PRISONERS (CONTROL OF RELEASE) (SCOTLAND) BILL

DELEGATED POWERS MEMORANDUM

PURPOSE

1. This memorandum has been prepared by the Scottish Government in accordance with Rule 9.4A of the Parliament’s Standing Orders, in relation to the Prisoners (Control of Release) (Scotland) Bill (‘the Bill’). Its purpose is to assist consideration by the Delegated Powers and Law Reform Committee, in accordance with Rule 9.6.2 of the Standing Orders, of provisions in the Bill conferring powers to make subordinate legislation. It describes the purpose of each provision and explains the reasons for seeking the proposed delegated powers. This memorandum should be read in conjunction with the Explanatory Notes and Policy Memorandum for the Bill.

Summary of Bill provisions

2. The Bill, if passed, will change the law in two areas of the system of prisoner release. First, it will end the system of automatic early release for certain prisoners in the interests of protecting public safety. Second, the Bill will provide the Scottish Ministers with limited new flexibility to adjust exact release dates for individual prisoners where there exists a need to ensure immediate access for a prisoner to support services upon release from custody, with the aim of facilitating reintegration into the community and reducing the risk of reoffending.

Delegated powers

Section 3 – Commencement

Power conferred on: Scottish Ministers
Power exercisable by: Order made by Scottish Statutory Instrument
Parliamentary procedure: No parliamentary procedure

Provision

3. Section 3(2) provides that the Scottish Ministers may by order bring section 1 and 2 of the Bill into force on an appointed day (with section 8 of the Interpretation and Legislative Reform (Scotland) Act 2010 allowing for different days to be appointed for different purposes).
Reasons for Taking Power

4. Section 3(3) provides that a commencement order may include transitional, transitory or saving provision. It is common to allow for such provision in conjunction with a commencement order where, as in this case, rights of individuals are affected. A decision will be taken at the time when the commencement order is being developed, but an example of how the power may be used would be to disapply the application of the provisions in section 1 of the Bill to any offenders sentenced before the day of commencement.

Choice of Procedure

5. A commencement order under section 3 will not be subject to parliamentary procedure, other than a requirement to lay the order before the Parliament under section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010. This is standard for commencement powers.
This document relates to the Prisoners (Control of Release) (Scotland) Bill (SP Bill 54) as introduced in the Scottish Parliament on 14 August 2014

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