



The Scottish Parliament

Subordinate Legislation Committee

Offences (Aggravation by Prejudice) (Scotland) Bill

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The Committee reports to the lead committee as follows—

Introduction

1. At its meetings on 3 and 17 June 2008, the Subordinate Legislation Committee considered the delegated powers provisions in the Offences (Aggravation by Prejudice) Scotland Bill at Stage 1. The Committee submits this report to the Justice Committee as the lead committee for the Bill, under Rule 9.6.2 of Standing Orders.
2. Patrick Harvie MSP, the Member in charge of the Bill, provided the Parliament with a memorandum on the delegated powers provisions in the Bill¹.
3. The Committee's correspondence with the Member in charge is reproduced in the Annex.

Delegated Powers Provisions

Section 3: Commencement and short title

4. At its meeting on 3 June, the Committee indicated that it was content with the delegated powers in the Bill, however it sought clarification on two points from the Member in charge of the Bill. The delegated powers are limited to the commencement provision.
5. Firstly, the Committee noted that, under section 3(1) of the Bill, the Act comes into force on a "day" appointed by Scottish Ministers by order. It asked the Member in charge whether there was any intention or prospect of sections 1 and 2 of the Bill requiring to be commenced on different days; and whether reliance was being placed on schedule 1, paragraph 3(c) of the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc of Acts of the Scottish Parliament) Order 1999 (SI 1999/1379).

¹ [Delegated Powers Memorandum](#)

6. The response from the Member in charge has confirmed that the Scottish Government has no intention of commencing sections 1 and 2 of the Bill on different days. The Committee welcomes this clarification.

7. Secondly, the Committee considered that it was important that persons potentially committing offences should have sufficient notice of the commencement date of the provisions of the Act. It noted that the Bill does not provide for any minimum number of days between the date of making the commencement order, and coming into force of the sections. The Committee asked the Member in charge to confirm to the effect that, although section 3(1) is drafted in the usual terms for a commencement order provision, and does not specify any minimum period between the date of the making of an order and coming into force, the Scottish Government will observe a suitable minimum period, as and when the commencement order is made.

8. In his response, Patrick Harvie MSP has confirmed that the Scottish Government have advised that, in line with standard practice, it does not intend to commence the provisions any earlier than 2 months after Royal Assent. The Committee welcomes this confirmation.

9. The Committee is satisfied with the delegated powers in this Bill, and draws the attention of the lead committee to its correspondence with the Member in charge for information.

ANNEX

Correspondence between the Subordinate Legislation Committee and Patrick Harvie MSP

Letter from the Subordinate Legislation Committee to Patrick Harvie MSP

The Committee asks if there is an intention or prospect of sections 1 and 2 requiring to be commenced on different days, whether reliance is being placed on The Scotland Act 1998 (Transitory and Transitional provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999, Schedule 1, para 3(c).

The Committee also notes that in line with normal drafting practice, the Bill does not specify how many days are required between making the commencement order/s and the appointed day/s, and asks whether a suitable minimum period will be left, for the purposes of allowing sufficient notice of commencement to those potentially affected by the Bill.

Response from Patrick Harvie MSP

Thank you for your letter dated 4 June 2008. Scottish Government officials have given me assistance in relation to the questions raised by the committee.

They advise that the Scottish Government has no intention of commencing the provisions on different days. Therefore, no reliance is placed on the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999, Schedule 1, paragraph 3(c).

They advise that, in line with standard practice, the Scottish Government does not intend to commence the provisions any earlier than 2 months after Royal Assent.

I trust that this answers the questions raised by the committee.