Protection of Workers (Scotland) Bill

Bill Number: SP Bill 47
Introduced on: 1 June 2010
Introduced by: Hugh Henry (Member’s Bill)
Fell: 22 December 2010

Passage of the Bill

The Protection of Workers (Scotland) Bill was introduced in the Parliament on 1 June 2010, with the Parliament’s Economy, Energy and Tourism Committee being designated as lead committee for the purpose of scrutinising the Bill. Following the consideration of evidence, the Committee recommended in its stage 1 report that the general principles of the Bill are not agreed to.

A stage 1 debate on the Bill was held in the chamber on 22 December 2010, following which a majority of MSPs voted against a motion seeking the agreement of the Parliament to the general principles of the Bill. As a result, the Bill fell on that date.

Purpose and objectives of the Bill

The Bill provided for a specific statutory offence relating to assaults on people whose work brings them into face-to-face contact with members of the public. By doing so, it sought to highlight the problem of assaults on such workers and provide them with additional protection. Under the terms of the Bill, the proposed offence would have been prosecuted under summary procedure, with a maximum custodial sentence of 12 months and/or a fine of up to £10,000.

The Bill as introduced would not have extended the scope of the criminal law – any behaviour which could have been prosecuted under the proposed statutory offence can be prosecuted under existing criminal offences such as common law assault. A conviction for the existing common law offence of assault, when prosecuted in the summary sheriff courts, currently attracts the same maximum sentence as the proposed offence. However, common law

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1 The motion was disagreed to by division: For 42, Against 75, Abstentions 0; with SNP, Conservative and Liberal Democrat members voting against.
assault may also be prosecuted under solemn procedure where the maximum sentences are higher.

A key argument advanced by those supporting the Bill was that the Parliament would, by passing it, send out a strong public policy message that it views assaults on relevant workers as a particular problem which should be treated as such by all those involved. Supporters of the Bill also sought to draw parallels between its provisions and the protections currently provided by the Emergency Workers (Scotland) Act 2005. The Bill was similar to the 2005 Act in providing for a specific statutory offence of assaulting particular types of worker. There were, however, also differences, including the fact that the 2005 Act also makes it an offence to obstruct or hinder a relevant worker.

**Parliamentary consideration**

The Economy, Energy and Tourism Committee’s stage 1 report noted that “it is clear that there is strong support for the basic principle that the rights of those who provide a service to the public should be respected”, but questioned “whether primary legislation is the most appropriate method of seeking to ensure the protection of public facing workers” (para 82). The Committee stated that it:

> “welcomes, and shares, the commitment of the member in charge of the Bill to promote the protection of, and respect for, public facing workers and recognises that there is a need for a culture change to tackle unacceptable behaviour towards those workers.”
> (para 85)

However, its report concluded that:

> “the proposals in the Bill will not extend the protection currently available under the common law offence of assault and therefore recommends that the general principles of the Bill are not agreed to.” (para 86)

Instead, the report recommended that other action is taken, stating that:

> “The Committee is of the view that the introduction and application of both sentencing and prosecution guidelines in relation to assaults on workers providing a public service would be beneficial in tackling the perception that aggravating circumstances are not taken seriously.” (para 64)

In arguing for the Bill, Hugh Henry MSP (the member in charge of the Bill) stated during the stage 1 debate that:

> “The bill is based on the simple notion that anyone who attacks a worker who is serving the public should be charged with a specific offence and punished accordingly. The Parliament accepted the principle of such an approach when it passed the Emergency
Workers (Scotland) Act 2005. The bill seeks to adopt similar measures and provide them for workers other than police officers, fire officers and health service staff.” (col 31855)

In outlining, during the stage 1 debate, why the Scottish Government did not support the Bill, the Justice Secretary said that:

“No one disagrees that workers who serve the public deserve protection. What the stage 1 scrutiny has revealed, however, is that there is disagreement on how best that can be achieved. It is important to be clear about the effect that the bill would have if it were passed. It would take a bit of the existing common law of assault and replicate it as a new statutory offence. It would not extend the criminal law in any way and it would not, therefore, extend new protections at all.” (col 31859)

As noted above, the Bill fell after a majority of MSPs voted against a motion seeking the agreement of the Parliament to its general principles.

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