

# **JUSTICE 2 COMMITTEE**

Tuesday 14 June 2005

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

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 Astron.

---

# CONTENTS

Tuesday 14 June 2005

	Col.
<b>ITEM IN PRIVATE</b> .....	1631
<b>SUBORDINATE LEGISLATION</b> .....	1632
Fire (Scotland) Act 2005 (Consequential Modifications and Amendments) Order 2005 (draft) .....	1632
<b>PRISONER ESCORT AND COURT CUSTODY SERVICES CONTRACT</b> .....	1634
<b>ADULTS WITH INCAPACITY (SCOTLAND) ACT 2000</b> .....	1636
<b>PETITION</b> .....	1637
Public Bodies (Complainers' Rights) (PE578).....	1637
<b>CENTRE FOR FORENSIC SCIENCE</b> .....	1638

---

## JUSTICE 2 COMMITTEE

† 19<sup>th</sup> 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 5

† 16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> Meetings 2005, Session 2—held in private.



## Scottish Parliament

### Justice 2 Committee

*Tuesday 14 June 2005*

[THE CONVENER *opened the meeting at 14:04*]

### Item in Private

**The Convener (Miss Annabel Goldie):** I welcome everyone to the 19<sup>th</sup> meeting of the Justice 2 Committee in 2005. I have a considerable list of apologies to intimate. We have received apologies from Colin Fox, Stewart Maxwell and Jackie Baillie. Jeremy Purvis will also be absent, but proposes that his colleague Margaret Smith attend in his place. She may duly appear. I thank Maureen Macmillan and Bill Butler for making the meeting quorate.

I ask the committee to agree to take item 7 in private.

**Members** *indicated agreement.*

## Subordinate Legislation

### Fire (Scotland) Act 2005 (Consequential Modifications and Amendments) Order 2005 (draft)

14:05

**The Convener:** We have one piece of subordinate legislation before us. It is a draft Scottish statutory instrument to be dealt with under the affirmative procedure, which means that we require a minister to speak to and move a motion. It is therefore with much pleasure that I welcome the Deputy Minister for Justice, Mr Hugh Henry, who is accompanied by Jill Clark. Although the committee is rather sparsely represented this morning, the substance of the issues before us might not require a great deal of interrogation. Without further ado, I invite the minister to speak to the draft order and move the motion.

**The Deputy Minister for Justice (Hugh Henry):** I am sure that it is the quality that counts, not the quantity, convener. I thank the committee for giving me this opportunity.

The draft order is to be made in exercise of the powers conferred under section 87 of the Fire (Scotland) Act 2005. As the convener said, it is subject to the affirmative resolution procedure.

Section 87 of the 2005 act states:

“The Scottish Ministers may by order make such incidental, supplementary, consequential, transitory, transitional or saving provision as they consider appropriate for the purposes of, in consequence of or for giving full effect to this Act or any provision of it.”

The order will make the necessary amendments and repeals to other primary legislation, as required in consequence of parts 1 and 2 of the 2005 act. The changes that have been identified will update references to the terminology that is currently used within the service, such as “fire authority” and “fire brigade”, and replace it with the new references to “fire and rescue authorities”, as described in the act.

Changes will also be required to secondary legislation in consequence of the coming into force of parts 1 and 2 of the 2005 act. A further order under section 87 relating to secondary legislation was laid in the Scottish Parliament on 10 June. That order is subject to the negative procedure.

The commencement of the draft order before us in respect of the primary legislation is designed to co-ordinate with the coming into force of part 1 of the 2005 act later in the summer. The committee will have noted from my letter of today’s date that the draft Fire (Scotland) Act 2005 (Consequential Provisions and Modifications) Order 2005, made

under section 104 of the Scotland Act 1998, was laid in the United Kingdom Parliament on 7 June. That order will address the consequential modifications to reserved legislation.

I move,

That the Justice 2 Committee recommends that the draft Fire (Scotland) Act 2005 (Consequential Modifications and Amendments) Order 2005 be approved.

**Bill Butler (Glasgow Anniesland) (Lab):** Does the draft order contain any financial implications for the fire and rescue authorities?

**Hugh Henry:** Not that we are aware of. We would safely say that there are no such implications.

*Motion agreed to.*

**The Convener:** I thank the Deputy Minister for Justice and his colleague for attending.

## Prisoner Escort and Court Custody Services Contract

14:09

**The Convener:** The next item concerns the prisoner escort and court custody services contract. The committee will recall that we took evidence in connection with the contract on a previous occasion and that we agreed that we would have an update at some point. The clerks have circulated an explanation paper to the committee. Do members have any comments on the paper?

**Bill Butler:** Having read the paper and having noted what has been happening since we last considered the issue, I see that a good deal of progress has been made. We should welcome that.

The progress report notes:

"prisoner security has been improved ... there is better adherence to safe systems of work ... agencies involved have improved their procedures and are working together ... with Reliance".

All of that, and much more, is to be welcomed.

I suggest that, given that the Scottish Prison Service intends to conduct a full post-implementation review after the contract has run for a year, we might note what is before us now, welcome the progress that has been made thus far and consider having another update once the post-implementation review becomes available.

**Maureen Macmillan (Highlands and Islands) (Lab):** Could we get some input from the police, rather than just from the SPS? Having spoken to policemen in the region that I represent, I have found that it has made a big difference to them to have Reliance Custodial Services carrying out escort services. Perhaps we could formalise that by getting a report from the police.

**The Convener:** Would it be appropriate, if we are considering deferring the matter until the post-implementation review stage, to deal with all those matters together?

**Maureen Macmillan:** Yes, I agree that that would be appropriate.

**The Convener:** The committee places on record its appreciation for the information that has been made available. It seems that matters have improved significantly.

It would be sensible, given the proposals that have been made, for us to delay or defer further action until the post-implementation review is available. At that point, the committee should revisit the issue. As Maureen Macmillan has

suggested, we should be prepared to take the views of our police forces at the same time.

**Members** *indicated agreement.*

## **Adults with Incapacity (Scotland) Act 2000**

14:11

**The Convener:** Item 4 concerns the Adults with Incapacity (Scotland) Act 2000 and the committee's possible post-enactment scrutiny role. Members have received a helpful paper from the clerks on the matter, with a recent and helpful letter from the Deputy Minister for Justice attached. The letter gives a clear indication as to where matters have reached. The committee needs to decide whether to take further action on the issue and, if so, when it would care to do so. The background paper from the clerks suggests that we might

"consider inviting the Minister and the Adults with Incapacity National Practice Co-ordinator to give oral evidence to a meeting of the Committee towards the end of the year."

The committee might instead wish to consider taking evidence from a wider pool.

One technical issue is being dealt with through amendments to the Smoking, Health and Social Care (Scotland) Bill, and the clerk has pointed out to me that, on legal aid, to which the minister's letter refers, the necessary amendment regulations have now been laid. I seek members' views.

**Bill Butler:** I suggest that we follow the first option detailed in the clerk's note. We should wait until an appropriate moment towards the end of the year to ask the minister and the adults with incapacity national practice co-ordinator to give us further evidence as to the progress that has been made in all the areas that are outlined in detail in the note. At that stage, we will be able to assess the progress that has been made in some areas that are only now moving towards some kind of resolution. It would be appropriate to defer the matter until the end of the year and then take further evidence from the minister and the co-ordinator.

**The Convener:** That is a helpful suggestion.

**Maureen Macmillan:** I am happy with that.

**The Convener:** That is a sensible way to proceed. We shall defer action on the matter until the end of the year, when we propose to take evidence from the minister and the national practice co-ordinator. On the basis of that evidence, the committee can make a judgment as to what more it wishes to do.

## Petition

### Public Bodies (Complainers' Rights) (PE578)

14:14

**The Convener:** Item 5 on the agenda is petition PE578, which came before the committee previously and was deferred pending our hearing from the Executive about its intentions. A background paper by the clerks has been circulated to members with a recent letter from the Deputy Minister for Justice that indicates that the Executive is still giving considerable thought to the issues raised in the petition. The deputy minister says that it:

"is a complex and sensitive issue on which my officials have been working closely with colleagues in the Education Department."

He is not yet in a position to offer a full reply to the committee, but hopes to be able to do so in the near future.

**Bill Butler:** It is logical to wait for the fuller reply from the deputy minister because, until we have that, we would be acting without essential information. We should defer action until that fuller response becomes available and then try to find a slot in the committee's pressured timetable to discuss the petition again.

**Maureen Macmillan:** I agree that we need to see the minister's proposals before we can take the matter any further.

**The Convener:** So the wish of the committee is to await a fuller response from the Executive and continue its position until that response is available.

*Members indicated agreement.*

**The Convener:** Do members agree that we should write to the petitioner to keep him informed?

*Members indicated agreement.*

## Centre for Forensic Science

14:17

**The Convener:** Item 6 concerns the committee's visit to the centre for forensic science at the University of Strathclyde in Glasgow. I attended with our colleagues Stewart Maxwell and Colin Fox, and our clerk Steven Tallach was in attendance. I think that three members were present because other members had other obligations. [*Interruption.*] I am reminded now that Maureen Macmillan was also present—I beg your pardon, Maureen, and give my apologies, which are inadequate in the circumstances. I knew that there was a slightly fuller complement than just the three of us; there were four of us altogether.

I am very glad that Maureen Macmillan is here today because, from what I gathered, the members who made that visit found it not only extremely interesting, but very helpful in enabling us to understand some of the more technical processes that are involved in the criminal justice system and, to an extent, the civil justice system. We were immensely impressed by the cutting edge activity undertaken at the centre.

It emerged during the visit that the facility is a rare one in the United Kingdom. It is an indication of the prestige of the department that there is a possibility of bidding for a major conference to come to Glasgow. The members who heard the details of that proposal were extremely interested in it. One of the tasks that we undertook to perform was not just to bring back to the committee meeting a report of the visit, but to relay some information about the possibility of such a conference coming to Glasgow. It was my impression from all members who were on the visit that there was a willingness to suggest that the First Minister might be invited to support the making of such a bid.

**Maureen Macmillan:** Indeed. It is hoped that the conference, which will take place in 2008, will be held at the Scottish Exhibition and Conference Centre. It will involve about 1,500 people and would be a good showcase for Glasgow and the rest of Scotland.

I have rather pre-empted what we suggested and have spoken to Patricia Ferguson, the Minister for Tourism, Culture and Sport, about the bid. She is excited by and interested in the possibility of bidding for the conference and has already been in touch with various bodies. I imagine that the Executive will support any bid that the University of Strathclyde might make. I am sure that that would involve the First Minister as well.

Perhaps other members have comments.



**The Convener:** We have been joined by Margaret Smith, whom I welcome to the meeting in place of Jeremy Purvis.

**Bill Butler:** I tendered my apologies for missing the visit, which was obviously interesting. The convener's and Maureen Macmillan's comments were encouraging, in that Glasgow might be in with a real chance of winning a major conference, to which, as a member with a Glasgow constituency, I am not averse.

Maureen Macmillan said that she has already approached the Minister for Tourism, Culture and Sport. If so, perhaps the matter can be explored using that avenue. The idea is to be supported. We should make known the interest of the members who visited the centre on behalf of the committee in doing all that we can in that regard.

**The Convener:** I thank members for their contributions. I omitted to specify that the official title of the organisation involved in the conference is the International Association of Forensic Sciences, and that it is proposed that the conference be held in 2008.

Does the committee agree that it is appropriate that a letter—I will circulate the text to members for approval—to the Minister for Tourism, Culture and Sport be drafted in my name as convener? We might copy that to the First Minister.

**Members** *indicated agreement.*

**The Convener:** We agreed previously to move into private session to consider item 7.

14:22

*Meeting continued in private until 14:40.*



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Thursday 23 June 2005**

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

**Blackwell's Bookshop**  
53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222

**Blackwell's Bookshops:**  
243-244 High Holborn  
London WC1 7DZ  
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

**Blackwell's Scottish Parliament Documentation**  
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

**Telephone orders and inquiries**  
0131 622 8283 or  
0131 622 8258

**Fax orders**  
0131 557 8149

**E-mail orders**  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

**Subscriptions & Standing Orders**  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

**RNID Typetalk calls welcome on**  
18001 0131 348 5412  
Textphone 0845 270 0152

[sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

All documents are available on the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron