I refer to the above call for evidence and submit the following response on behalf of the Scottish Court Service (SCS).

Public bill process – overview

The SCS is supportive of the current three stage process for considering public bills from the perspective that it ensures sufficient legislative scrutiny by the Parliament. However, as is noted in more detail below, it is very difficult for the SCS as a stakeholder to engage in the process at stages 2 and 3. This means that we are unable to alert the Parliament to issues that will create difficulties on implementation.

The SCS is not always listed as a formal consultee in matters which affect its business, this is mainly in subjects which do not have a specific justice focus, eg. housing, education etc. The SCS has to rely on its own resources to trawl Scottish Government and Scottish Parliament websites to be alert to matters which may affect its business. It is noted however, that contact has improved in recent years.

Accompanying documents

The SCS would have no comment to make on the rules on the supporting documents which should accompany a bill on introduction.

Purpose of stage 1 and time allowed for Stage 1

The SCS has no comment to make in relation to Stage 1.

Amendment stages

The amendment stages are those which cause the greatest concern to the SCS. There is little or no opportunity for stakeholders to raise concern with amendments that are proposed and subsequently agreed to. This can cause issues when it comes to implementation. Whilst an amendment may deal with concerns raised by Ministers and Members, there will have been little or no consideration of the impact of the amendment upon stakeholders. It is likely that their views on how it can be implemented or work in practice will not have been sought.

The SCS has experienced this on a few occasions, most recently in relation to the Childrens Hearings (Scotland) Act 2011. In that instance a late amendment to the Bill was made at stage 2, which created practical difficulties for implementation and for the delivery of the government policy intent of fast tracking and simplifying decisions in the court. It also meant that information initially provided in the financial memorandum, indicating that there would be no additional court costs as a result of the proposals in the Bill was no longer correct.
We would also like to comment that it is difficult and time consuming to work through the amendments, particularly on a large Bill, to ascertain whether or not they are of relevance. It would perhaps be useful to see the amendments produced in the context of the Bill so that it is clear how the amendment will read if it is agreed to.

The role of secondary committees

The SCS has no comment to make in relation to the role of secondary committees.

This response represents the official position of the SCS acting in its role to provide efficient and effective administration of the courts and does not include the view from the Judiciary

NICOLA ANDERSON
POLICY AND LEGISLATION BRANCH
SCOTTISH COURT SERVICE
3 MARCH 2014