



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 6 March 2024

Session 6



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CRIMINAL JUSTICE COMMITTEE

10th Meeting 2024, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

*Katy Clark (West Scotland) (Lab)

*Sharon Dowey (South Scotland) (Con)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Rona Mackay (Strathkelvin and Bearsden) (SNP)

*Pauline McNeill (Glasgow) (Lab)

*John Swinney (Perthshire North) (SNP)

*attended

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 6 March 2024

[The Convener opened the meeting at 09:30]

Criminal Justice Bill

The Convener (Audrey Nicoll): Good morning, and welcome to the 10th meeting of the Criminal Justice Committee in 2024.

Our first item of business is consideration of a legislative consent memorandum and a supplementary LCM for the United Kingdom Government's Criminal Justice Bill as introduced. I refer members to paper 1. In particular, members should look at annexes A and B for details of the provisions in the bill that impact on devolved competences.

Members will wish to note that the Scottish Government is recommending consent, as set out in the memorandums.

Are members in a position to recommend to the Parliament that consent be given to the relevant provisions in the bill, or do members have questions that they would like answered before returning to the decision on the recommendation on a different day?

Pauline McNeill (Glasgow) (Lab): It would be helpful to get some more information on the implications of some of the clauses. I have a question about the "various bodies" that would authorise access to driver licence records. It would be helpful if the names of those bodies were set out, so that we knew what the provision actually meant.

I would have liked to see the note from the Delegated Powers and Law Reform Committee before today. The timing is a little tight and I think that we need more information on the bill before I would be content to support the legislative consent memorandum. I have no objection to asking the minister to come to speak to us—that would depend on what other members think—but I would certainly not be content to sign this off without fully understanding the implications of the clauses containing provisions that require the consent of the Scottish Parliament.

On the face of it, it looks like clause 14 of the bill as introduced, concerning corporate liability, would include senior managers, which is quite a broad term. Who is regarded as being a senior manager? I am sure that that has all been considered and worked out, but what has been put

before us is light on detail, and I would not be content to sign off on it without having a full understanding of it.

Russell Findlay (West Scotland) (Con): I understand Pauline McNeill's concerns, and I have a few other points to make.

The UK Criminal Justice Bill is substantial. There are 79 clauses in the bill as introduced, and the Scottish Government is asking us to consent to six of them—clauses 1 to 4, 14 and 21. They relate to a variety of subjects, including organised crime, child exploitation, printed guns, devices used in vehicle theft and that kind of thing. I wholeheartedly agree with what those clauses do, and it is important to note that the papers cite the importance of UK-wide consistency in these matters and the potential repercussions for public safety if there were to be any divergence. It is good to see the two Governments working so effectively together.

However, I have outstanding questions on the remaining 73 clauses—one or two clauses in particular jump out. Politically, there will not be agreement between both Governments on all the matters. However, clause 23 of the bill as introduced creates a new statutory aggravating factor in respect of child grooming. On the face of it, I cannot see any cause to disagree with that, but the Scottish Government has not chosen to duplicate, replicate or adopt it—whatever the phrase is. I do not know its reasons for that.

My other point is that I understand that there is an amendment to the bill that relates to the prohibition of registered sex offenders changing their names, which is a hot issue. The Scottish Government has been asked about that issue and has spoken about it. Is the Scottish Government in discussion with the UK Government about adopting that measure at a later date?

The Convener: There is a lot in there. It is helpful to have that set out. Does anyone else want to come in? If not, I will bring Stephen Imrie in to pick up on a couple of those points.

Stephen Imrie (Clerk): If that is a forthcoming amendment, I do not have information on whether the Scottish Government and the UK Government are in discussion about it. However, if such an amendment is forthcoming and there is a question around extending the impact of that amendment into Scotland, that would very likely trigger another supplementary legislative consent memorandum that would need to be lodged in the Scottish Parliament, referred to the committee and looked at a later date. I will try to keep the committee posted if any such amendments impact on devolved issues and you therefore have to look at that issue separately.

Pauline McNeill: A question sprang to mind when I was listening to Russell Findlay. We already have specific legislation on child grooming. It would be helpful to know whether there is duplication there from the Scottish Government's point of view. Criminal law is normally a matter for this Parliament, unless it is international organised crime. We need to be clear about why we would need offences that would be an aggravation of an existing offence. We need to know whether that gives the Crown the option of how the offence is charged, if you follow me. That may seem simple on the face of it, but devolved competence normally allows Scotland to decide how it wishes to proceed. I am sure that there are very good reasons for that, but we need to ask the question, because we certainly do not want any confusion about this.

Russell Findlay: In respect of one of the clauses, the need for it to be UK-wide relates to prohibiting the purchase and trade of pill presses. According to the Parliament website, the Scottish Government has been talking to the Home Office about that for at least two years. It would obviously create a big problem if pill presses were outlawed in the rest of the UK but not here, so I think that that one is straightforward.

The Convener: If there are no more questions, I thank members for their helpful feedback. In view of the range of questions and the significance of the bill—its proposed provisions are indeed extensive and we were quite late in receiving the DPLR Committee's report—I am happy for us to take away the questions and points that have been raised. We will seek appropriate views and schedule another evidence session in our work programme to come back on the LCMs with a minister in a few weeks' time. Are members content with that proposal?

Members indicated agreement.

Subordinate Legislation

Firefighters' Pension Schemes (Scotland) Amendment Order 2024 (SSI 2024/26)

Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Amendment Regulations 2024 (SSI 2024/30)

09:38

The Convener: Our second item is consideration of two negative Scottish statutory instruments. I refer members to paper 2. Do members have any questions on the instruments or are we content with both?

Katy Clark (West Scotland) (Lab): I have a question. I would not want in any way to hold up the passage of SSI 2024/26, which removes historical discrimination, but some outstanding issues are not covered in the SSI and I wonder whether we could get further information from the Scottish Government.

A significant part of the Fire Brigades Union response to the UK-wide consultation relates to the issue of aggregation, which is not covered in the regulations. Aggregation only applies to some members who joined the Fire and Rescue Service before April 2006, but it is an outstanding issue that I am sure—or I would hope—that we would all want to be addressed. It would be useful to get an understanding of the Scottish Government's position on that. I appreciate that there are on-going UK-wide discussions, but it would be useful to know whether the Scottish Government considered going further, or what representations it is making in relation to those issues.

The Convener: Thanks for that, Katy. It is noted.

Russell Findlay: I have comments on both SSIs; I will start with the one on firefighters that Katy Clark has just mentioned. I see that the Scottish Government has put a wrong date in it. It is a mistake, and it does not look like it will have any impact whatsoever, but the DPLR Committee has said to us that the date should be corrected. The date relates to death-in-service payments for firefighters. The Scottish Government has said that, even though the wrong date is on the order, any applications for payment would be honoured if they are received by what is considered to be the correct date. The Government's position appears to be "trust us"—applications after the date on the order are not likely to happen and, if they were to happen, the Scottish Government would respect them. I think that that is in writing.

I wonder whether, for technical reasons and in line with what the DPLR Committee has asked, we should consider ensuring that the date is fixed before the SSI proceeds, or whether we are happy with the SSI as it is and that it is just a technical matter.

I turn to the SSI on sex offender notification. Essentially, it removes Tain from the list of police stations in which a registered sex offender notification requirement can be fulfilled. A *Sunday Post* investigation earlier this year found that there has been a significant rise in the number of registered sex offenders in the Highlands—it has gone up 50 per cent in two years. That is attributed to people who are on the registered sex offender list seeking to go somewhere where they are perhaps not known.

I note that, on page 7 of paper 2, the Scottish Government says that

“the local councillor ... has been informed”

of the change for the police station. It says “local councillor” in singular, but the ward of Tain in Easter Ross has three councillors, and I am curious to know whether they have all been consulted. I dare say that they would not particularly object to registered sex offenders no longer attending at their local police station. Perhaps more importantly, have the councillors in the police station area where those offenders are now to be directed been consulted? I do not want to slow the process, but I put that out there.

The Convener: I assume that that is a question that we can take away and confirm. It is a fair point to raise.

Coming back to the issue in front of us, can I confirm that you are content with the SSIs as they are, and that we can follow up on the points that you have raised?

Russell Findlay: Is this a final position, or will we have more time?

The Convener: As it stands, we are being asked to express today that we are in agreement with the SSIs. We have noted the points that you have made. Obviously, if you were not content, that would hold things up. I would refer to Stephen Imrie on the timescales that we have. In either case, we are able to follow up the points that you have made and clarify them.

Russell Findlay: No, I am content—we are in agreement. I am glad that we can look at those points.

The Convener: Perfect. Is there anything that you want to come in on, Stephen? No; okay.

Are members content with both the SSIs as they are, bearing in mind the comments that have been made?

Members indicated agreement.

The Convener: Thank you for that.

That concludes our public agenda items. Our next meeting on 13 March will continue the consideration in private of our draft stage 1 report on the Victims, Witnesses, and Justice Reform Bill.

09:44

Meeting continued in private until 12:47.

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