



**Northern Ireland
Assembly**

Committee for Justice

**Report on the Legislative Consent Motion –
Birmingham Commonwealth Games Bill**

NIA 26/17-22

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Powers and Membership

The Committee for Justice is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of the Belfast Agreement, Section 29 of the Northern Ireland Act 1998 and under Standing Order 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department of Justice and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider relevant subordinate legislation and take the Committee stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on any matters brought to the Committee by the Minister of Justice.

The Committee has 9 members including a Chairperson and Deputy Chairperson and a quorum of 5.

The membership of the Committee during the current mandate has been as follows:

Mr Paul Givan (Chairman)

Ms Linda Dillon (Deputy Chairperson)

Mr Doug Beattie

Ms Sinéad Bradley¹

Ms Jemma Dolan²

Mr Gordon Dunne

Mr Paul Frew

Ms Emma Rogan^{3, 4}

Ms Rachel Woods

¹ With effect from 26 May 2020, Ms Sinéad Bradley replaced Mr Patsy McGlone

² With effect from 16 March 2020, Ms Jemma Dolan replaced Mr Pat Sheehan

³ With effect from 17 February 2020, Ms Martina Anderson replaced Mr Raymond McCartney

⁴ With effect from 9 March 2020, Ms Emma Rogan replaced Ms Martina Anderson

Background

1. The Birmingham Commonwealth Games Bill was introduced in the House of Lords on 7 January 2020. The latest version of the Bill can be found at <https://services.parliament.uk/Bills/2019-21/birminghamcommonwealthgames/documents.html>
2. The Bill introduces a number of temporary operational measures to support the delivery of the Commonwealth Games to be held in Birmingham between 27 July and 7 August 2022. The Bill will enable the Secretary of State to provide financial assistance to the Organising Committee and includes provisions in relation to ticket touting, advertising, trading and transport. Many of the provisions extend only to England and Wales, however others extend to the whole of the UK.
3. The provisions to be extended to Northern Ireland include those relating to powers to provide financial assistance and reporting obligations for the Organising Committee. The Explanatory Notes to the Bill state that legislative consent is not required due to the incidental effect of these provisions on matters which are within the legislative competence of the Assembly. However, the Bill includes the creation of an offence which prohibits the unauthorised sale or resale of tickets – known as ‘ticket touting’. The offence will ensure that tickets are affordable and accessible while preventing criminal activity such as money laundering by criminal gangs. It will also protect the brand and reputation of the Games. As the offence and penalties are within the competence of the Assembly, a Legislative Consent Motion is required.
4. It is the view of the Department of Justice that the provisions should be progressed via the Department for Digital, Culture, Media and Sport (DCMS) Bill, rather than through the Assembly, for the following reasons:
 - timeliness – it is unlikely that an Assembly Bill would be completed in the required timescale;
 - given the nature and context of the offence it would be inappropriate to apply a different maximum penalty in Northern Ireland; and
 - the proposed provision is straightforward and uncontroversial.

Purpose of the Legislative Consent Motion

5. Under the provisions of the Bill, it will be an offence for a person to sell, offer to sell or expose for sale a games ticket without authorisation from the Organising Committee. The offence is committed where it is carried out in a public place (e.g. outside a venue), or through print or online

media. It does not prevent members of the public from legitimately giving their ticket away informally for free or payment up to the face value of the ticket, unless this activity takes place in a public place.

6. This will be a 'summary only' offence triable in a magistrates' court. Penalties for summary offences triable in a magistrates' court in Northern Ireland do not generally exceed level 5 (£5,000) on the standard scale and, while it is possible to go beyond this level, fines must be defined. The Department for Digital, Culture, Media and Sport (DCMS) considers a deterrent of £5,000 to be too low, particularly given the changing nature of the on-line ticketing market. Therefore, under the provisions of the Bill, a person found guilty on summary conviction in Scotland and Northern Ireland will be liable to a fine not exceeding £50,000; a person found guilty of this offence will be liable on summary conviction in England and Wales to an unlimited fine (as is currently the case for summary convictions in England and Wales).

Committee Consideration of the Legislative Consent Motion

7. At the meeting on 2 April 2020 the Committee for Justice considered and agreed handling arrangements for a range of work items in light of the exceptional circumstances resulting from the Covid-19 pandemic. The Committee agreed to consider this item as a written briefing in the first instance; depending on the situation and the timing of the LCM, consideration would be given to an oral briefing at a later stage if necessary.
8. A written briefing paper from the Department of Justice was issued to Committee Members on 5 May 2020 for consideration. As well as detailing the purpose of the proposed LCM, the Department's paper provided information on engagement with other relevant Northern Ireland Departments. These were the Department for the Economy (DfE), which has a responsibility for enforcement matters, and the Sports Branch of the Department for Communities (DfC), which has a general interest in matters relating to sport. The paper confirmed that DfC did not raise any concerns with the proposed LCM but did not give an indication of the views of DfE. The Committee therefore wrote to the Department of Justice on 7 May 2020 to request clarification of the position of DfE on the creation of the proposed new offence and level of fine that it is proposed are included in the LCM.
9. The Department of Justice responded on 12 May 2020 to advise that DfE had confirmed with the DCMS that it had no difficulty with the enforcement role for the sale of tickets for the Birmingham Commonwealth Games in Northern Ireland, and did not express any concerns with the proposed

- offence and penalty. The Department also advised that both the Minister for Communities and the Minister for the Economy supported the Minister of Justice's proposal for the LCM at Executive level with no additional comment.
10. At its meeting on 14 May 2020 the Committee agreed that it was content with the Department of Justice's proposal to extend these provisions in the Birmingham Commonwealth Games Bill to Northern Ireland by way of a Legislative Consent Motion.
 11. The Legislative Consent Motion was subsequently laid by the Department of Justice on 15 May 2020.
 12. The Department of Justice advised that, in line with the Westminster timetable for progressing the Bill, it would be necessary for the Plenary debate on the LCM to take place on 9 June 2020. To enable the requirements of Standing Order 42A (8) (a) to be met and to facilitate the passage of the LCM through the Assembly, the Legislative Consent Memorandum was circulated to Members via correspondence on 19 May 2020 and Members were asked to confirm if they were content with the LCM.
 13. The majority of Members confirmed by correspondence that they were content with the proposal to extend a number of provisions in the Birmingham Commonwealth Games Bill to Northern Ireland by way of a Legislative Consent Motion.
 14. While content with the LCM in principle, further information on practical enforcement matters was requested by the Committee on 20 May 2020, including any role the Department of Justice may have in this regard. In its response on 26 May 2020, the Department of Justice confirmed that it had no role in enforcement of any of the provisions that extend to Northern Ireland. Enforcement will be the sole responsibility of the Trading Standards Service in the Department for the Economy. The Department of Justice further advised that the ticketing strategy, which is currently in development, is expected to include an authorised resale platform for ticket holders who unable to attend an event.
 15. At its meeting on 28 May 2020, the Committee for Justice formally agreed that it was content with the proposal to extend to Northern Ireland by way of a Legislative Consent Motion a number of provisions in the Birmingham Commonwealth Games relating to the creation of a new offence which prohibits the unauthorised sale or resale of Games tickets.

Conclusion

- 16. Following consideration of the Legislative Consent Memorandum laid on 15 May 2020, the Committee for Justice agreed to support the Minister of Justice in seeking the Assembly’s endorsement of the Legislative Consent Motion:**

“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.”

Appendix 1 – Department of Justice Papers

Department of Justice, 5 March 2020 – Briefing paper: The Birmingham Commonwealth Games Bill

Department of Justice, 12 May 2020 – Response regarding consultation with the Department for the Economy

Department of Justice, 26 May 2020 – Response regarding enforcement matters

Appendix 2 – Minutes of Proceedings

14 May 2020

28 May 2020

Appendix 3 – Legislative Consent Memorandum

Department of Justice, 15 May 2020 – Legislative Consent Memorandum