

JUSTICE 2 COMMITTEE

Tuesday 28 February 2006

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2006.

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 28 February 2006

Col.

INTERESTS	2021
CONVENER	2021
POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) BILL: STAGE 2	2022
SUBORDINATE LEGISLATION.....	2035
Police Grant (Variation) (Scotland) Order 2006 (SSI 2006/39)	2035
JUSTICE AND HOME AFFAIRS IN EUROPE	2036

JUSTICE 2 COMMITTEE

5th Meeting 2006, Session 2

CONVENER

*Mr David Davidson (North East 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

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Carolyn Leckie (Central Scotland) (SSP)

*Mr Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Mike Pringle (Edinburgh South) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Hugh Henry (Deputy Minister for Justice)

CLERKS TO THE COMMITTEE

Gillian Baxendine

Tracey Haw e

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Steven Tallach

LOCATION

Committee Room 6

Scottish Parliament

Justice 2 Committee

Tuesday 28 February 2006

[THE DEPUTY CONVENER *opened the meeting at 14:02*]

Interests

The Deputy Convener (Bill Butler): Good afternoon, colleagues, and welcome to the fifth meeting of the Justice 2 Committee in 2006. Apologies have been received from Stewart Maxwell: Kenny MacAskill is substituting for him—welcome, Kenny.

I turn to item 1, and ask David Davidson whether he wishes to declare any relevant interests.

Mr David Davidson (North East Scotland) (Con): My interests are as published in the register of members' interests. I assure the committee that I have no connection with legal practice whatsoever.

The Deputy Convener: Thank you for that, David.

Convener

14:03

The Deputy Convener: We move to item 2. Under rule 12.1 of the standing orders, the Parliament decided that the party whose members are eligible for nomination as convener of the Justice 2 Committee is the Scottish Conservative and Unionist Party. I therefore ask the committee to agree that David Davidson be chosen as convener.

Mr Davidson was chosen as convener.

The Deputy Convener: Congratulations, David. We will now shift seats.

Police, Public Order and Criminal Justice (Scotland) Bill: Stage 2

14:04

The Convener (Mr David Davidson): Good afternoon, colleagues. I look forward to working with you and the support team on the Justice 2 Committee.

I welcome the Deputy Minister for Justice, Hugh Henry, to the meeting, which is one of a number that we will have to consider the Police, Public Order and Criminal Justice (Scotland) Bill at stage 2. I hope that all members have brought a copy of the bill, a copy of the marshalled list and a copy of the groupings.

I advise members that the target for today's meeting is to reach the end of section 23 and to deal with schedules 1 and 2. If the committee does not reach the end of section 23, any amendments that have not been considered will be carried forward to next week's meeting. We can make good progress, but we cannot proceed beyond section 23.

I am grateful to the clerks for their support in preparing for this meeting.

Section 1 agreed to.

Schedule 1

THE SCOTTISH POLICE SERVICES AUTHORITY

The Convener: Amendment 8, in the name of the minister, is grouped with amendments 9 to 16.

The Deputy Minister for Justice (Hugh Henry): Thank you, convener. I congratulate you on your appointment. I look forward to working with you in the same productive way as I did with your predecessor, Annabel Goldie, who clearly will now have her hands full in her other job.

The amendments in the group relate to the arrangements that are set out in schedule 1 for the appointment of members of the Scottish police services authority. The bill currently provides that police force members of the authority may be chief constables, deputy chief constables or assistant chief constables. However, given the nature of the services for which the authority will be responsible, and the fact that deputy chief constables already lead two of them, we believe that police force members of the authority should always be chief constables. That will be the effect of amendments 8 and 16.

As there are only eight chief constables and eight police authority conveners in Scotland, we also think, on reflection, that it would be more appropriate for the police force and police

authority members of the police services authority to be appointed on the nomination of the relevant bodies. Accordingly, amendments 9 and 12 will replace the previous requirement to consult such bodies with the provision for appointments to be made on the basis of statutory nomination. That procedure is recognised in the draft code of practice on ministerial appointments to public bodies in Scotland, which is due to come into force in April.

The draft code also proposes that the existing 10-year limit on the tenure of appointments should be removed. It provides instead that an appointment may be followed by one—but only one—reappointment. Amendments 13, 14 and 15 bring the provisions relating to the tenure of appointments into line with the proposals of the commissioner for public appointments in Scotland. The specific limits on the duration of individual appointments are therefore removed and, instead, members of the authority will be appointed, and may be reappointed, for such periods as ministers determine.

Finally, the bill already provides that serving constables and members of a local authority are disqualified from appointment as lay members of the police services authority. Amendments 10 and 11 extend that disqualification to serving police officers anywhere in the United Kingdom, to members of the serious organised crime agency and to members of the authority's staff.

I move amendment 8.

Amendment 8 agreed to.

Amendments 9 to 16 moved—[Hugh Henry]—and agreed to.

The Convener: Amendment 17, in the name of the minister, is grouped with amendments 18 to 20.

Hugh Henry: These minor amendments are designed to clarify and tidy up the provisions in paragraph 9 of schedule 1 to the bill, on the remuneration of the convener and lay members of the authority. The amendments remove any possible ambiguity by making it clear that the provisions for remuneration of lay members also extend to the convener. They reflect the fact that members of non-departmental public bodies' boards are office-holders and not employees. The amendments also make it clear that compensation for loss of office may be paid only if ministers determine that there are special circumstances that make it right for a former convener or lay member to receive compensation. That is designed to ensure that any such payments are very much the exception, rather than the rule.

I move amendment 17.

Amendment 17 agreed to.

Amendments 18 to 20 moved—[Hugh Henry]—and agreed to.

The Convener: Amendment 21, in the name of the minister, is grouped with amendments 22 to 26.

Hugh Henry: There has been a degree of uncertainty about the role and responsibilities of the Scottish crime and drug enforcement agency's senior strategic officer. The Executive's position has always been clear: we believe that the senior strategic officer is intended to be the authority's chief executive. His or her role will be to lead the new organisation and to bring together the various existing services into a single, coherent and effective national body. It would be odd if a national organisation with about 1,300 staff and an annual budget in the region of £70 million did not have a chief executive.

It has become clear that the title "senior strategic officer" is not helpful and that it is giving rise to a certain amount of confusion, because it is not clear exactly what the title means. As I have said, our intention is that the senior strategic officer should be the authority's chief executive. The amendments are designed to put the matter beyond doubt by replacing the various references to "SSO" with the title "Chief Executive".

I move amendment 21.

Amendment 21 agreed to.

Amendments 22 to 26 moved—[Hugh Henry]—and agreed to.

The Convener: Amendment 27, in the name of the minister, is grouped with amendments 28 to 31.

Hugh Henry: Amendments 27 and 29 relate to paragraph 11 of schedule 1 which, among other things, provides for the authority to make arrangements for constables to be seconded to it to serve as members of its staff. Amendment 27 is a technical amendment that makes it clear that the constables in question are from Scottish police forces. We are considering whether to introduce separate amendments at stage 3 in relation to constables who are seconded from forces elsewhere in the United Kingdom.

Amendment 29 provides the Scottish ministers with the same power to apply the provisions of the Police (Scotland) Act 1967, and legislation made under it, to constables who are seconded to the authority as they have under paragraph 6(8) of schedule 2 in relation to directly recruited police members of the agency.

Amendment 54, which we will come to later, extends the power at paragraph 6(8) to include the director, deputy director and all police members of the agency.

Amendment 28 is minor and technical, and is intended to express the meaning of the relevant provision more clearly. The effect is to make it clear that a constable who is seconded to the authority, or who is appointed under paragraph 6(2)(a) of schedule 2 as a police member of the agency, is engaged in a period of “relevant service” within the meaning given to that expression by the Police (Scotland) Act 1967.

Amendments 30 and 31 are minor amendments that are intended to clarify and tidy up the provisions in paragraph 12 of schedule 1, which relates to the remuneration of members of the authority’s staff. Amendment 30 makes it clear that the provisions that relate to compensation for loss of employment extend to the loss of office, and therefore apply to constables who are office-holders as well as to other members of the authority’s staff. Amendment 31 removes the chief executive of the Scottish police services authority and the director and deputy director of the Scottish crime and drug enforcement agency from the scope of paragraph 12, since the bill contains separate provisions for their remuneration.

I move amendment 27.

Bill Butler (Glasgow Anniesland) (Lab): You said that amendment 27 is about finessing arrangements for constables to be seconded from Scottish forces, then you said that the Executive would wait until stage 3 to introduce amendments regarding the secondment of constables from elsewhere in the UK. Will you tell the committee why you are waiting until stage 3? Why not introduce an amendment at this juncture?

14:15

Hugh Henry: We are still considering the appropriate arrangements to second constables from elsewhere in the UK. There is also a need to consult the Home Office. That has not all been completed at this stage. I hope that we will be in a position to resolve the matter at stage 3.

Bill Butler: I am obliged.

Amendment 27 agreed to.

Amendments 28 to 31 moved—[Hugh Henry]—and agreed to.

Schedule 1, as amended, agreed to.

Sections 2 to 5 agreed to.

Section 6—Annual plans of the Authority

The Convener: Amendment 32, in the name of the minister, is grouped with amendments 33 to 38 and 55 to 60.

Hugh Henry: Section 6 requires the authority to prepare and publish an annual plan after

consulting various stakeholders. It provides that the plan cannot be published without the approval of Scottish ministers. Section 14 makes provision for the preparation and publication of the agency’s plan after consultation with the authority. However, in both cases the bill says nothing about what is to happen in the event of a disagreement about the content of the plan. The amendments are designed to provide more detail and to clarify the process and timescales that are to be followed.

The effect of the amendments is that the authority will be required to submit its draft plan to Scottish ministers at least three months before the beginning of the financial year. Ministers will then have two months either to approve the plan as it stands or to approve it subject to any modifications that they consider appropriate. In practice, that allows for a process of constructive dialogue between the authority and ministers, and indeed any other stakeholders, who must now be consulted by the authority in preparing the plan and not simply before the plan is published. It is right that there should be a process of dialogue between the authority and its stakeholders and that the ministers should have the power to make changes to the authority’s plan, following that dialogue.

We have been asked on several occasions during the course of stage 1 about the lines of accountability between the director of the agency and the authority. In policy terms, the director is to be accountable to the authority, but there is nothing in the bill to reflect that. In order to clarify that role, we are amending section 14. The director of the agency will be required to submit a draft plan to the authority at least three months before the beginning of each financial year. The authority will then have two months to approve the plan or approve it subject to any modification that the authority considers appropriate. To maintain the operational independence of the director, the provision has been qualified so that, in approving the plan with modifications, the authority cannot do anything that would or might affect decisions about operational matters of the agency.

I move amendment 32.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Will the requirement to have dialogue with stakeholders apply to all the component parts of the authority or just to the agency?

Hugh Henry: Section 6 says that the authority must consult

“persons whom the Authority considers represent the interests of chief constables of police forces; ... persons whom the Authority considers represent the interests of police bodies; and ... such other persons as the Authority considers appropriate.”

There may be others outwith police bodies or police forces with whom the authority will wish to engage from time to time. In the main, apart from Scottish ministers, the focus should be on chief constables and those representing police bodies, but that does not preclude the authority from consulting others.

Jeremy Purvis: It would not preclude those other bodies from making direct representations to ministers.

Hugh Henry: As you know, anyone can make representations to ministers on any matter; indeed, that regularly happens and I am sure that it will continue.

Amendment 32 agreed to.

Amendments 33 to 36 moved—[Hugh Henry]—and agreed to.

Section 6, as amended, agreed to.

Section 7—Annual reports of the Authority

Amendments 37 and 38 moved—[Hugh Henry]—and agreed to.

Section 7, as amended, agreed to.

Sections 8 and 9 agreed to.

Section 10—Grants

The Convener: Amendment 39, in the name of the minister, is grouped with amendment 64.

Hugh Henry: Sections 10 and 28 contain provisions that restrict Scottish ministers' power with regard to particular operations that the agency carries out. Those provisions are in turn linked to any strategic priorities that Scottish ministers might set. However, we feel it necessary to extend the restrictions, because particular operations might not relate to those strategic priorities.

Amendments 39 and 64 address the anomaly of Scottish ministers having powers with regard to operations that are not linked to any strategic priorities. I stress that our policy is that neither the authority nor Scottish ministers may interfere with the operational independence of the director of the agency.

I move amendment 39.

Amendment 39 agreed to.

Section 10, as amended, agreed to.

Section 11—Charges by the Authority and other receipts

The Convener: Amendment 40, in the name of the minister, is grouped with amendment 41.

Hugh Henry: The Scottish Drug Enforcement Agency has built up a high level of expertise in areas such as forensic accounting and investigation and, on occasion, has carried out specialist work for other law enforcement agencies. By lodging amendments 40 and 41, we seek to make it clear that the authority's power to charge for goods and services will also extend to services that are provided by the SCDEA.

I move amendment 40.

Amendment 40 agreed to.

Amendment 41 moved—[Hugh Henry]—and agreed to.

Section 11, as amended, agreed to.

Section 12 agreed to.

Schedule 2

MEMBERSHIP OF THE SCOTTISH CRIME AND DRUG ENFORCEMENT AGENCY

The Convener: Amendment 42, in the name of the minister, is grouped with amendments 43, 44, 44A, 44B, 45 to 54, 62, 63 and 65 to 68. I remind members that I will put the question on amendments 44A and 44B before I put the question on amendment 44.

Hugh Henry: This series of tidying-up amendments seeks to make it clear that the post of agency director is open to deputy chief constables or those who are eligible to apply for DCC posts and that the post of deputy director of the agency is open to assistant chief constables or those who are eligible to apply for ACC posts. Eligible candidates may also choose to be appointed directly or to undertake a period of secondment.

Amendment 50 ensures that appointees who choose the direct route are able to regain their status as constables, with all the necessary powers and privileges. We have also clarified that if a person is appointed to either post on promotion, that promotion is substantive and any extension to appointments is for a single period of up to three years.

The powers of Scottish ministers to make regulations in section 21 are modelled on the enabling powers that are contained in section 26 of the Police (Scotland) Act 1967. Currently, the bill does not provide for regulations to be made in respect of conduct and discipline of police members of the agency. Amendment 62 addresses that gap and ensures that Scottish ministers have the necessary enabling powers to make a range of regulations for police members of the agency equivalent to those that they can make for police constables in Scottish police forces.

The effect of amendment 52 is to make clear that a constable who is seconded to the authority or appointed under paragraph 6(2)(a) of schedule 2 as a police member of the agency is engaged in a period of "relevant service", as defined by the Police (Scotland) Act 1967.

Amendment 63 is one of a number of consequential amendments that make appropriate modification to the arrangements that are set out in sections 59 to 64 of the Police Act 1996 regarding the Scottish Police Federation, the Police Negotiating Board for the United Kingdom and the Police Advisory Board for Scotland. The amendment amends the regulation-making power in section 21 of the bill to give Scottish ministers the same power in respect of police members of the agency that they already have in respect of constables in police forces. They will be able to designate attendance at meetings of the Scottish Police Federation and any other recognised body as a police duty.

In amendments 44A and 44B, Jackie Baillie has highlighted an issue that the committee discussed and to which it referred in its stage 1 report. I know that the committee takes the view that it is vital that the head of the new SCDEA should have demonstrable status, to ensure that the significance of the SCDEA is recognised both nationally and internationally. I fully accept that the status of the postholder should be so recognised. However, I am not persuaded that designating someone internally as a chief constable, rather than calling them a director, will make much difference to the understanding of bodies across Europe, all of which have different designated titles, roles and salary grades. Whether a person is regarded abroad as a chief constable is neither here nor there. I think that it will be sufficient for them to carry the title of director or whatever other suitable title might apply to the post.

The committee was also concerned about the domestic significance of the title. Graeme Pearson, the current director of the SDEA, noted in his evidence to the committee at stage 1 that the SCDEA director

"will be a member of the council of chief constables; have power of authorisation for all covert policing; be vicariously responsible for the officers who work under direction; be the accountable officer for the agency; be involved in the recruitment of police constables; be the voice of Scotland internationally; with the authority and the Executive, set strategic priorities for the agency's policing; and be under the Crown Office's direction as the competent authority for international investigations"—[*Official Report, Justice 2 Committee*, 25 October 2005; c 1716.]

In other words, not just the agency but the director will have significant powers and status and will be recognised as having them both by the legislation and by those to whom the director may refer from time to time. I say in passing that we

propose to make the director the only post in the Scottish police service that will be exempt from the provisions of the Freedom of Information (Scotland) Act 2002, because of the sensitive work that the agency will do. That reflects the special status that we attach to the post. Whether the director is designated as a chief constable or a deputy chief constable does not matter one bit. What will make the difference is the powers that are vested in the office and the individual who exercises those powers. We have been fortunate that the first director and the current director are of outstanding calibre and have contributed tremendously to policing in Scotland.

14:30

An attendant issue that earlier amendments touched on is that the designation is substantive. At the end of their period in office, the director will have the right to revert to the police. Scotland has eight police forces, but if the director were a chief constable, we could have nine chief constables. At the end of that person's tenure, where would they revert to? He or she could revert to their previous authority, so we would have two chief constables in one authority, which would not create a comfortable or happy relationship. That could have unforeseen consequences.

We should note that the head of the UK serious organised crime agency, which is an equally significant agency for tackling serious and organised crime, will not have a police title or designation and will be a civilian, although the first postholder is a former chief constable. To tackle serious and organised crime, the designation of chief constable is not necessary.

I will describe how we reached our position. We reflected on a comprehensive piece of work by HM inspectorate of constabulary for Scotland, which examined the agency's functioning and structures and considered what was needed. After significant consideration, the inspectorate recommended that there should be two chief officers—a deputy director as well as a director. We took that into account and provided for an additional post, to ensure that the agency is fit for purpose.

The result of the committee's suggestion would in effect be the creation of a ninth police force. I am not sure whether that would be the best way forward. The smallest police force—Dumfries and Galloway constabulary—is about half the size of the next-smallest police force and is very small in comparison with the other police forces in Scotland. Indeed, all the Scottish forces, except Strathclyde police, will be very small in comparison with those that will exist in the rest of the UK once other changes have been made, but I will leave that aside.

If the proposed designation of chief constable of the SCDEA were accepted, that person would control an organisation that was less than half the size of the smallest force—Dumfries and Galloway. Another difficulty could be that the authority's chief executive would control probably twice as many staff as the chief constable of the agency but could receive less salary, even though they might be responsible for up to 100 police constables. We would therefore have to think through the proper designation for the chief executive.

There are a number of reasons why the approach that the committee suggested would not be appropriate. However, it is right that we pause to reflect on the strong view that the committee expressed and consider whether we have done enough to ensure that the director of the agency will have sufficient status in legal and policy terms. We should ascertain whether everyone is clear about the law and whether partner agencies are clear about the significant power that we will invest in the director. We should ascertain whether partner agencies think that a person of a particular rank will not have an equal voice at the table. I have explained the Executive's position, but the issue is serious enough to make us pause and ensure that we get matters right. The committee raised an important issue, but if its view were to prevail, there would be implications that we must consider. However, if we have overlooked matters that might arise if the bill fails to give the SCDEA's director sufficient clout and status, we need to revisit the matter. If we need to take action to remind everyone about the significance that we attach to the post, we must do so.

I ask the committee to allow us to reflect on our proposals and on the committee's position, to ascertain whether we can come up with an amendment that would assuage the committee's legitimate concerns as well as our worries about the approach that the committee proposed. I hope that I have given a sufficient assurance that dialogue can continue on the matter. I am happy to answer members' questions after Jackie Baillie has spoken to her amendments.

I move amendment 42.

The Convener: Thank you, minister. You have moved the goalposts slightly.

Jackie Baillie (Dumbarton) (Lab): I will speak to amendments 44A and 44B. I will not attempt a point-by-point rebuttal of the minister's speech, but I welcome his latter comments.

Amendments 44A and 44B deal with the status of the SCDEA's director. The Executive is right to acknowledge the wider responsibilities that the SCDEA will have in the context of money laundering, witness protection, high-tech crime

and organised crime. Those responsibilities will cross not just international boundaries but internal Scottish police force boundaries and will have implications for investigations into terrorist activity. The committee does not want anything to hamper the successful delivery of the agency's operational objectives.

I concur with the minister that the issue is not international recognition for the director. We are concerned to facilitate practical co-operation in the domestic setting. The minister outlined the director's substantial duties and the rank of deputy chief constable is probably appropriate in the context of those duties. That is not my concern; my concern is about co-operation with the eight chief constables. The director would be a member of the council of chief constables, which is welcome, but would attend council meetings as a subordinate in rank. I understand that such matters are important in certain organisations.

I have no doubt that the director of the Scottish Drug Enforcement Agency is highly respected and has excellent relationships with the current chief constables. However, we are designing legislation not with current personalities in mind but with the next decade or 20 years or more in mind. It is therefore important that we examine the issue and minimise the potential for future arguments.

We could have a debate about the size and complexity of police forces, about what makes up a job evaluation scheme and about what things matter more than others. However, I will resist the temptation to engage in a debate about whether it makes sense for Strathclyde police to be the size that it is in comparison with Dumfries and Galloway constabulary. That is perhaps a debate for another time and place. For me, size is not the essential issue. I am sure that the minister will agree that the essential issue is that we want to avoid anything that would stand in the way of the successful operation of the SCDEA. It is therefore essential for its director to have an equal say and an equal voice at the table and to be able to command co-operation across the board.

In light of the fact that the minister said that he will give the matter further consideration, I will be happy not to move amendments 44A and 44B.

Jeremy Purvis: I, too, welcome the minister's comments and I note that Jackie Baillie will not be moving her amendments. The minister argues that the director of the SCDEA should not have the rank of chief constable because there would be a chief constable surplus of one at the end of the director's tenure, although I guess that it might be useful to have one in the bag for the purposes of crime detection and prevention. Given the rationale for the head of the agency being a deputy chief constable, does it follow that the position of director could be filled only if there was

a vacancy for a deputy chief constable in one of the police forces?

Hugh Henry: There is a slight difference. No matter which police force the deputy chief constable returned to—whether it was the smallest force, which is Dumfries and Galloway, or the largest, which is Strathclyde—they would still be accountable to one chief constable, even if they were technically surplus to the structure. We would not have two chief constables vying for attention and people wondering who they were. We already cater for that situation—for example, the 1967 act addresses it in relation to HMIC. It is not an unusual situation at the depute level, but it would be somewhat unusual to have two chief constables in a single police force.

Amendment 42 agreed to.

Amendment 43 moved—[Hugh Henry]—and agreed to.

Amendment 44 moved—[Hugh Henry].

Amendments 44A and 44B not moved.

Amendment 44 agreed to.

Amendments 45 to 54 moved—[Hugh Henry]—and agreed to.

Schedule 2, as amended, agreed to.

Section 13 agreed to.

Section 14—Annual plans of the Agency

Amendments 55 to 58 moved—[Hugh Henry]—and agreed to.

Section 14, as amended, agreed to.

14:45

Section 15—Annual reports of the Agency

Amendments 59 and 60 moved—[Hugh Henry]—and agreed to.

Section 15, as amended, agreed to.

Sections 16 to 19 agreed to.

After section 19

The Convener: Amendment 61, in the name of the minister, is the only amendment in its group.

Hugh Henry: Amendment 61 provides for the functions of the deputy director and police members of the Scottish crime and drug enforcement agency to be subject to the direction of the director. In giving directions, the director must comply with any instruction given by the Lord Advocate or the procurator fiscal in relation to the investigation of offences in Scotland or with any instruction given by the Lord Advocate in relation

to reporting for the purposes of prosecuting alleged offences. The amendment will bring the role of the director and the agency in the investigation of crime in line with that of the eight police forces in Scotland.

I move amendment 61.

Amendment 61 agreed to.

Section 20 agreed to.

Section 21—Regulations relating to the Agency

Amendments 62 and 63 moved—[Hugh Henry]—and agreed to.

Section 21, as amended, agreed to.

Sections 22 and 23 agreed to.

The Convener: That brings today's stage 2 consideration to an end. I thank the minister for attending and I look forward to seeing him again. I thank members for their contributions to proceedings.

14:47

Meeting suspended.

14:52

On resuming—

Subordinate Legislation

Police Grant (Variation) (Scotland) Order 2006 (SSI 2006/39)

The Convener: The next item on the agenda is subordinate legislation. We have an instrument—the Police Grant (Variations) (Scotland) Order 2006—to consider under the negative procedure. Members have the order and the cover note that explains why the Subordinate Legislation Committee has brought the order to the attention of Parliament and this committee. As no member has any comments to make, are we content with the order and happy to respond to the Subordinate Legislation Committee to that effect?

Members *indicated agreement.*

Justice and Home Affairs in Europe

14:53

The Convener: We are going to enjoy a short report following the visit to Brussels by committee members Annabel Goldie, Bill Butler, Jeremy Purvis and Stewart Maxwell. We will then consider what actions the committee might wish to take.

I invite the deputy convener to make his report.

Bill Butler: Thank you, convener. I will not take up too much of the committee's time. It was an informative familiarisation visit to find out about the workings of Brussels, the European Commission, the European Parliament and how Europe impacts on Scottish legislation and the workings of Parliament here at Holyrood.

I place on record my thanks to the clerk who accompanied the committee and to fellow committee members. We packed in quite a deal of work in just over a day. There were sessions on certain procedural rights in criminal proceedings, on sentencing and on the green paper on bail, which we all found illuminating.

One thing that came through clearly was that the more aware we are of the workings of Europe and the timeframe for those workings, the more we will be able to exert influence and to put Parliament's view on what is happening in Europe and how it impacts on Scots law.

It would be appropriate for us to invite the Minister for Justice to give oral evidence

"on the outcomes of the Scottish Executive activity during last year's UK presidency and also to advise on priorities for the Austrian and Finnish presidencies",

as the paper recommends. We should also seek a written update on issues we may want to consider. One such issue is bail. Members may have other suggestions.

To conclude, our visit to Brussels was workmanlike—or workpersonlike—informative and, if I may say so, cost effective.

The Convener: If you stuck to your budget, I am sure that the Conveners Group will be delighted. I did not take part in the visit. Apart from your recommendations, are there any lessons to be learned from it about possible future activity?

Jeremy Purvis: I endorse everything that the deputy convener said. One of the lessons that we learned concerns the importance of regular input, although not necessarily regular visits, by the committee. We met high-level individuals, which was useful. Perhaps an annual visit or a visit at the start of each presidency would put the relationship

on a relatively secure footing, although not a formal footing. That would be the right way to proceed because we do not have a formal locus with the Commission.

The other lesson is that we should use the Parliament's European officer to provide us with information ahead of the game. As in most areas, informal intelligence right at the start of the process, before it is too late—before we hear from the minister and policies are well developed—is important. From that perspective, the visit was very helpful. I know that the Parliament's European officer is working with the clerks on procedures for early notification. He indicated that it may be a higher priority for some committees than for others to know what is on the European Union's agenda. In my view, the Justice 2 Committee will have a busy agenda in respect of the Commission and the European Council. Both justice committees need a closer relationship with the Parliament's officer in Brussels.

The Convener: Do we have some kind of protocol arrangement with the Parliament's European officer regarding how we tap into the different systems?

Anne Peat (Clerk): There is not a protocol as such. The European officer and I liaise regularly and exchange information. He updates me on the work that is being done, but he is relatively new to the post and is still establishing ways of working. I am happy to take on any suggestions that members have.

The Convener: I am not advocating a formal structure; I am just trying to find out what we do at the moment. You are saying that work is done very much on an ad hoc, good-will basis, unless we specifically ask for information.

Anne Peat: No—there is an exchange of information both ways. The European officer is keen to provide the committee with information that he sees as being relevant and that he comes across in Brussels. He and I discuss that information and decide what issues could benefit from being pursued in more detail.

The Convener: Members have no further comments on the report by Mr Butler and Mr Purvis. The final paragraph of the report contains some recommendations. It is suggested that we invite the Minister for Justice to give oral evidence on the matters to which the paper refers. It is for members to decide whether we should do so jointly with the Justice 1 Committee, which might be efficient timetabling. Do members support the recommendation?

Members indicated agreement.

Bill Butler: Whether we take evidence jointly with the Justice 1 Committee will depend on what

is most appropriate at the time. We should remain flexible.

15:00

The Convener: Thank you for that.

Secondly, do members agree to seek a written update from the Executive on the Commission's work programme prior to any oral evidence from the minister?

Members indicated agreement.

The Convener: Thirdly, do members wish to commission from the Scottish Parliament information centre, prior to hearing evidence from the minister, research on any areas of specific interest to the committee? I believe that Bill Butler has a proposal.

Bill Butler: I was going to suggest that we could look at bail. However, I think that we should be flexible about things and take advice from the clerk—who is in close liaison with the European officer—about up-and-coming areas on which we might be able to intervene positively and exert most direct influence.

The Convener: I suggest that members consider the question and that, if they have anything in mind, they mention it to the clerk.

Jeremy Purvis: The clerks gave those of us who visited Brussels an excellent briefing that I do not think was circulated to other members. It might suffice to give them that bit of light reading.

Jackie Baillie: Mr Purvis is so kind.

The Convener: Also, we did not get to go to dinner in Brussels, which I suppose helps the committee's budget.

I thank the deputy convener for his report and I am delighted that members pretty much agree on the questions that have been raised.

Before we close, I thank members for their forbearance at my first meeting as committee convener. Finally, I should point out that, according to our work programme, we have an allowance of seven days, with one day in reserve, to deal with stage 2 of the Police, Public Order and Criminal Justice (Scotland) Bill. Bearing in mind our upcoming workload, I intend not to use the reserve day, if possible. However, it is there if we need it.

With that in mind, I thank the clerks and close the meeting.

Meeting closed at 15:02.

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 9 March 2006

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

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

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

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron