Passage of the Bill

The Antisocial Behaviour etc. (Scotland) Bill [SP Bill 12] was introduced in the Parliament on 29 October 2003. Stage 1 commenced on 19 November 2003 with the Communities Committee designated as the lead committee and the Justice 2 Committee and the Local Government and Transport Committee being designated as secondary committees. The Stage 1 (general principles) debate took place on 10 March 2004 and the Bill was passed following the Stage 3 parliamentary debate on 17 June 2004.

Purpose and objectives of the Bill

The primary objective of the Bill was to make provision for measures to tackle antisocial behaviour (ASB). The Bill followed the Scottish Executive’s consultation document ‘Putting Our Communities First: A Strategy for Tackling Anti-social behaviour’, in which the Scottish Executive stated its concern about the effect ASB was having on communities and set out a number of proposals to tackle the issue.

Provisions of the Bill

The Bill makes provision for a number of measures, including: the development of Antisocial Behaviour Strategies; extending the provision of Antisocial Behaviour Orders (ASBO) to those aged 12 to 15; provisions to allow an area to be designated for the dispersal of groups where there is a serious and persistent problem of ASB; provisions to close premises that have become a focus for ASB; provisions to tackle noise nuisance; provisions to tackle graffiti and other environmental issues; in relation to housing, provisions to introduce Antisocial Behaviour Notices and a compulsory registration scheme for private landlords; provisions for the introduction of Parenting Orders; and, the introduction of Fixed Penalty Notices for various forms of ASB.
Prior to its Stage 1 inquiry into the Bill, the Communities Committee undertook a pre-legislative inquiry into how antisocial behaviour was affecting communities. Members of the committee met with groups and individuals from communities in each of the eight electoral list regions. Members also went on fact-finding visits to a Shelter Scotland’s Families Project in Edinburgh and Polmont Young Offenders Institute. In addition it sought the views of communities and individuals regarding ASB and the Scottish Executive’s consultation, through a questionnaire.

The Communities Committee received evidence from a number of community organisations and interest groups as part of its Stage 1 inquiry. Whilst there was general agreement that there was a problem with ASB in some communities, there was debate concerning some aspects of the Bill, in particular the use of ASBOs for 12 to 15 year olds, dispersal of groups, the provisions to register private landlords and the use of Restriction of Liberty Orders (RLOs) utilising electronic monitoring for those under 16. An outline of views regarding all the proposals in the Bill can be obtained from the SPICe briefing ‘Antisocial Behaviour (Scotland) Bill’.

There were several significant amendments to the Bill as it underwent its passage through Parliament, in the following areas:

### Antisocial Behaviour Strategies

Further to the Bill as introduced, when local authorities and the corresponding Chief Constable are developing Antisocial Behaviour Strategies, they will be required to take note of a variety of issues including: the need to assess the types and extent of ASB occurring in the area; specify arrangements for consulting with community bodies and individuals (particularly young people) regarding what is happening in their area; specify the range of services available to young people to support efforts in tackling ASB; and specify the availability of services for victims and witnesses of ASB.

### Dispersal of groups

The section giving Scottish Ministers the powers to direct those exercising powers on the use of those powers was removed at Stage 2. In addition, in order to assess the effectiveness of the provisions in the Bill concerning the dispersal of groups, Scottish Ministers are required to arrange for research to be undertaken with a report being laid before Parliament within three years of when the provisions come into force.

### Registration of Private Landlords

The Bill as introduced proposed a discretionary registration scheme for private landlords. It was envisaged that a local authority would have the power to introduce such a scheme where there was a problem with ASB associated with the private rented sector. At Stage 2, Cathie Craigie MSP introduced amendments, subsequently agreed to, though amended further at Stage 3, which proposed a national compulsory scheme, operated by each local authority. This scheme will compel all private landlords to register themselves and each of their properties that they let out. Letting agents will also be required to register. Although not linked to property conditions or the wider
tenant / landlord, a landlord or agent will be required to pass a ‘fit and proper person’ test to register. Failure to register will be an offence liable on summary conviction to a fine not exceeding level five on the standard scale (£5,000). In addition the Bill allows for no rent to be payable by tenants in a situation where a landlord is not registered.