Management of Offenders (Scotland) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 27</th>
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<td>Introduced on:</td>
<td>22 February 2018</td>
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<td>Introduced by:</td>
<td>Michael Matheson (Government Bill)</td>
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<td>Passed:</td>
<td>25 June 2019</td>
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<td>Royal Assent:</td>
<td>30 July 2019 asp 14</td>
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Purpose of the Bill

The Management of Offenders (Scotland) Bill, as introduced in February 2018, set out reforms relating to:

- the electronic monitoring of offenders in the community – extending the potential for monitoring; both in terms of what other measures it can be combined with and the use of new technologies
- the disclosure of convictions – reducing the length of time most people with convictions must disclose them (eg when applying for work) and extending the maximum length of custodial sentence (from 30 months to 48 months) covered by rules limiting the need to disclose
- the Parole Board for Scotland – various changes to the composition, appointment, functions and governance of the Parole Board

Parliamentary Consideration

The Justice Committee, as lead committee, took stage 1 evidence on the whole Bill at five meetings during April to June 2018. However, its stage 1 consideration was extended due to concerns arising about the use and enforcement of Home Detention Curfew (HDC)

Under HDC, an offender serves part of a custodial sentence in the community, subject to licence conditions and electronic monitoring. In May 2018 James Wright was convicted of murder. Prior to the offence, he had been released from prison on HDC. He breached this and was unlawfully at large at the time of the murder. Following the conviction, the Scottish Government asked HM Inspectorate of Constabulary in Scotland and HM Inspectorate of Prisons for Scotland to carry out reviews of the HDC regime. Both inspectorates reported in October 2018.

The Justice Committee took further stage 1 evidence, with a focus on HDC, during three committee meetings in November 2018 to January 2019. It’s stage 1 report, recommending that the general principles of the Bill be agreed,
was published in January 2019. Following the stage 1 debate in February, the general principles were agreed without a vote.

Proposed amendments to the Bill included ones arising from various issues covered in the above-mentioned inspectorate reports. One of those agreed provided for a new offence of remaining unlawfully at large. The offence covers a range of situations, including where a person has failed to return to prison after being recalled for breach of HDC conditions.

Other key issues considered in light of the inspectorate reports, included the process of risk assessment undertaken prior to releasing a prisoner on HDC, and arrangements for monitoring prisoners following release. A Scottish Government amendment agreed at stage 3 requires the Scottish Ministers to publish an operating protocol covering such matters. In explaining the background to the amendment, the Cabinet Secretary for Justice noted that his amendment:

"was lodged in response to an amendment that Margaret Mitchell lodged at stage 2, which proposed that statutory HDC guidance should be produced and laid before the Parliament. As I said at stage 2, I am sympathetic to the intent behind that amendment, and I am grateful to the convener, Daniel Johnson and Liam Kerr for working with us on an approach that I hope satisfies them and provides what they were looking for." (col 69)

The Bill as introduced included reforms seeking to extend the maximum length of custodial sentence covered by current rules limiting the need to disclose convictions. To this, Scottish Government amendments agreed at stage 2 added provision for a new process under which people with convictions resulting in sentences of more than 48 months (but not life) may also benefit from such rules. Unlike the standard provisions, which apply without the convicted person having to submit any form of application, the process would involve application to a reviewer. The Scottish Ministers will have the power to set out how this will operate in regulations.

In relation to the provisions of the Bill dealing with the Parole Board, amendments agreed during the passage of the Bill broadened somewhat the range of reforms to cover the system governing parole more generally.

Following the stage 3 debate on 25 June 2019, the Bill was passed by 82 votes to 26. Conservative members voted against the Bill, raising various concerns during the final debate (eg that amendments agreed in relation to electronic monitoring did not go far enough in protecting the public).