

LEGISLATIVE CONSENT MEMORANDUM

ASSAULTS ON EMERGENCY WORKERS (OFFENCES) BILL

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the National Assembly.
2. The Assaults on Emergency Workers (Offences) Bill (the “Bill”) is a Private Member’s Bill introduced by Chris Bryant MP in the House of Commons on 19 July 2017. The Bill has the support of the UK Government. This Bill as amended in Public Bill Committee can be found at:

[Bill documents — Assaults on Emergency Workers \(Offences\) Bill 2017-19 — UK Parliament](#)

Policy Objectives

3. The Bill seeks to improve the protection for emergency workers by strengthening the law when certain offences are committed against them. It also aims to provide emergency workers who have been assaulted with faster and greater certainty about whether they have contracted an infectious disease as the result of that assault.

Summary of the Bill

4. The Bill will strengthen the law when certain offences are committed against emergency workers by creating a new aggravated version of the existing offence of common assault or battery when committed against an emergency worker. The increased maximum penalty will be 12 months imprisonment (the current maximum penalty is 6 months imprisonment).
5. It will create a statutory aggravating factor for other assaults and related offences against emergency workers, such as ABH, GBH and manslaughter. This aggravating factor will merit a more severe sentence but does not increase the existing maximum penalties for these particular offences. This essentially replicates existing sentencing guidelines and practice for offences committed against public sector workers.
6. It will also extend police powers to take blood samples with consent, and non-intimate samples without consent, from individuals who assault emergency workers and where an Inspector has reasonable grounds to believe the emergency worker has been exposed to a risk of transmission of an infectious disease. This proposal is intended to reduce the number of emergency workers having to undergo blood tests themselves, take prophylactic medicines unnecessarily and provide emergency workers with

faster and greater certainty about whether they have contracted an infectious disease.

Provisions in the Bill for which consent is required

7. Clause 1 Common Assault and Battery.

This creates a new triable either way offence of assault or battery committed against an emergency worker with increased maximum penalty when tried on indictment.

8. Clause 2 Aggravating Factor

This creates a statutory aggravating factor on sentencing for a list of specific offences committed against an emergency worker in the exercise of their functions as an emergency worker. The status of an emergency worker must be considered by the court as a factor that increases the seriousness of a specific offence and thus the severity of the resulting sentence.

9. Clause 3 Meaning of 'emergency worker'

Defines an emergency worker for the purposes of clauses 1 and 2 to include workers both in devolved areas, and in non-devolved areas:

Workers in devolved service areas

- Fire service workers
- Rescue service workers
- NHS workers (and those who provides services in support of NHS health service provision) in public-facing roles

Workers in non-devolved service areas

- The police
- National Crime Agency officers
- Prison and custody officers

10. Clause 4 – 6 Taking of samples

These clauses provide for the taking of samples from those who have assaulted emergency workers, where a police inspector considers that there are reasonable grounds to believe that the emergency worker has been exposed to a risk of transmission of infectious disease (e.g. from biting, spitting). Their purpose, as set out in the Explanatory Notes, is to enable emergency workers who have been assaulted to find out quickly, and with a high degree of certainty, if they are at risk of contracting an infectious disease so that (if they are at risk) they can take appropriate medication to combat it and avoid infecting their friends and families; and (if they are not at risk) they can be spared distress and worry.

11. Consent is required for these provisions because they fall within the legislative competence of the National Assembly for Wales in so far as they relate to (i) fire and rescue services; (ii) provision of health services; and (iii) prevention, treatment and alleviation of disease under paragraphs 7 and 9 of Part 1, Schedule 7 to the Government of Wales Act 2006.

Reasons for making these provisions for Wales in the Assaults on Emergency Workers (Offences) Bill

12. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill for reasons of timing and coherence. The provisions of the Bill align well with Welsh Government policy objectives regarding the protection of emergency workers. Taking them forward in this UK Bill will mean that emergency workers in devolved services in Wales are afforded the same level of protection at the same time as those in England.

Financial implications

13. There are no direct additional financial implications for the Welsh Government resulting from this Bill.

Conclusion

14. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it represents the most practical and proportionate legislative vehicle to enable the provisions to apply in Wales.

Vaughan Gething AM
Cabinet Secretary for Health and Social Services
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