Justice Committee

3rd Report, 2011 (Session 4)

Legislative Consent Memorandum on the Legal Aid, Sentencing and Punishment of Offenders Bill (LCM(S4) 4.1)
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Published by the Scottish Parliament on 23 November 2011
Justice Committee

Remit and membership

Remit:

To consider and report on:

a) the administration of criminal and civil justice, community safety and other matters falling within the responsibility of the Cabinet Secretary for Justice; and

b) the functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.

Membership:

Roderick Campbell
John Finnie
Christine Grahame (Convener)
Colin Keir
James Kelly (Deputy Convener)
Alison McInnes
David McLetchie
Graeme Pearson
Humza Yousaf

Committee Clerking Team:

Peter McGrath
Joanne Clinton
Andrew Proudfoot
Christine Lambourne
The Committee reports to the Parliament as follows—

1. The UK Legal Aid, Sentencing and Punishment of Offenders Bill\(^1\) was introduced in the House of Commons on 23 May 2011 and covers a wide range of criminal and civil justice issues. A summary of the provisions in the Bill can be found in Explanatory Notes\(^2\) prepared by the Ministry of Justice.

2. The Bill relates primarily to England and Wales and did not require legislative consent from the Scottish Parliament on introduction. However, an amendment tabled on 5 October relating to EU Framework Decision 2008/909/JHA\(^3\) on the transfer and transit of foreign prisoners within the UK made the Bill a “relevant Bill” under the Standing Orders of the Scottish Parliament. This is explained further in the Scottish Government’s legislative consent memorandum on the Bill (LCM(S4) 4.1),\(^4\) lodged on 27 October which was subsequently referred to the Justice Committee as lead committee.

3. The Committee considered its approach to the memorandum on 15 November. The Committee agreed that the memorandum set out a clear and reasonable case for allowing the UK Parliament to legislate in this one relatively restricted area and noted from the memorandum that the proposed changes that made the Bill a relevant Bill were not expected to have any financial impact. Accordingly, the Committee decided not to take any further evidence on the provisions.

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\(^4\) LCM(S4) 4.1. Available at: [http://www.scottish.parliament.uk/LegislativeConsentMemoranda/LegalAid-lcm.pdf](http://www.scottish.parliament.uk/LegislativeConsentMemoranda/LegalAid-lcm.pdf)
Recommendation

4. The Committee is content with the provisions in the Legal Aid, Sentencing and Punishment of Offenders Bill which are within the legislative competence of the Scottish Parliament. Accordingly, the Committee recommends that the Parliament agree to a legislative consent motion in the terms outlined in the memorandum.
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