

JUSTICE 2 COMMITTEE

Tuesday 8 March 2005

Session 2

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JUSTICE 2 COMMITTEE

† 7th Meeting 2005, Session 2

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

Jackie Baillie (Dumbarton) (Lab)

Colin Fox (Lothians) (SSP)

*Maureen Macmillan (Highlands and Islands) (Lab)

*Mr Stewart Maxwell (West of Scotland) (SNP)

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Mr Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Hugh Henry (Deputy Minister for Justice)

CLERKS TO THE COMMITTEE

Gillian Baxendine

Tracey Hawe

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Steven Tallach

LOCATION

Committee Room 6

† 6th Meeting 2005, Session 2—held in private.

Scottish Parliament

Justice 2 Committee

Tuesday 8 March 2005

[THE CONVENER *opened the meeting at 14:05*]

Items in Private

The Convener (Miss Annabel Goldie): Good afternoon everybody, and welcome to the seventh meeting of the Justice 2 Committee in 2005. Members should have all the papers. I have received apologies from Colin Fox and Jackie Baillie.

We turn to item 1 on the agenda. Do members agree to take item 5 in private?

Members indicated agreement.

The Convener: Although this is not on the agenda, do members also agree to consider in private, at our meeting next week on 15 March, an agenda item on the Management of Offenders etc (Scotland) Bill?

Members indicated agreement.

Subordinate Legislation

Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2005 (draft)

Advice and Assistance (Financial Conditions) (Scotland) Regulations 2005 (draft)

Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2005 (draft)

14:06

The Convener: Agenda item 2 is subordinate legislation. We have three sets of draft regulations to deal with under the affirmative procedure. I welcome to the meeting Hugh Henry, the Deputy Minister for Justice, and his advisers. Members will be familiar with the procedure and should have copies of the draft regulations and explanatory notes. Without further ado, I ask the minister to speak to the three motions. I have no objection to their being moved en bloc.

The Deputy Minister for Justice (Hugh Henry): The draft regulations deal with two issues, the first of which is the annual uprating of financial eligibility limits. Four sets of regulations enable the annual uprating of financial limits for eligibility for legal aid: two of them are dealt with under the negative procedure, and we are considering the other two today.

The draft Advice and Assistance (Financial Conditions) (Scotland) Regulations 2005 will uprate the financial eligibility limits for advice and assistance. The limits are increased annually in line with contributory benefits. On 6 December 2004, the Secretary of State for Work and Pensions announced that those benefits would rise in line with the retail price index, which stands at 3.1 per cent. We therefore propose to increase accordingly the income limits and contributory bands for advice and assistance. We also propose to increase the capital limit for advice and assistance on the same basis.

The draft Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2005 deal with the uprating of the limits for civil legal aid, which is linked to increases in the level of income-related benefits. As the Secretary of State for Work and Pensions announced, the benefits have been uprated in line with the Rossi index, which is based on the RPI less housing costs and which stands at 1 per cent. We therefore propose to increase the income limits for civil legal aid accordingly. We also propose to increase the lower and upper disposable capital limits for civil legal aid. The

changes that we propose will ensure that eligibility is kept up to date and that no one falls out of the legal aid net because of the effects of inflation.

The second issue is legal aid in relation to the new asylum and immigration tribunal and obstructive witnesses. The draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2005 will give effect to changes that are required as a result of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 and the Criminal Procedure (Amendment) Scotland Act 2004.

The Asylum and Immigration (Treatment of Claimants, etc) Act 2004, which will come into effect on 4 April 2005, will replace the current two-tier system that deals with matters of asylum with a one-tier system: the asylum and immigration tribunal. The new tribunal will assume the functions of the current two-tier system and no new functions are planned. The change in the regulations will allow for assistance by way of representation to be made available for the new tribunal.

The Criminal Procedure (Amendment) Scotland Act 2004 implements a number of reforms to solemn criminal court procedure that were proposed by Lord Bonomy. Some of the provisions will come into effect on 1 April 2005, including those that allow the courts to deal with witnesses who have failed to appear, obstructively and deliberately, at a solemn criminal diet for which they have been cited. The changes to the regulations will ensure that assistance by way of representation is available for such persons without means testing.

The Convener: As members have no questions, I ask the minister to move the motions.

Motions moved,

That the Justice 2 Committee recommends that the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2005 be approved.

That the Justice 2 Committee recommends that the draft Advice and Assistance (Financial Conditions) (Scotland) Regulations 2005 be approved.

That the Justice 2 Committee recommends that the draft Civil Legal Aid (Financial Conditions) (Scotland) Regulations 2005 be approved.—[*Hugh Henry.*]

Motions agreed to.

Police (Retention and Disposal of Motor Vehicles) (Scotland) Regulations 2005 (SSI 2005/80)

The Convener: Agenda item 3 is further subordinate legislation, this time in the form of regulations that are to be dealt with under the negative procedure. Members have received a

copy of the regulations and an explanatory note. Are members content with the regulations?

Members indicated agreement.

Sewel Convention (Procedures Committee Inquiry)

14:12

The Convener: Item 4 on the agenda is the Procedures Committee's inquiry into the Sewel convention. With the help of members' comments at a previous meeting, the clerks have drafted a submission to the Procedures Committee, which it is proposed that I should sign as convener. Members have received a copy of the draft submission. I am happy to take comments and answer questions.

Bill Butler (Glasgow Anniesland) (Lab): The clerks should be congratulated on what is a model mirroring of our discussion. I hope that colleagues agree that the draft submission goes straight to the point.

Maureen Macmillan (Highlands and Islands) (Lab): I did not attend the meeting at which the issue was discussed, but I have no issues to raise. The draft submission is an excellent piece of work. As Bill Butler says, the clerks are to be congratulated.

The Convener: Yes, it accurately reflects the discussion.

Do members agree that I should dispatch the letter on behalf of the committee and that I should appear before the Procedures Committee, if required?

Members *indicated agreement.*

14:13

Meeting continued in private until 15:08.

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