we get into the details of the Bill and the legislative consent motions and memorandums, I should stress that the Minister appreciates that the preference is for legislation to be taken through the Assembly where that is possible. That said, at present, given the constraints on the legislative programme, it will not be possible for the Bill to achieve equivalent provisions within the same time frame. It is likely that it would be the next mandate before those would be brought forward, if the Assembly were to take them forward. If those provisions are not included in this Bill if it were still to be done at Westminster, that would further delay the process, given the time that we have available. That

is one of the key issues that I want to stress. Obviously, that would also give rise to a disconnect between the provisions that we have locally, including some of the protections and safeguards that are in place on offences, compared with what may be available in GB.

The Criminal Justice Bill contains a range of measures for Northern Ireland. Those primarily deal with matters that are related to serious and organised crime, but there are also measures that provide protections to victims of crime and deal with abusive behaviour more generally.

In devolved matters, for which an LCM is needed, the first area deals with new offences related to articles that are used in serious crime. That covers things such as vehicle concealments that are used to transport illicit goods; templates for 3D-printed firearms and components; cold presses that are used in the supply of illegal drugs; and electronic devices that are used in car theft. There will also be new offences in relation to assisting or encouraging serious self-harm in individuals, and that will apply to both direct or indirect assistance through verbal or other electronic means.

A third area of the Bill provides clarity on current legislation on administering harmful substances, which you will more commonly know as spiking. There is a sense that there is already legislative cover for that, but the Bill places it in no doubt that that offence is covered. Provision has also been made for corporate bodies or partnerships to be held criminally liable where individuals commit any offences while under the authority of that organisation. The Bill also provides for the police and other law enforcement agencies to be able to automatically access the Driver and Vehicle Licensing Agency (DVLA) driving licence database, not the local Driver and Vehicle Agency (DVA) database. That is generally a reserved matter; it deals with issues in England and Wales, but there is a local element in its application and the impact for policing locally, as well as having regard to a code of practice. That is where the LCM element would apply to that.

A further aspect, which was to be included at the House of Lords Committee Stage — we had been hopeful that this would be included at its House of Commons stage, but that has not been possible due to wider amendments being brought forward for England and Wales — is to do with confiscation reforms. That means improving processes and systems on stripping convicted criminals of the proceeds of crime. That is one of the key aspects that would be included in the next element of the Bill for Northern Ireland.

The final area of devolved matters in the Bill at the moment relates to serious crime prevention orders and who can apply for them. It will remove the limitation on the police's ability to apply only in relation to terrorist-related cases, and it will enable those orders to be brought forward where there is an application on acquittal or when there is an appeal. Currently, those orders can be brought forward only where there is a conviction.

With the exception of the confiscation reforms, the other provisions that I have gone through that are devolved matters are either all currently in the Bill or will be included in the Bill at the end of the House of Commons Report Stage. That is scheduled for later this month. With the exception of the confiscation reforms that I mentioned, those matters will be the subject of the first legislative consent motion and memorandum that we will bring forward. Our hope is that that can be brought forward after the House of Commons Report Stage, which, as I say, is tentatively scheduled for late April. We hope to be able to table the memorandum the day after the Bill is reprinted and around the time after we go to the Executive. We are scheduled to have an Executive paper, hopefully, considered on 25 April. We hope to be in a position to lay that first memorandum after that Executive meeting.

There are a number of points to make about the second legislative consent motion and its associated memorandum. The timetabling for the provisions on the matters that will be in the second LCM is due to the sequencing and timetabling of the provisions' being included in the Bill as it passes through Parliament. Those cannot be included or dealt with through a memorandum until such times as they have been tabled and the amendments made to the Bill in Westminster. That is the reason why we are, essentially, having to take a phased approach. We cannot make those future measures until those amendments have been made. So, we are taking forward a phased, or two-staged, approach.

The other point to flag, which will be of interest to the Committee, is that, since we drafted and issued the paper to members, the Home Office and the Ministry of Justice have indicated that they are considering a number of further provisions, largely in relation to sexual offences and matters that deal with vulnerable adults. Final decisions have not yet been taken about whether some of those aspects will be included in the Bill, but things are coming forward that have only recently been brought to our attention that the Minister will, obviously, want to consider in due course.

The provisions that the Home Office and the Ministry of Justice are looking at are additional provisions related to the notification requirements that are associated with registered sex offenders; a possible new offence related to the making of deepfakes, for example, which is where someone's head has been superimposed on images or videos that are not of them; and the possible extension of a current possession of a paedophile manual offence. A new offence may also be brought forward on cuckooing, which is where someone is exercising control over another individual's property by coercion, intimidation and threats. Those of you who watched 'Line of Duty' will be familiar with that scenario with one of the individuals in that show.

As I say, decisions have not yet been taken at Westminster on some of those provisions. Once it is known which of those measures are to be included in the Westminster Bill, the Minister will want to consider whether they should be extended to Northern Ireland. A small number of provisions will also be included in the second LCM. Our thinking originally was that only the confiscation reforms would be included, but a small number of other criminal justice matters will potentially also be included.

Alongside the devolved matters in the Bill that I have touched on, I will quickly go through the reserved and excepted matters, on which the Assembly cannot legislate. They include prohibiting the supply, possession and use of SIM farms, which facilitate the use of multiple SIM cards for fraud, phishing and other, more general scams. There is also a new offence of possessing or supplying an article used to facilitate fraud by electronic communications, while a further provision will enable internet domain names and internet protocol addresses — websites — that are used to conduct criminal activities to be suspended. A provision for a suspended accounts scheme to enable recovered suspected criminal funds to be used for certain purposes will also apply to Northern Ireland. In addition, measures will be introduced to enable applications to be made to impose terrorist notification requirements on certain offenders. Provisions about police appeals relate to Ministry of Defence police, so, again, they fall within the ambit of Westminster.

That is a quick overview of the Bill's provisions as they are at the moment. I will quickly address the main queries that the Committee had at its previous session on LCMs, if that would be helpful. Before I turn to the next bit, I ask whether members would prefer to ask questions on those provisions now or for us to take all questions at the end.

**The Chairperson (Ms Bunting):** We will ask questions at the end.

**Dr Holland:** That is fine. It seems sensible to do that.

**The Chairperson (Ms Bunting):** It allows you to maintain your flow.

**Dr Holland:** That sounds good. The first query was about engagement with operational partners. The Bill contains a number of provisions that will have ramifications for a range of operational partners. We have engaged with them on that issue and will continue to do so. Partners have been supportive of the measures that are to be introduced. For them, it is mainly about the provisions that ensure that there is consistency here with the approach that is taken either in England and Wales or across the UK, and we will continue to have that engagement as the Bill progresses and the provisions are then implemented.

The second query related to article 2 considerations, on which we recently engaged with the Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI). The commissions told us that they were not able to provide detailed advice in the time available, but they referred us to a range of documentation and guidance that was incredibly helpful to our considerations. We also looked at Executive Office guidance on the matter, and we have carried out an article 2 screening assessment. I should say that, although work on that is being undertaken locally, there is also an onus on Westminster, as the Bill owner, to do such work. We therefore do not consider the Bill's provisions to engage article 2 by impacting on equal opportunities, equal engagement or discrimination. The measures that are being introduced will apply across the board, and they should not impinge on the rights of any particular group. A range of measures to protect potential victims of crime further will also be introduced. They have not completed their assessment, but initial indications from the Home Office and the Ministry of Justice are that they do not consider those provisions to have an article 2 impact. We have also engaged with legal advisers in the Department, and they are content that the provisions that relate to Northern Ireland comply with article 2.

The final query was about the operation of fallback provisions. It may be helpful at this point to reflect on the indicative timings. We had hoped that there might be a further update on Bill timings from the Home Office by this point. There has not been such an update, but we will continue to liaise with the Committee Clerk about any further information that we get on that. We understand that the earliest date for the House of Commons Report Stage is likely to be in the last full week of April. Tentatively, we are looking at 23 and 24 April, with the earliest date by which further amendments could be tabled and made being late May and early June. Given the current provisions in Standing Orders, we cannot lay a memorandum when amendments are tabled but must instead wait until they have been made. I stress that those are the earliest dates and that all the indications that we are getting, based on discussions with counterparts in Westminster and on the number of additional measures that are still being added to the Bill, are that there is likely to be further slippage in the timetable. Collectively, we will probably be doing well if the Bill comes to us and we are able to lay that memorandum by the second half of June.

Some added difficulties include the alignment of our time frames and recesses with those of Parliament. The UK Parliament sits until later than the Assembly does. Its recess does not start until, I think, the last week of July. Although the UK Parliament starts at roughly the same time as we do after the summer recess, it appears, from looking at what has happened in previous years, that our first plenary sitting tends to be slightly later than its, possibly in the second week of September. Although Parliament's first plenary sitting would be at the very start of September, it is also likely to have a conference season recess, so there would probably be only two or three weeks — a number of you will be very familiar with this — in which Parliament sits in September. That differential in our timings further limits the amount of time that is available to us.

As I said, we cannot, unfortunately, lay the memoranda until the amendments have been made to the Bill. The Minister wrote to the Committee on Procedures to flag that issue. I think that it looked at it previously and is considering other jurisdictions, where memoranda can be laid once amendments have been tabled. Making a change would give the Assembly a further four weeks, roughly. It is not always as much as four weeks, but it would give the Assembly a bit of extra time. The Committee is looking at that, and I would like to think that there will be a positive response. Ultimately, however, although I do not have anything on which to base this, it is unlikely that that change could be introduced before the legislative consent memoranda come forward, but that issue is being looked at more generally.

I will provide some further information on the fallback approach. To be clear, our preference is that the normal procedures, whereby that approach is considered and reported on by the Committee and we can then have a debate in the Assembly, would apply. With the paper that we have presented to the Committee, we were trying to work through all possible options and scenarios to see what situation we might be looking at if we were to end up in the worst-case scenario. The Minister is going to consider the fallback approach only if it is not possible to pass the second LCM for the outstanding provisions within the available timetable. Only if it were to be needed, that approach would entail Westminster legislating for Northern Ireland on the confiscation reforms and any of the other criminal justice measures that I mentioned. If the scenario were to be progressed, whereby there was the absence of an LCM, or a legislative consent memorandum had to be tabled to say that we are not seeking consent and that that cannot be done on the basis of the time not being available, the provisions that we would suggest — as I said, I hope that we never end up in this position — would be subject to commencement with the agreement of both the Executive and the Committee, with the Minister also making a ministerial statement in the Assembly. Such a process would not normally be associated with LCMs and measures being brought in, but our thinking on that was that it would afford some form of Assembly control.

We considered a further matter. Apologies that I did not pick up on this for the most recent Committee paper that was provided. I am sure that members will be well aware of it for further LCMs, or for the second LCM to which we referred, which relates to the confiscation reforms and those other criminal justice matters. It is that Standing Orders provide that, where a further LCM is to be brought forward for the same Bill, it is not compulsory, for want of a better word, for the ordinary, first LCM provisions to apply, by which I mean the time given for a Committee to consider and report and for a memorandum to be laid and a debate to happen only after a Committee has reported. As I said, we do not want to be in that territory in any shape or form.

All being well, we will not have to end up in the fallback position that I have just covered, because, ultimately, those provisions are in the further LCM, albeit, as I said at the start, our preference is very much that time will be available for the Committee to consider it and report on it, and then for the memorandum to be laid and the motion to be debated. That is our preference because we are

conscious of how tight the time frame is as a result of the Westminster timetable, and I think that it is only going to get worse. At the moment, the indications are that another few weeks, if not more, will probably be added to that time frame because of the sequencing of provisions to recesses locally.

Given what I have covered, we are keen to hear the Committee's views on a second LCM being brought forward and a memorandum being laid without the Committee having had the opportunity to report on it. That would very much depend on what the timings were to look like at that particular point. Our thinking was that it could enable a second LCM to be passed, even with the tight timings. Although it is not ideal for the Committee not to have the time to report on the LCM, we thought that it would still allow a debate to be held locally on the provisions. From my perspective, and to enable Assembly involvement, that would be a much better position to be in rather than potentially having to go down the route of the fallback provisions that I mentioned, whereby Westminster legislates for us without anything having been done locally on that LCM.

That is an overview of the Bill's provisions, the Committee's queries and the fallback approach. I am happy to discuss any of those elements and to answer any further queries that the Committee may have.

**The Chairperson (Ms Bunting):** That is just a raft of minor issues, Veronica. *[Laughter.]* I will go first, and then I will open up the discussion to members. From our point of view, the concern is that it is already a wide-ranging Bill but that additional issues are being flung into it. We have no concept of what amendments could end up being tabled, and we have some reservations — I certainly do — about essentially giving carte blanche to the LCM without having any idea of what could be included through saying, "Yes, we will allow it to apply to Northern Ireland". I have some reservations along those lines.

Perhaps you can help me understand, because I am not entirely clear about the delays to the second LCM on confiscation reforms and everything else that has been added to the Bill. Surely the additional delays and significant issues that are contained in it will now afford us some more time, because it will take some time for the Bill to make its way through the legislative process. Does that not afford us some degree of flexibility, or have I completely misunderstood that?

**Dr Holland:** I will try to address those two aspects. I fully get where you are coming from on the first point about additional measures of which you may not be aware. I have referred to all of them that the Department is aware of that have been brought forward at this stage, but I appreciate where you are coming from.

It may be helpful for the Committee to think about the two LCMs separately. The Committee will hopefully be able to give a very clear indication about the first LCM, because it essentially relates to the things that we have mentioned, and its content and what will be covered is known. At this stage, as far as we are aware, the second LCM deals with confiscation reforms and some sexual offence-related matters, although other things may also be suggested. It would therefore be helpful to have the Committee's view on that first LCM, the content of which we know, and then perhaps get a separate view on the second LCM.

I also fully get where you are coming from on the timings. If the timings are being shunted, does that not afford us more time out the other end? It may, but, at this stage, we have not been able to get further updates on definitive dates on which the House of Lords amendments will be tabled and made or on the date of the Bill's final amending stage. Those dates will all determine the window that we will have to play with. The difficulty is that, depending on when an election is called, that period could still be quite short. There may not be an awful lot of additional time out the other side, because of the difference in recess periods for the Assembly and Parliament, as well as the fact that, I assume, there will be the conference recess, although if an election is called shortly after the summer recess, that may not be the case. It is unknown at this point what our window is for the period in which the Bill will be progressed. There may be an additional week or two available, but, again, because of some of the other factors, such as when Parliament goes into recess and when we go into recess, that may not necessarily give us much additional time over and above what we are looking at currently.

Initially, Westminster had indicated that it wanted the LCMs and memoranda to be approved by the end of June. It indicated to us that that was the date of the final amending stage. I think that it will be into September, however. The difficulty is that we just do not know what our time frame will be on the other side of recess. I appreciate that that is not particularly helpful for the Committee's consideration of the LCMs.

**The Chairperson (Ms Bunting):** There are a number of things that we need to understand. At this stage, my view is that we have been afforded a bit of time with the second LCM. We do not need to make a decision on that one today. We can consider the first one, but, even for that, we need to understand a number of things. Are there delegated powers in it for the Secretary of State? For the Minister to suggest that she wants local input is fine, but if some stuff is delegated to the Secretary of State, there will not be any local input, so we need clarification on such issues. Can you give us that clarification?

**Dr Holland:** There are some provisions for a power for the Secretary of State to introduce regulations. My understanding is that that power is largely for issues such as serious crime prevention orders and the associated notifications and requirements. We had asked for a power to enable Northern Ireland to forward those issues. The Home Office's concern about those types of provisions was to do with ensuring that Northern Ireland is not doing something different from what the rest of the UK is doing. That seems to be the rationale for having those powers rest with the Secretary of State. There would obviously be engagement with us on what the content would look like. As I say, for a few of the provisions, we had asked for local powers, and that was the position that was arrived at. We had provided reassurances that we did not want to be out of kilter with the provisions in the rest of the UK, but there was a sense that the preference was that one set of regulations be brought forward for that type of measure.

**The Chairperson (Ms Bunting):** We understand that. First, there is no point in reinventing the wheel, and, secondly, we would not wish to put Northern Ireland in a position in which it would be exposed to criminality in a way in which the rest of the UK is not and thus become the sweet spot for criminals. We are mindful of that, but the issue remains of what role the Committee would have in scrutinising subordinate legislation. The Minister has given some assurances that, even in the case of the fallback position, she will make statements and bring information here. We do not know what can happen in a day, however, so, in circumstances in which personnel were to change, where is the guarantee for the Committee and for scrutiny of the LCMs? You can understand that, from our point of view, there are still some issues on which we need to seek clarity.

I will open up the discussion to other members, and there may be a few issues that we just need to —.

**Dr Holland:** Apologies for injecting. Having looked at the provisions in the further LCM, I will say that, for me, that is our more immediate fallback position, albeit, again, even for it, we would not want to be in a position in which the Committee is unable to report in time, and a debate is then held after that. As for further fallback positions, where Westminster is potentially legislating for us without there having been an LCM, the intention, if we ever get into that territory, and I am hopeful that we will not, is that we would want a stated commitment from the Government in Parliament that the measures are to be considered and agreed by the Executive and the Committee before they are commenced locally. I suppose that that would be an additional element of the obligations on the Department and any future Minister to take forward.

**The Chairperson (Ms Bunting):** What is the likelihood of you getting that from the Government?

**Dr Holland:** My understanding is that there has been something like that before. I do not see it as being a major issue for Westminster to commit to. For those provisions, the Minister's agreement would have to be sought if we were not having further engagement with the Committee and the Executive, or a ministerial statement. That would not normally be part and parcel of this process. In anything being brought forward about commencement of provisions, our Minister's agreement has to be sought in the first instance. Westminster cannot commence legislation for us without her agreement, so it should not cause any issues for a Minister or a Government spokesperson in the Lords to make a statement to that effect.

I think that it has been done before. Possibly not for something like this, but there has been something similar previously, where Ministers have made commitments and given assurances when something is going through Westminster that has implications locally.

**The Chairperson (Ms Bunting):** Does anybody else have any questions?

**Dr Holland:** I apologise for the fact that it is a lot to take in, and it is very technical.

**Miss Hargey:** I will reiterate some of the concerns raised. They are probably the same issues. Not having sight of the LCM, particularly the second one, is one issue. Delegating powers, particularly to

the Secretary of State, is another. Do the delegated provisions also require local permission? You said that the local Minister would have to agree to the commencement of provisions. Does that include for the powers delegated to the Secretary of State that you spoke about?

**Dr Holland:** The commencement powers would really be for the general provisions. For commencement provisions generally, it is the Minister who takes the decision and then advises the Assembly. Where there are things that are having an impact on Northern Ireland for which provisions are being commenced, or where regulations are being taken forward on our behalf, there would be engagement with the Minister and the Department.

**The Chairperson (Ms Bunting):** Ladies, if you will bear with us, there are a couple of other things that we want to tease out. The Department states that it will be consulted on the code of practice for the receipt and use of access to driver information. What bodies or organisations will you engage with locally to inform the Department's input into a consultation on the code of practice? Moreover, for the additional measures now coming up in the second LCM — we will refer to it as the second LCM anyway — what consultation has there been, or will there be, on those issues? What is the plan?

**Dr Holland:** I will take the second question first. At this stage, because, for at least some of the measures, it is not known whether they will be introduced locally, or even whether Westminster will necessarily be legislating on them. No firm decisions have been taken on that at this stage. There will be engagement with operational partners on measures being progressed.

On the question about the DVLA and the guidance associated with the code, the guidance will largely be for the police. We would see one of the main points of engagement being with the police to ensure that they are content with what is in it. There is local application, so that would be the position on those two aspects.

**The Chairperson (Ms Bunting):** Does anybody else have anything that they want to add or ask? Clerk, are you happy?

**The Committee Clerk:** Yes.

**The Chairperson (Ms Bunting):** That is fine. Ladies, thank you for your evidence. It has been helpful.

**Dr Holland:** No problem. If anything else should come up in further discussion, we are more than happy to engage with the Committee Clerk or provide a further briefing.

**The Chairperson (Ms Bunting):** That is fair, and I appreciate the circumstances with the first LCM. We do not need to take a decision today on the second one. We have a bit more time to give it consideration, particularly in the light of the new information that you have given us today. They are not small issues, so it would be wise for us to take our time to look at the LCM and give it a bit of consideration.

We will now have a discussion about the first LCM, and we will write to you to inform you of any decisions that we take. In the interim, thank you very much for discussing it with us and for being so helpful.

**Dr Holland:** Thank you very much for your time. It is much appreciated. I know that this is not an ideal situation for any of us.

**The Chairperson (Ms Bunting):** It is difficult for all of us, because nobody wants to be in this situation, but we are grateful to you for you taking the time to come to the Committee, and, once again, I apologise that we kept you waiting for so long.

**Dr Holland:** Not at all. We knew that the meeting was running behind.