

CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) BILL

SUPPLEMENTARY FINANCIAL MEMORANDUM

PURPOSE

1. This supplementary Memorandum has been prepared by the Scottish Executive in accordance with Rule 9.7.8B of the Standing Orders in consequence of amendments made to the Custodial Sentences and Weapons (Scotland) Bill at Stage 2. This memorandum should be read in conjunction with the original Accompanying Documents.

SUPPLEMENTARY INFORMATION

Court proceedings

2. Section 6 together with new sections, 6A, 6B and 6C (inserted at stage 2) of the Custodial Sentences and Weapons (Scotland) Bill set the provisions for courts to set the custody part of the sentence. In response to points raised by the Justice 2 Committee during Stage 1, Scottish Ministers gave a commitment to revisiting this section with a view to clarifying it as much as possible.

3. One of the clarifying measures accepted at Stage 2 (section 6C) requires judges to submit reports on custody and community sentences. This information is needed to inform assessments of an offender's risks and needs. The new provision requires the court to provide a written report on the circumstances of the case, and such other information as is considered appropriate. Estimates are based on the number of sentence receptions to prison (i.e. excluding receptions of fines defaulters and those on remand) - 19,027 in 2005/06. It is difficult to produce an exact costing for the provision of this information in advance of finalising content or format. On the assumption that proportionate information will be required, it is estimated that costs will be in the region of £1.48m per annum for judicial salaries, and £0.18m per annum for the Scottish Court Service running costs. This is in addition to the resources already committed to the provision of reports where there is currently a requirement, such as in respect of prisoners serving sentences of 4 or more years.

4. These costs are based on the assumption that it will take one hour of judicial time to produce a report for a sentence of 6 months up to one year, and 2 hours for a report for a sentence of between 1 and 4 years. For the High Court, there were 30 and 330 cases respectively; in the sheriff courts there were 1,500 and 1,390 cases respectively. The effects of this led to 0.75 full time equivalent of a High Court judge (£0.164m) based on a salary of £218,576 and 8.03 full time equivalent of a sheriff (£1.316m) based on a salary of £163,878 (including employer's contributions for National Insurance and pensions). The overall costs also

This document relates to the Custodial Sentences and Weapons (Scotland) Bill as amended at Stage 2 (SP Bill 80A)

include an element to allow for administration costs in respect of explaining the effects of sentences and setting custody parts, and for producing pro formas for sentences of less than 6 months and will include those dealt with by the District Courts.

5. It is proposed that the provisions inserted at Stage 2 will be further modified at Stage 3 to ensure that there is adequate flexibility to allow for information to be provided proportionate to the nature of the case. It is anticipated that these changes (if accepted by Parliament) will reduce judicial costs. Revised costings will be provided.

Parole Board – consideration of continued detention

6. Under the current provisions (contained in the Prisoners and Criminal Proceedings (Scotland) Act 1993) the Parole Board is responsible for taking decisions on parole for long-term offenders (sentenced to 4 years or more) and the release of life sentence prisoners. Once life sentence prisoners have served the “punishment part” of their life sentence that is imposed by the court at time of sentence, they are entitled to have their contained detention reviewed by a “court-like” body – the Parole Board. The Board will decide whether the prisoner has reached the point where her/she is an acceptable risk and if so will direct release on life licence. This is a continuous process. Because the issue is one of consideration of continued imprisonment, the review must be undertaken by the Board sitting as a Tribunal. At present the Tribunal comprises 3 members chaired by a legal member.

7. Under the Bill’s provisions, only those determinate offenders assessed as high risk will be referred to the Board; the position for life sentence prisoners remains unchanged. So the Board’s consideration of cases will always be on the basis of continued imprisonment, Tribunal hearings will be required for all prisoners referred under the new legislation. The original Financial Memorandum suggested that the Tribunals should comprise only 2 Board members.

8. In giving evidence to the Justice 2 Committee at Stage 1, a number of commentators, including the Parole Board, expressed their concern at the proposal to move from a 3-member to a 2-member Tribunal, arguing that this would lead to a loss of experience and expertise. After careful consideration, and discussions with the Parole Board, Scottish Ministers have agreed to retain the 3-member Tribunal. The consideration of continued detention under the new arrangements is therefore £948k rather than the £675k mentioned at paragraph 165 of the Financial Memorandum. The difference between the current and the new arrangements is an additional £550k

Parole Board – consideration of recalls to custody

9. The decision to retain the status quo of a 3-member Tribunal has a further impact on costs in relation to the Parole Board’s consideration of offenders recalled to custody for breach of licence conditions. The Financial Memorandum estimated that Parole Board consideration in this area would amount to an additional £59k on existing costs. Taking the 3-member Tribunal into account increases this to £81k.

10. Finally, the original Financial Memorandum included a table summarising the costs across the various sectors affected by the Custodial Sentences provisions. This table, updated to take account of the information provided above, is attached.

This document relates to the Custodial Sentences and Weapons (Scotland) Bill as amended at Stage 2 (SP Bill 80A)

Table summarising recurring and non-recurring costs against bodies (note: 1. recurring cost increases due to potential increases in prisoner numbers; 2. there are no savings for any of the bodies concerned.)

£m Custodial Sentences	Year 1		Year 5
	Recurring costs	Non-recurring costs	Recurring costs
Scottish Administration	16.52	i. 25.2-37.2 ii. 102.2-162.2	49.03-67.03
Of which: SPS*	9.5	i. 25.2-37.2 ii. 102.2-162.2	37-55
<i>Continued detention and recall to custody</i>	4.0	-	28 - 44
<i>Risk Assessment</i>	5.0	0.2 [†]	5.0-6.0
<i>Escorting</i>	0.5	-	4.0-5.0
<i>Land Acquisition</i>	-	2.0	-
<i>i. PPP reversionary interest*</i>	-	23-35	-
<i>ii. Public Sector Capital</i>	-	100-160	-
Criminal Justice Social Work	4.1*	-	7.95
Courts	1.7	-	1.7
<i>Appeals</i>	0.04		0.04
<i>Reports – Judicial salaries)</i>	1.48		1.48
<i>Reports – SCS running costs</i>	0.18		0.18
COPFS	-	-	-
Police	0.03	-	0.03
Scottish Executive	-	-	-
Parole Board	0.08	-	0.63
<i>Detaining in custody</i>	-	-	0.55
<i>Recalls</i>	0.08	-	0.08
Scottish Legal Aid Board	-	-	0.61
Electronic Monitoring	1.11	-	1.11
Other bodies	-	-	-
Total	16.52	i. 25.2-37.2 ii. 102.2-162.2	49.03-67.03

* Range represents costs against 700-1100 prisoners

† IT development

* Figures against i. and ii. represent different scenarios: i. the new prison/s cost if private sector and ii. the new prison/s cost if public sector

×Figure based on assumption that it will take 3 months to get things up and running-hence calculation for 9 months costs in the first year.

*This document relates to the Custodial Sentences and Weapons (Scotland) Bill as amended at
Stage 2 (SP Bill 80A)*

CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) BILL

SUPPLEMENTARY FINANCIAL MEMORANDUM

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2007.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary
Corporate Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by
RR Donnelley.

ISBN 978-1-4061-3297-7



9 781406 132977