Police, Public Order and Criminal Justice (Scotland) Bill

Bill Number: SP Bill 46
Introduced on: 30 September 2005
Introduced by: Cathy Jamieson (Executive Bill)
Passed: 25 May 2006
Royal Assent: 4 July 2006

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Passage of the Bill

The Police, Public Order and Criminal Justice (Scotland) Bill [SP Bill 46] was introduced in the Parliament on 30 September 2005. The Justice 2 Committee, as lead committee, commenced taking Stage 1 oral evidence on the general principles of the Bill at it meeting on 25 October 2005. The Stage 1 (general principles) debate took place on 2 February 2006 and the Bill was passed following the Stage 3 parliamentary debate on 25 May 2006.

Purpose and objectives of the Bill

The Policy Memorandum stated that the “Bill provides for a range of measures to improve police effectiveness, strengthen their hand in the fight against crime, including serious organised crime, and enhance the safety of communities right across Scotland” (para 3).

Most of the measures set out in the Bill as introduced were consulted upon in the Scottish Executive consultation paper ‘Supporting Police, Protecting Communities: Proposals for Legislation’ (closed 3 May 2005).

Provisions of the Bill

The Bill as introduced contained a range of provisions relating to the police, public order and criminal justice. These included:

Part 1 of the Bill – Police:

- Scottish Police Services Authority – creation of a single organisation to provide oversight of all of the Common Police Services, including the Scottish Crime and Drug Enforcement Agency
- Police complaints and misconduct – creation of an independent Police Complaints Commissioner for Scotland to oversee non-criminal complaints against the police

Part 2 of the Bill – Public order:
• Football Banning Orders – the introduction of such orders as a means of preventing football-related violence and disorder
• Public processions (marches and parades) – including provisions relating to the notification which march organisers must provide to local authorities and the police, and also the consideration of notification
• Offensive weapons – including provisions to double the maximum sentence for possession of a knife in a public place and to increase the minimum age for purchasing a non-domestic knife from 16 to 18

Part 3 of the Bill – Criminal justice:

• Mandatory drug testing and assessment – police powers to require suspects arrested for drug or drug-related offences to take a drug test and to require those who test positive for certain Class A drugs to attend a drugs assessment
• Incentives for providing information or evidence – provision for a statutory system under which a person may receive a reduced sentence or immunity from prosecution in return for co-operation

Parliamentary consideration

The Justice 2 Committee’s Stage 1 Report noted that the Committee, by majority, recommended that the Parliament agrees to the general principles of the Bill. However, a number of amendments agreed at Stage 2 reflected concerns or recommendations expressed in the Stage 1 Report. For example, the Report noted concerns that the breach of requirements imposed under a Football Banning Order appeared to be an absolute offence (e.g., leading to the possibility of liability for a breach where a person is unable to meet reporting requirements due to ill health). The Report welcomed the Scottish Executive’s undertaking to introduce, at Stage 2, a defence of reasonable excuse for the breach of an Order. The relevant amendment was agreed at Stage 2 and the defence appears as section 64(1A) of the Bill as passed.

In addition to amending existing provisions of the Bill, a number of significant new provisions (contained in Scottish Executive amendments) were added at Stage 2. These included four new sections dealing with the control of sex offenders. A review of the operation and effectiveness of the sex offender notification regime in Scotland found that there was a need for more efficient risk assessment and risk management within the system. The resulting report ‘Registering the Risk’ (2005) made various recommendations, some of which were taken forward by amendments to the Bill at Stage 2 (see sections 72A to 72D of the Bill as passed).

Another issue considered during Stage 2 related to the retention of DNA samples taken by the police from suspects, in cases where a suspect is not subsequently convicted of the offence. Paul Martin MSP lodged, but later withdrew, an amendment during Stage 2 to allow retention in such circumstances. Information on this topic is set out in the SPICe briefing ‘Police Retention of Prints and Samples – Updated’ (2006). The topic was
reconsidered during the [Stage 3 debate](#). Amendments agreed to included a compromise amendment lodged by Paul Martin (63 votes in favour and 44 against) – see section 74A of the Bill as passed and the Official Report for the debate at [columns 26009-26017](#) and [26055-26072](#).