Management of Offenders etc. (Scotland) Bill

Bill Number: SP Bill 39  
Introduced: 4 March 2005  
Introduced by: Cathy Jamieson (Executive Bill)  
Passed: 3 November 2005  
Royal Assent: 8 December 2005  
2005 asp 14

Passage of the Bill

The Management of Offenders etc. (Scotland) Bill [SP Bill 39] was introduced in the Scottish Parliament on 4 March 2005 by Cathy Jamieson, the Minister for Justice. The Justice 2 committee was designated as lead committee for the Bill. Stage 1 consideration of the Bill commenced on 12 April 2005 and the Justice 2 Committee report on Stage 1 was published on 8 June 2005. The Stage 1 debate took place on 16 June 2005. The Stage 3 debate took place on 3 November 2005. Following the Stage 3 debate the Bill was passed.

Purpose and objectives of the Bill

The Bill takes forward a number of policy commitments from the Scottish Executive’s Supporting Safer, Stronger Communities: Scotland’s Criminal Justice Plan, which was launched in December 2004. The Bill aims to reduce levels of re-offending in Scotland by improving the management of offenders through greater integration of the work undertaken by the various criminal justice agencies in Scotland. In 2004, the Scottish Executive issued its consultation on re-offending, Reduce, Rehabilitate, Reform. From responses received, there appeared to the Executive to be weaknesses in the way that offenders were being managed which in themselves were contributing to the levels of re-offending in Scotland. In December 2004, by way of response, the Scottish Executive published its Criminal Justice Plan Supporting Safer, Stronger, Communities setting out its proposals for addressing those weaknesses.

Provisions of the Bill

Among the key provisions are plans to:

- establish new Community Justice Authorities which will co-ordinate and improve the delivery of services for offenders;

- require the police, local authorities and the Scottish Prison Service to establish joint arrangements for assessing and managing the risk posed by sexual and violent offenders;
• end unconditional early release for sex offenders sentenced to between six months and four years in prison, who will instead be released on licence and may be subject to additional conditions, relating to their offending behaviour;

• enable the Criminal Injuries Compensation Authority to recover sums paid to victims from the perpetrators of crime; and

• establish a Home Detention Curfew scheme that will enable selected low risk prisoners nearing the end of their sentences to serve the remainder of their term in the community, subject to an electronically monitored curfew.

Parliamentary consideration

A number of changes were made to the Bill on its passage through Parliament and the following section outlines the major changes which took place. An Executive amendment at Stage 3 sought to provide courts with the necessary statutory powers to conduct progress review hearings of offenders who are subject to a probation order. This enabling power would allow courts to hold review hearings in instances in which they are felt likely to be of positive benefit to the offender’s progress on the order. The amendment was agreed to and a new section, 10ZA was added to the Bill.

At Stage 2 of the Bill, the Executive also took action to end the unconditional release of short-term sex offenders. Such offenders will now be supervised and subject to licence conditions until the end of their sentences. Bill Butler MSP asked whether the Executive could extend the classes of offender to whom the new measures would apply to include not only those who were convicted on or after the new provisions come into force but also those who were already serving their sentence at the time. After considering this proposal, the Executive brought forward amendments at Stage 3 which extend the new measures to include those in custody at the time of commencement. These amendments amend the Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.

Section 11ZA was added to the Bill at Stage 3 and was a result of an Executive amendment which sought to add flexibility to the Scottish Prison Service’s (SPS) drug-testing regime. This provision will allow the SPS to obtain and test saliva samples from prisoners for the purpose of detecting drugs in their system. The Deputy Justice Minister, Hugh Henry argued that Amendment 21 would allow the Scottish Prison Service to develop simplified and more cost-effective processes that take advantage of scientific advances in drug testing. A consequential amendment added this provision to the long title of the Bill.