Prostitution (Public Places) (Scotland) Bill

Bill Number: SP Bill 69
Introduced on: 15 September 2006
Introduced by: Tom McCabe (Executive Bill)
Passed: 28 February 2007
Royal Assent: 5 April 2007

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Passage of the Bill

The Prostitution (Public Places) (Scotland) Bill was introduced in the Scottish Parliament on 15 September 2006. The Local Government and Transport Committee, as lead committee, commenced taking Stage 1 oral evidence on the general principles of the Bill at its meeting on 3 October 2006. The Stage 1 debate took place on 17 January 2007 and the Bill was passed following the Stage 3 debate on 28 February 2007.

Purpose and objectives of the Bill

The Policy Memorandum published along with the Bill [as introduced] stated that:

“The Bill seeks to protect our communities from antisocial activity associated with prostitution in public places. The current law in Scotland is focused on those (predominately women) who sell sex on the street and not on those (predominately men) who purchase. There is a need to redress this balance in order to protect communities from the nuisance, alarm or offence arising from street prostitution-related activities in or near public places, whether caused by seller or purchaser.” (para 2)

Provisions of the Bill

The Bill [as introduced]:

- sought to repeal section 46 of the Civic Government (Scotland) Act 1982 which includes provisions making it an offence for a prostitute to loiter or solicit in a public place for the purposes of prostitution
- sought to replace the above offence with new provisions making it an offence for a person to loiter or solicit in a ‘relevant place’ for the purpose of prostitution (i.e. an offence focussed on those who sell sex)
sought to introduce new provisions making it an offence for a person to
loiter or solicit in a ‘relevant place’ for the purpose of obtaining the
services of a prostitute (ie an offence focussed on those who seek to
buy sex).

The new provisions, unlike the offence set out in section 46 of the 1982
Act, expressly provided that there would only be an offence if a
reasonable person would consider that the behaviour involved was
‘likely to cause alarm, offence or nuisance’.

The new provisions were applied to any ‘relevant place’, which was
defined as including a public place and a place to which at the material
time the public are permitted to have access (whether on payment or
otherwise)

The Bill [as passed]:

- does not repeal section 46 of the 1982 Act and does not introduce any
  new offence aimed at those who sell sex – thus, the existing criminal
  law in this area is not changed by the Bill
- provides that it is an offence for a person to loiter or solicit in a ‘relevant
  place’ for the purpose of obtaining the services of a prostitute (ie an
  offence focussed on those who seek to buy sex).
- The Bill no longer provides that there will only be an offence if a
  reasonable person would consider that the behaviour involved was
  ‘likely to cause alarm, offence or nuisance’ – given that this is also not
  required under section 46 of the 1982 Act, it will not be a requirement
  for the offences aimed at those who sell or those who seek to buy sex

**Parliamentary consideration**

As indicated above, the Bill underwent some significant changes during its
passage through the Parliament: removing those who sell sex from the ambit
of the Bill (thus focussing the Bill on those who seek to buy sex) and removing
the need for evidence that the activities involved were likely to cause alarm,
offence or nuisance before an offence is committed.

Other significant changes included:

- the removal of a provision which stated that no offence of loitering (as
  opposed to soliciting) is committed if a person is in a motor vehicle
  which is not public transport – it was felt that this provision would
  unduly limit the application of the new offence to ‘kerb crawlers’
- an increase in the maximum fine which may be imposed on those
  convicted of an offence under the Bill – increased from level 2 on the
  standard scale (currently £500) to level 3 (currently £1,000) (the
  maximum fine under section 46 of the 1982 Act is level 2)

All of the changes made to the Bill were as a result of amendments agreed to
at Stage 2 and many of these changes followed on from recommendations of
the Local Government and Transport Committee. Further information on the
Parliament’s consideration of the Bill during Stages 1 and 2 of its passage is
set out in the SPICe briefing 07/10 ‘Prostitution (Public Places) (Scotland) Bill: Parliamentary Consideration Prior to Stage 3’.