JUSTICE 1 COMMITTEE

AGENDA

16th Meeting, 2003 (Session 2)

Wednesday 10 December 2003

The Committee will meet at 10.30am in the Hub, Castlehill, Edinburgh.

1. **Criminal Procedure (Amendment) (Scotland) Bill**: The Committee will consider written evidence on the general principles of the Bill at Stage 1.

2. **Criminal Procedure (Amendment) (Scotland) Bill**: The Committee will consider whether to delegate authority in respect of witness expenses to the Convener.

3. **Criminal Procedure (Amendment) (Scotland) Bill**: The Committee will take evidence on the general principles of the Bill at Stage 1 from—

   Assistant Chief Constable Malcolm Dickson, Association of Chief Police Officers in Scotland, Chief Superintendent Allan Shanks, Association of Scottish Police Superintendents, and Douglas J Keil QPM, General Secretary, Scottish Police Federation;

   Professor Martin Wasik, Chairman, Sentencing Advisory Panel.

4. **Alternatives to custody**: The Committee will consider a proposal for a comparative review of alternatives to custody.

5. **HM Prison Kilmarnock**: Committee members will give an oral report of the Committee’s recent joint visit with the Justice 2 Committee to HM Prison Kilmarnock.

   Alison Walker
   Clerk to the Committee
   Tel: 0131 348 5195
The following papers are attached for this meeting—

**Agenda item 1**

Note by the clerk  J1/S2/03/16/5

**Agenda item 2**

Note by the clerk  J1/S2/03/16/6

**Agenda item 3**

Note by the clerk (private paper – to follow)  J1/S2/03/16/1
Written submission from the Association of Chief Police Officers in Scotland  J1/S2/03/16/2
Lothian and Borders Police, *Silent Witnesses – Police Witnesses Attending Court: Survey Results, Final Report*  J1/S2/03/16/3
Written submission from the Association of Scottish Police Superintendents  J1/S2/03/16/4

**Agenda item 4**

Note by the clerk  J1/S2/03/16/7

**Papers for information circulated for the 12th meeting, 2003 (session 2)—**

Criminal Procedure (Amendment) (Scotland) Bill: Responses—

- Society of Solicitor Advocates  J1/S2/03/16/8
- Association of Directors of Social Work in Scotland  J1/S2/03/16/9
- Children 1st  J1/S2/03/16/10
- Forth Valley Criminal Justice Service Grouping  J1/S2/03/16/11
- Volunteer Development Scotland  J1/S2/03/16/12
- Scottish Prison Service  J1/S2/03/16/13
- Public Defence Solicitors’ Office  J1/S2/03/16/14

European Documents—

- Commission of the European Communities, *The Commission’s Legislative and Work Programme for 2004*  J1/S2/03/16/15
- Scotland Europa, Analysis: *The Commission's Legislative and Work Programme 2004*  J1/S2/03/16/16

**Documents not circulated—**

Copies of the following have been provided to the Clerk:

- Scottish Legal Aid Board, Legal Aid Information Leaflet 2, *Civil legal assistance – a simple guide*;
- Scottish Legal Aid Board, Legal Aid Information Leaflet 5, *Civil legal aid – what you may have to pay at the end of your case if you win or keep money or property*

Copies of these documents are available for consultation in room 3.11 CC. They may also be obtainable on request from the Document Supply Centre. Scottish Executive documents are available on the Executive’s website (www.scotland.gov.uk).
Forthcoming meetings—
Wednesday 10 December – Justice 1 Committee
Wednesday 17 December – Justice 1 Committee
Wednesday 7 January – Justice 1 Committee
I attach the following papers:

**Agenda item 1**

Note by Clerk (Private Paper) J1/S2/03/16/1

**Agenda item 2**

Further written submission from the Association of Scottish Police Superintendents J1/S2/03/16/17

8 December 2003 Douglas Thornton
Introduction

1. On 9 October 2003 the Justice 1 Committee issued a call for evidence on the Criminal Procedure (Amendment) (Scotland) Bill. The Committee requested views from legal practitioners and from the general public, particularly users of the High Court system such as victims, families of victims and accused, witnesses and accused persons. The Committee was very keen to hear from individuals and organisations that have day-to-day experience of criminal proceedings in the High Court and can highlight where the system is not as efficient as it should be. The deadline for responses was 28 November 2003.

Background

2. The Bill would amend the Criminal Procedure (Scotland) Act 1995 (c46), introducing some new sections to that Act and amending others. The Scottish Executive has stated that the Bill is intended to introduce greater certainty into High Court proceedings, helping to develop a more managed system with emphasis on better communication between prosecution and defence and earlier preparation by both parties.

- Part 1 of the Bill provides for changes to court procedures in the High Court, including a new mandatory pre-trial procedural hearing (to be known as a ‘preliminary hearing’) and changes to how trial dates are set.

- Part 2 of the Bill includes proposals for changes to statutory time limits in all solemn proceedings and for the extension of existing provisions allowing trials in the absence of the accused and adds new measures in relation to reluctant witnesses. It includes provisions applying to High Court cases and to cases prosecuted in the sheriff courts under solemn procedure.

- Part 3 of the Bill would provide courts with a power, in both solemn and summary cases where a person has been refused bail on other conditions, to require the electronic monitoring (‘tagging’) of a person’s movements to enable that person to be released on bail. It also contains a provision to allow prosecutors to have a right to be heard in applications for bail review by an accused, or by a convicted person, who is on bail pending an appeal.

- Part 4 of the Bill includes proposals relating to matters which should be dealt with during ‘first diets’ (an existing pre-trial procedural hearing
held in sheriff court cases under solemn procedure); sentencing following a guilty plea, and the sentencing powers of a sheriff under solemn procedure.

Submissions received for the inquiry

3. At the time of writing, the Committee has received a total of 20 substantive responses to the call for evidence. Respondents include bodies representing legal practitioners, individual practitioners, police organisations, organisations representing victims, an academic and organisations in direct contact with offenders.

4. In general, respondents hoped that the Bill would allow for more effective management and control over High Court proceedings. Victim Support Scotland (VSS) strongly agrees with the need to reform High Court practice to assist victims and witnesses by creating greater certainty about when a trial will proceed and therefore preventing unnecessary adjournments. Apex Scotland and Scottish Women’s Aid also share this view. Rape Crisis Scotland considers that many women suffer additional trauma waiting to give evidence in sexual offences cases¹ so increased certainty would be beneficial.

5. Children 1st urges the Committee to ensure that the Bill will reduce the time that it takes for cases to come to court, particularly cases involving children, as they believe there is an important distinction to be drawn where children are cited to appear as witnesses in the High Court. The reasons for this distinction are that delays impact very negatively on child witnesses and reduce the child’s ability to give his/her best evidence in court.²

Early disclosure of evidence

Use of section 67(5) of the Criminal Procedure Act 1995

6. A practising advocate suggests in his submission that the routine use of section 67(5) of the Criminal Procedure (Scotland) Act 1995 (the “1995 Act”) by the prosecution often forces the defence into the position of having to make a motion to adjourn the trial in order to deal with new information. Section 67(5) of the 1995 Act says that in any trial it shall be competent with the leave of the court, for the prosecutor to examine any witness or to put into evidence any production not included in the lists lodged by him, provided that written notice, containing in the case of a witness his name and address, has been given to the accused not less than two clear days before the day on which the jury is sworn to try the case.³

7. It is asserted that this practice disguises the time taken by the prosecution to bring cases to trial and it is suggested that the Committee may wish to ascertain the relevant figures from the Scottish Court Service.³ The Society of Writers to HM Signet (SWHMS or the Society of Writers to the Signet) similarly has concerns about the operation of section 67 and hopes that the Court will bear this situation in mind when conducting preliminary hearings.⁴

¹ Rape Crisis Scotland, Written Evidence, 28 November 2003, page 1
² Children 1st, Written Evidence, page 2
³ J1/S2/03/14/9, George C. Gebbie, Written Evidence, 6 November 2003
⁴ The Society of Writers to Her Majesty’s Signet, Written Evidence, 26 November, Section 1
8. Early disclosure of evidence by the Crown to the defence solicitor is believed by the Scottish Legal Aid Board to be necessary in order for there to be a significant reduction of fees paid to solicitors undertaking precognition work in solemn cases.\(^5\) The Law Society of Scotland (LSS) believes that the effectiveness of the proposals rests upon whether the principle of early disclosure, as envisaged by Lord Bonomy, is enshrined in legislation and therefore advocates that the Bill is strengthened in this respect.\(^6\)

**Managed meetings**

9. Managed meetings prior to the preliminary hearing are not legislated for under the Bill. The Scottish Legal Aid Board (SLAB) considers that managed meetings should take place between the Crown and defence at as early a stage as possible to assist in focussing issues in dispute.\(^7\)

**PART 1**

**Section 1 - Preliminary hearings**

10. Preliminary hearings are welcomed by the Association of Chief Police Officers in Scotland (ACPOS). However, ACPOS considers that a system should be in place at an early stage to monitor the effectiveness of the new procedures. Her Majesty's Inspectorate of Constabulary for Scotland (HMCIC) also considers that, if preliminary hearings are to achieve their stated aim of delivering more focussed trials, a monitoring mechanism has to be introduced quickly.\(^8\) This is also the view of the Association of Scottish Police Superintendents (ASPS)\(^9\) and the Law Society of Scotland.\(^10\) Victim Support Scotland welcomes this provision but understands that preliminary hearings will only take place in Edinburgh and Glasgow and as such considers that it is important that victims are kept informed of progress and offered the chance to attend.\(^11\)

11. The LSS also welcomes preliminary hearings but is concerned that a trial date may be set when not all matters have been dealt with by the court and therefore the trial may still be adjourned at a late stage.\(^12\) The Public Defence Solicitors' Office (PDSO) is of the view that the effectiveness of preliminary hearings would be enhanced if a provision is included in the Bill to ensure that the Crown evidence is lodged on or before the preliminary hearing, except in exceptional circumstances.\(^13\)

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\(^5\) Scottish Legal Aid Board, Written Evidence, 27 November 2003, page 1  
\(^6\) Law Society of Scotland, Written Evidence, 28 November 2003, pages 1 & 2  
\(^7\) Scottish Legal Aid Board, Written Evidence, 27 November 2003, page 1  
\(^8\) HM Inspectorate of Constabulary for Scotland, Written Evidence, 26 November 2003, page 1  
\(^10\) Law Society of Scotland, Written Evidence, 28 November 2003, page 11  
\(^12\) Law Society of Scotland, Written Evidence, 28 November 2003, page 4  
\(^13\) Public Defence Solicitors' Office, Written Evidence, 1 December 2003, page 1
12. Scottish Prison Service (SPS) welcomes the proposals under Part 1 of the Bill to minimise the number of times prisoners will need to be produced in court.  

**Judicial culture**

13. Professor Peter Duff from the University of Aberdeen points out that the key to making preliminary diets work as intended is judicial culture rather than specific legislative framework. However, the legislative framework should be fine-tuned so that judges enquire more about the reasons why an adjournment has been requested.

**Nature of report requested prior to sentence**

14. The Association of Directors of Social Work in Scotland (ADSW) hopes that, where a guilty plea is entered and the Court requests a report prior to sentence, the report requested is a social enquiry report and not a pre-trial report as this precludes an analysis of the offence.

**Setting of an early trial date**

15. Rape Crisis Scotland and Scottish Women’s Aid strongly support the proposal that the court can consider at the preliminary hearing the setting of an early trial date when it involves children or vulnerable witnesses. This would also have an impact on witnesses finding out whether they will be able to benefit from special measures under the Vulnerable Witnesses (Scotland) Bill.

**Section 2 – Written record of state of preparation in certain cases**

16. Members of ACPOS and ASPS are unclear as to what the sanction would be if either party failed to lodge a written record of their state of preparation. HMCIC wonders whether this situation would be deemed contempt of court. The LSS is concerned that the type of information to be contained in the written record is not set out in the Bill and about the practicality of lodging the record jointly.

**Section 4 - Prohibition on accused conducting case in person in certain cases**

17. Section 4 amends the existing provisions in the 1995 Act which prohibit an accused from conducting his or her own defence at the trial in certain cases so as also to preclude such an accused representing himself or herself at the preliminary hearing. ADSW particularly welcomes this provision.

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14 Scottish Prison Service, Written Evidence, 27 November 2003, page 1
15 Professor Peter Duff, Written Evidence, 21 November 2003, page 1, para 3
16 Professor Peter Duff, Written Evidence, 21 November 2003, page 1-2, para 4
17 Association of Directors of Social Work in Scotland, Written Evidence, page 1
18 Rape Crisis Scotland, Written Evidence, 28 November 2003, page 1
19 Scottish Women’s Aid, Written Evidence, 2 December 2003, page 1
20 Association of Chief Police Officers in Scotland, Written Evidence, 24 November 2003, page 1
21 HM Inspectorate of Constabulary for Scotland, Written Evidence, 26 November 2003, page 1
22 Law Society of Scotland, Written Evidence, 28 November 2003, page 2
23 Association of Directors of Social Work in Scotland, Written Evidence, page 1 & 3
Section 5 – Engagement, dismissal and withdrawal of Solicitor representing the accused

Repeated dismissal of solicitor by accused
18. ACPOS is concerned that there is no provision in the Bill to deal with accused persons who repeatedly dismisses their solicitor, which could result in unnecessary delays in the judicial process. This view is shared by ASPS.

Extent of provision
19. The LSS considers that the new section 72F relating to the engagement, dismissal and withdrawal of a solicitor representing accused in High Court cases proposed for the 1995 Act should be extended to solicitor advocates and counsel.

PART 2

Section 9 - Time limits

20. The case is made by the Scottish Human Rights Council (SHRC) that there should be no change to the 110-day rule; the Council believes that “it is an erosion of principle for the sake of practice”. Other measures in the Bill such as preliminary hearings should be given a chance to tackle the problems that lead to delay before adjusting an established safeguard. The LSS is also not in favour of a blanket extension of the time limit from 110 days to 140 days, although it does recognise that an extension may be appropriate in certain cases and proposes an alternative procedure for those cases. The Society of Writers to the Signet takes issue with the proposed changes to the time limits saying that, if the Crown fails to bring a case to trial in the 140 days proposed, it is more than a technical breach and amounts to unacceptable delay and therefore the accused should be free from all question or process. On the other hand, ACPOS suggests that an accused should not automatically gain his liberty if the time limit is breached because they may abscond or interfere with prosecution witnesses, therefore each case should be reviewed on its merits. PDSO is concerned about the proposal to extend the time limit and says that any extension should be viewed by the Crown as a time limit and not a target.

21. ADSW has reservations about the extension of the time limits. While SPS recognises that the modernisation of the time limits may increase prisoner numbers, it is thought that this increase will be marginal and will therefore not significantly impact on prison overcrowding or costs.

24 Association of Chief Police Officers in Scotland, Written Evidence, 24 November 2003, page 1
25 Association of Scottish Police Superintendents, Written Evidence, 27 November, page 1
26 Law Society of Scotland, Written Evidence, 28 November 2003, page 3
27 Scottish Human Rights Council, Written Evidence, 1 December 2003, page 1
28 Law Society of Scotland, Written Evidence, 28 November 2003, page 6
29 The Society of Writers to Her Majesty’s Signet, Written Evidence, 26 November, Section 2
31 Public Defence Solicitors’ Office, Written Evidence, 1 December 2003, page 1
32 Association of Directors of Social Work in Scotland, Written Evidence, page 1
33 Scottish Prison Service, Written Evidence, 27 November 2003, page 1
22. Victim Support Scotland welcomes both the extension of the 110-day rule and the provision which makes possible the prosecution of an accused where the time limits are exceeded, provided that the trial starts within 12 months of an accused's first appearance on petition.  

23. ASPS enquires whether the Committee would consider a similar extension to time limits to ensure adequate preparation time for the police service to submit cases and statements, especially in relation to forensic science practitioners.  

24. Section 9(2) of the Bill provides that, where an indictment has been served on the accused for proceedings in the High Court, a preliminary hearing must commence within 11 months of his or her first appearance on petition. The LSS favours the adoption of a nine- rather than an eleven-month time limit in bail cases.  

Section 10 - Warrant for citation  

25. It is suggested by Professor Duff that the Committee investigate, with SLAB and the Faculty of Advocates, potential problems where a specific date is set for trial which then falls through leaving the advocate without pay for this period, particularly where under the previous system the advocate could have rearranged another trial in its place.  

Section 11 - Trial in the absence of the accused  

26. Section 11 allows for the trial to proceed even though the accused is not present. This approach is contested by the Society of Writers to the Signet. SWHMS does not accept that it is in the interests of justice when counsel cannot receive instructions directly from the accused persons, particularly in relation to special defences such as self defence, alibi and incrimination. The Society of Writers to the Signet considers that there already exists an adequate sanction where an accused at liberty absconds as he will usually be apprehended on warrant and remanded for subsequent trial. The Executive has not produced statistics on the number of cases which did not proceed because of the permanent absence of the accused and therefore SWHMS is unclear that there is evidence to support this proposal. Concern about this provision is also expressed by ADSW. PDSO has grave concerns about this proposal. It believes there will be a greater number of miscarriages of justice and an increase in the number of appeals against conviction. It also believes that it will be next to impossible to properly represent the accused.  

27. On the understanding that there are no known successful challenges under ECHR in European courtrooms operating this procedure, ACPOS is content with this proposal, as is ASPS. Professor Duff refers to a recent English case which held

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35 Association of Scottish Police Superintendents, Written Evidence, 27 November, page 2  
36 Law Society of Scotland, Written Evidence, 28 November 2003, page 6  
37 Professor Peter Duff, Written Evidence, 21 November 2003, page 2, para 5  
38 The Society for the Writers to Her Majesty’s Signet, Written Evidence, 26 November, Section 3  
39 Association of Directors of Social Work in Scotland, Written Evidence, page 1  
40 Public Defence Solicitors’ Office, Written Evidence, 1 December 2003, pages 1 & 2  
41 Association of Chief Police Officers in Scotland, Written Evidence, 24 November 2003, page 2
that trial in absence of the accused was not contrary to ECHR, however he does consider that there should be an additional provision to re-open the case should the accused have a legitimate reason for not attending.\textsuperscript{42} The LSS is aware of this case but agrees with Lord Rodger of Earlsferry about the importance in Scots law of the long-established principle that a trial should proceed in the presence of the accused.\textsuperscript{43}

\textit{Remuneration of court-appointed solicitor or counsel}

28. Where a solicitor is appointed by the Court under section 11, SLAB is not clear how a solicitor or counsel would be remunerated. An amendment to the Legal Aid (Scotland) Act 1986 would be necessary to create automatic criminal legal aid. In any event, SLAB questions whether a solicitor would be willing to proceed without a client.\textsuperscript{44}

\textbf{Section 12 - Reluctant witnesses}

29. Section 12 of the Bill provides for various measures to ensure the attendance of reluctant witnesses at trial. A reluctant witness is entitled to be heard by the Court; however, SLAB is not clear whether they would require representation. If so, no legal aid provision is available and as such, SLAB suggests that the Executive may wish to consider making assistance by way of representation available.\textsuperscript{45} ACPOS and HMCIC seek clarification of the enforcement aspect of section 12 which provides for the apprehension of reluctant witnesses where it is viewed that they are “not likely to attend to give evidence”.\textsuperscript{46} ASPS is also concerned about this proposal.\textsuperscript{47} VSS emphasises that intimidation and fear of reprisals often underpins reluctance to cooperate.\textsuperscript{48} Children 1\textsuperscript{st} considers that section 12 should only apply to adults over 18 years old in line with the definition contained in the UN Convention on the Rights of the Child.\textsuperscript{49}

30. Serious concerns are voiced by ADSW about the use of electronic monitoring of reluctant witnesses as the failure by a witness to attend court may be directly related to fear or intimidation rather than a demonstration of their disrespect for the court.\textsuperscript{50}

\textbf{Section 13 - Preliminary pleas and preliminary issues}

Section 13 of the Bill amends section 79 (preliminary pleas) of the 1995 Act. The new section is intended to make a clear division between preliminary pleas (which if conceded are likely to cause the case to fall) and preliminary issues. The Society of Writers to the Signet believes that section 79(2)(b)(iv), (v) and (vi) which relate to preliminary issues such as an objection to admissibility of evidence are too wide and

\begin{itemize}
\item \textsuperscript{42} Professor Peter Duff, Written Evidence, 21 November 2003, page 2, para 6
\item \textsuperscript{43} Law Society of Scotland, Written Evidence, 28 November 2003, page 8
\item \textsuperscript{44} Scottish Legal Aid Board, Written Evidence, 27 November, page 1 & 2
\item \textsuperscript{45} Scottish Legal Aid Board, Written Evidence, 27 November, page 1 & 2
\item \textsuperscript{46} Association of Chief Police Officers in Scotland, Written Evidence, 24 November 2003, page 2
\item \textsuperscript{47} Association of Chief Police Officers in Scotland, Written Evidence, 24 November 2003, page 3
\item \textsuperscript{48} Victim Support Scotland, National Office West, Written Evidence, 25 November 2003, page 4
\item \textsuperscript{49} Children 1\textsuperscript{st}, Written Evidence, page 3
\item \textsuperscript{50} Association of Directors of Social Work in Scotland, Written Evidence, page 1
\end{itemize}
therefore conflict with the judge’s duty to ensure the fairness of the trial.\textsuperscript{51} This view is also expressed by the Law Society.\textsuperscript{52}

\section*{PART 3}

\section*{Section 14 - Bail Conditions: remote monitoring of restrictions of movements}

31. The Committee is cautioned about the use of this provision. VSS says that although the provision is consistent with ECHR, victims have reported intimidation and harassment from the accused and his/her associates in such circumstances.\textsuperscript{53} SACRO believes that greater regard should be given to the limitations of electronic monitoring and that it should be carefully targeted.\textsuperscript{54}

\textit{Reporting of breach of bail conditions}

32. Currently, any person who is sentenced to a Restriction of Liberty Order (RLO) and subsequently breaches that Order is reported to the Court. Under the Bill it is envisaged that breaches are reported directly to the police. ACPOS considers that the Bill should take a similar approach as that used for RLOs.\textsuperscript{55} HMCIC stresses that if this aspect is not clarified officers could be unclear whether they are dealing with a breach of bail conditions or an RLO, which could lead to wrongful arrest.\textsuperscript{56}

\section*{PART 4}

\section*{Section 17 Sentence following guilty plea}

33. Victim Support Scotland welcomes the encouragement of an early guilty plea by an accused as it will spare victims and witnesses the ordeal of having to give or listen to evidence.\textsuperscript{57} ASPS considers that there should be absolutely no last minute change of pleas and if there is this should be reflected in the sentence given.\textsuperscript{58} ADSW considers this provision will lead to more consistency in sentencing.\textsuperscript{59}

\section*{Section 18 - Increased powers of Sheriffs}

34. SACRO believes that the move to increase sheriffs’ sentencing powers may have unintended and undesirable consequences and does not accept that a good enough case has been made for this change. SACRO considers that this change in policy may have the effect of producing more long sentences and increasing the prison population. It suggests that there may be a drift in sheriff courts towards longer sentences. SACRO refers to Executive statistics for 2001 which illustrate

\begin{small}
\begin{itemize}
\item\textsuperscript{51} The Society for the Writers to Her Majesty's Signet, Written Evidence, 26 November, Section 4
\item\textsuperscript{52} Law Society of Scotland, Written Evidence, 28 November 2003, page 10
\item\textsuperscript{53} Victim Support Scotland, National Office West, Written Evidence, 25 November 2003, page 4
\item\textsuperscript{54} Safeguarding Communities Reducing Offending, Written Evidence, 25 November 2003, page 1-3
\item\textsuperscript{55} Association of Chief Police Officers in Scotland, Written Evidence, 24 November 2003, page 2
\item\textsuperscript{56} HM Inspectorate of Constabulary for Scotland, Written Evidence, 26 November 2003, pages 2-3
\item\textsuperscript{57} Victim Support Scotland, National Office West, Written Evidence, 25 November 2003, page 4
\item\textsuperscript{58} Association of Chief Police Officers in Scotland, Written Evidence, 24 November 2003, page 2
\item\textsuperscript{59} Association of Directors of Social Work in Scotland, Written Evidence, page 1
\end{itemize}
\end{small}
inconsistencies in sheriff solemn procedure cases.\textsuperscript{60} Similarly, SHRC considers that little thought has been given to the impact of these changes on the sheriff court. The Law Society has some concerns about the increase in sheriffs’ sentencing powers and the impact that this would have on the level of business and on the administration and resources of sheriff courts. These areas should be monitored and analysed to evaluate whether this policy meets the stated aim.\textsuperscript{61}

35. The Society of Writers to the Signet believes that if some High Court business is going to be shifted to the sheriff court then proposals on sanction for counsel or solicitor advocate should also be implemented and should attract adequate remuneration.\textsuperscript{62}

36. APEX Scotland is in favour of using existing powers to allow cases to be allocated to the sheriff court which would previously have been heard in the High Court.\textsuperscript{63}

\textbf{Cost implications}

37. The Scottish Legal Aid Board has identified that the procedural changes do have potential cost savings, although the net cost is estimated to be £2 million over 2 years along with some minor administrative costs.\textsuperscript{64}

\textit{Expenses to victims who are not witnesses}

38. Victim Support Scotland states that the Bill does not address the provision of expenses to victims (who are not witnesses) who wish to attend court for “their” case which may be many miles from their home. The intention to hold preliminary hearings solely in Edinburgh and Glasgow is likely to highlight this issue.\textsuperscript{65}

\textit{Costs relating to police officers giving evidence}

39. Another cost issue, which is raised by ASPS, relates to attendance of police officers to give evidence. ASPS asserts that a more efficient use of officers’ time would be for them to attend by appointment to give evidence and that the Procurator Fiscal and High Court managers should be responsible for police overtime costs.\textsuperscript{66}

\textsuperscript{60} Safeguarding Communities Reducing Offending, Written Evidence, 25 November 2003, pages 1, 4 & 5
\textsuperscript{61} Law Society of Scotland, Written Evidence, 28 November 2003, page 10-11
\textsuperscript{62} The Society for the Writers to Her Majesty's Signet, Written Evidence, 26 November, Section 5
\textsuperscript{63} Apex Scotland, Written Evidence, 25 November, page 1
\textsuperscript{64} Scottish Legal Aid Board, Written Evidence, 27 November page 1
\textsuperscript{65} Victim Support Scotland, National Office West, Written Evidence, 25 November 2003, page 2
\textsuperscript{66} Association of Scottish Police Superintendents, Written Evidence, 27 November, page 2
JUSTICE 1 COMMITTEE

Criminal Procedure (Amendment) (Scotland) Bill: Witness Expenses

Note by the Clerk

Background

1. Under rule 12.4.3 of the Standing Orders, the Committee may agree to "pay to persons whom it invites to attend its proceedings to give evidence or to produce any documents, such allowances and expenses as may be determined by the Parliament."

2. In practice, the Committee may delegate authority for approving such allowances and expenses to be paid to the Convener. Where the Convener considers a claim should not be approved, this would be referred back to the Committee for a final decision.

Proposed action

3. The Committee is invited to agree to delegate authority in respect of witness expenses in relation to the Criminal Procedure (Amendment) (Scotland) Bill to the Convener.
JUSTICE 1 COMMITTEE

A proposal for a comparative review of alternatives to custody

Note by the Clerk

Background

1. At its meeting on 17 September, the Committee agreed to develop a bid for funding for research on alternatives to custody in other jurisdictions. A draft bid for funding has been developed by the Clerks and SPICE and is attached for the Committee’s consideration. The deadline for the submission of bids to the Conveners’ Group is 6 January 2004.
Title of Research Proposal: A Comparative Review of Alternatives to Custody

Summary of proposed research project (this may be published on the Parliament’s website):

1. The Justice 1 Committee would like to commission comparative research on alternatives to custody. In its report of its inquiry into alternatives to custody, the former Justice 1 Committee highlighted the potential usefulness of conducting comparative research on the effectiveness of community disposals. The Committee reported that Scotland could learn valuable lessons from other jurisdictions, such as Finland, which have drastically reduced their prison populations. The current Justice 1 Committee would like to commission such research to inform its future work on prisons and sentencing.

Background to the proposed research and its importance in the Committee’s workplan:

2. As outlined above, the former Justice 1 Committee carried out an inquiry into alternatives to custody during which it established that Scotland has a wide range of available alternatives, but that the prison population continues to rise. The Committee gathered limited evidence from witnesses on the use of alternatives to custody in other jurisdictions but did not have the time or resources to fully explore the effectiveness of such disposals in other countries. It recommended that the Scottish Executive should carry out research on the effectiveness of community disposals in comparative jurisdictions. In its response to the Committee’s report, the Executive agreed that such research would be of value, but did not commit to carrying it out. The new Justice 1 Committee has therefore agreed to propose the commissioning of this research to enable it to obtain the type of information which the previous Committee was unable to access.

3. The Committee has an ongoing interest in prison populations and sentencing, and has agreed to follow up on the former Justice 1 Committee’s work on alternatives to custody. It held a debate in the Chamber on the former Justice 1 Committee’s report on alternatives to custody on 12 November 2003. It has also agreed to conduct an inquiry into the effectiveness of rehabilitation in prison, and to monitor the work of the Sentencing Commission which has recently been set up by the Executive. Consideration of the effectiveness of alternatives to custody in other jurisdictions is relevant to the Committee’s work in these areas. Once the outcomes of the research are available, the Committee will decide how best to take forward its other work on alternatives to custody.

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1 Justice 1 Committee, 3rd Report, 2003, Inquiry into Alternatives to Custody, Volume 1, p32, para 87
2 Justice 1 Committee, 3rd Report, 2003, Inquiry into Alternatives to Custody, Volume 1, p40, para 116
Research aims and objectives (i.e what the research is investigating, what it hopes to find out and how this will be done):

4. The aim of the research will be to provide data and analysis on:

- The availability and level of use of alternatives to custody (including alternatives to full-time custody) in a number of other jurisdictions (including alternatives available in these jurisdictions which are not available in Scotland)

- The effectiveness of such alternatives to custody within the jurisdictions concerned (including, but not limited to, any impact on reducing prison numbers)

- The applicability of the approach and experience in the jurisdictions studied to the situation in Scotland

5. A two-stage study is proposed, with each stage providing valuable information in its own right but also contributing to the overall aims of the study.

6. The first stage would involve the consideration of relevant published comparative material and the production of an interim report including recommendations on the selection of a number of jurisdictions for more detailed study. It is expected that any list of jurisdictions for more detailed study would include jurisdictions which appear to have made successful use of alternatives to custody. The selection of jurisdictions for more detailed study would also need to have regard to the scope for translating findings to the Scottish context (this is a matter which would also have to be taken into account when reporting on the experience of other jurisdictions in the final report). Factors which might be relevant in this area could include population size, policies linked to crime prevention, aims of the justice system and other cultural variables. This stage would form the basis for the second stage of the research.

7. The second stage would involve more detailed consideration of relevant published material relating to the jurisdictions selected for more detailed study and the collection of additional information in relation to the experience within those jurisdictions (eg through contacts with key stakeholders in the fields of criminal justice and alternatives to custody in such jurisdictions). It would also involve the consideration of the relevance of such experience in the Scottish context.

When does the Committee require the results of the research?

8. The Committee recognises that international comparative research takes time and would plan its work programme to take this into account. It is proposed that the research should be made available by December 2004.
What specific expertise is required to research this area?

9. It is envisaged that the contract would be awarded to researcher(s) with relevant expert knowledge/experience of the criminal justice system in Scotland and in comparative jurisdictions. The researchers would have to demonstrate the ability to conduct comparative research in this field and to produce high quality and succinct reports of findings, analysis and conclusions. The successful candidate may be an academic, or work in the public or private sector.

What are the expected outputs of this project?

10. An interim report, in May or June 2004 at the end of the first stage of the research, including recommendations on the selection of a number of jurisdictions for more detailed study.

11. The researchers must be able to demonstrate their credibility within the field and their knowledge of the subject area. The researchers must be able to show that they have the time and resources to undertake the work within the timescale set by the Committee.

12. A final report on the research (including an executive summary) containing findings designed to feed into Committee deliberation on the topic and identifying potential areas that could usefully be the subject of further detailed explorations by the Committee.

13. The researchers would also be asked to meet with members of the Committee to present their findings in person and to discuss the research.

How is it planned to use these outputs?

14. The Committee will study the outputs of the research and will use them to inform its future work on alternatives to custody, prisons and sentencing.
COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

THE COMMISSION'S LEGISLATIVE AND WORK PROGRAMME FOR 2004
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INTRODUCTION

This is the last Legislative and Work Programme of the Prodi Commission, covering a year of major changes for the European Union.

- On 1 May 2004, ten new Member States will join the European Union. Shortly afterwards, a new Constitutional Treaty will be signed by Heads of State or Government of the enlarged Union.

- In June 2004, citizens throughout the European Union will vote in elections for the European Parliament.

- On 1 November 2004, the new Commission will take up office.

It is, therefore, clear that 2004 will be a far from normal year for the programming of the EU institutions. In view of this, and as befits a Commission that is approaching the end of its mandate, the Legislative and Work Programme for 2004 is deliberately much more tightly focussed than in previous years. The Commission intends its programme to be as realistic as possible, both in terms of what it can deliver and the other EU institutions can absorb.

In these circumstances, the Commission has reviewed the key initiatives presented in the Annual Policy Strategy and has reduced them to those that are absolutely necessary and feasible in 2004.

The principal aim of the Legislative and Work Programme is to focus on the Commission’s priorities, announce its major new proposals for 2004 as well as a limited number of major proposals carried over from 2003 (Annex 1) and finalise the selection of proposals requiring an extended impact assessment (Annex 2). However, it also provides a preliminary assessment of the progress made so far towards achieving the strategic objectives of the Prodi Commission (Annex 3), highlights the need for legislative follow-up by the Council and European Parliament to proposals already presented by the Commission (Annex 4), and reports on further work concerning simplification and codification of the acquis (Annex 5).
1. DIALOGUE WITH THE EUROPEAN PARLIAMENT AND THE COUNCIL

On 5 March 2003, the Commission adopted its Annual Policy Strategy for 2004\(^1\), identifying the accession of ten new Member States as the central priority for 2004, supported by two connected priorities, i.e. stability, and sustainable growth.

The Commission presented its Annual Policy Strategy to the European Parliament and to the Council in March. In the months that followed, a structured dialogue took place with both institutions on the priorities and key initiatives for 2004. Both institutions reacted positively to the political priorities identified by the Commission and provided useful feedback on the key initiatives proposed for 2004. On 23 September 2003, Vice-President de Palacio presented the Commission’s stocktaking document on the follow-up to its Annual Policy Strategy for 2004\(^2\) to the European Parliament’s Conference of Committee Chairmen. In parallel, the document was transmitted to the Council. The other institutions’ reaction to the Commission’s priorities has been positive and a number of suggestions made regarding sectoral initiatives have been taken into account in the Legislative and Work Programme.

This year, the inter-institutional dialogue had a reinforced multiannual dimension. In line with the reforms agreed at the Seville European Council, the Council will recommend that the European Council in December 2003 endorse a multiannual strategic programme for 2004-2006. This programme is being prepared in consultation with the Commission, and the European Parliament will be informed about its purpose and content.

2. OUTLOOK AND CHALLENGES FOR 2004

Political outlook

The European Union faces three major challenges in 2004:

– Shaping the future Union

Ten new Member States will join the European Union on 1 May 2004. This historic enlargement will provide a considerable boost to the EU’s potential, but will also pose a considerable challenge for the Union. In 2004, the Union will have to start preparing the next political and financial framework, since the current medium-term financial perspective ("Agenda 2000") expires at the end of 2006.

The strategy for future enlargements will also have to be pursued. Negotiations with Bulgaria and Romania will continue in 2004, and the Commission will prepare its formal opinion on Croatia’s application to join the Union. In December 2004, the European Council will decide, on the basis of a report from the Commission, whether Turkey meets the Copenhagen political criteria, in view of the possible opening of accession negotiations.

– Prioritising the policy agenda

2004 will be an important year for moving ahead with the Union’s core political agenda, notably in the areas of sustainable growth and stability.

\(^1\) COM(2003) 83 of 5 March 2003
\(^2\) SP(2003)3092/3 of 17 September 2003
Achieving sustainable development will be the political centre of gravity for the Union’s next financial perspective (2007 onwards). In 2004, the Union will review the strategic objectives agreed at the Lisbon European Council in March 2000 and the EU strategy for sustainable development agreed in Göteborg. The Growth Initiative endorsed by the European Council in October 2003 needs to stimulate investment in networks and knowledge in 2004, thereby boosting confidence in the Union’s economic potential and consolidating economic growth.

Progress towards making the Union an area of freedom, security and justice needs to be consolidated by the May 2004 deadline for completion of the first stage of the programme agreed at the Tampere European Council in October 1999.

– Developing the Union’s external action

The international situation remains more tense and unstable than it has been for many years. This reinforces the need for the European Union to act in a more united way to promote stability, to support effective multilateral responses to crises, and to address the fundamental problems facing global development. The draft security strategy which was presented by the High Representative for the CFSP analyses these and other threats. The Commission is actively participating in the refinement of this strategy which should be endorsed by the European Council in December 2003. Further to its approval, the Commission will remain involved in the instruments aimed at reducing risks of potential crises.

Enlargement reinforces the Union’s presence on the international scene and means that the Union will have to examine its responsibilities in its neighbourhood, and take the lead in developing a close and supportive partnership with its near neighbours in the East as well as in the Mediterranean region.

A major challenge facing the Union in 2004 will be to draw the appropriate conclusions of the failed WTO Ministerial Conference in Cancun and to continue its efforts to pursue trade negotiations with its partners that result in increased economic growth and development benefits.

Economic prospects for the EU in 2004

The weak economic performance observed in the EU economies at the end of 2002 continued throughout the first half of 2003. Consequently, for a third consecutive year growth is likely to disappoint: the average growth rate is expected to be about ¾% in the EU and about ½% in the euro area. However, with accommodative macroeconomic policy conditions, supportive financial conditions, continued disinflation, progress in structural reforms, and a reduction in geopolitical uncertainty, the confidence of economic agents is returning and the international environment is improving.

In this context, the momentum for recovery is expected to pick up in the second half of 2003 and to gather pace throughout 2004. A rebound to an average growth rate of about 2% is projected for the EU next year. This is underpinned by a recovery in consumer expenditures, supported by growing external demand and a consequent recovery in investment. Despite this projected recovery, the protracted period of sluggish growth has taken its toll on the performance of the labour market and employment growth is expected to be sluggish.

The risks to the outlook appear to be more balanced than earlier this year. First, there are many factors that point to increasing optimism regarding the short-term growth path of the US economy, which should in turn provide a stimulus for growth in the EU. Nevertheless, if the
recovery in the US were to falter, then the expected pick up in the EU economy might be put at risk. Second, the strength of the euro has been weighing on the recovery through declining exports. However, this is balanced by the positive stimulus to consumption from gains in terms of trade. Finally, the financial conditions facing the corporate sector are supportive, and corporate profits have seen some improvement during the year. However, to the extent that corporate balance sheet adjustment is still incomplete, continued adjustment could hold back investment spending in the EU.

3. **COMMISSION PRIORITIES FOR 2004**

Against this background, the Commission confirms the political priorities that it identified in its Annual Policy Strategy for 2004:

- Accession of ten new Member States
- stability, and
- sustainable growth

The Commission invites the other EU institutions to take account of these priorities, key initiatives, legislative proposals and non-legislative acts in their own programming for 2004. The Commission confirms its readiness to cooperate with the other EU institutions to deliver these priorities through joint programming.

As explained in the introduction, the Commission has reviewed the key initiatives presented in the Annual Policy Strategy and has reduced them to those that are absolutely necessary and feasible in 2004.

The corresponding legislative proposals and non-legislative acts appear in List 1.

3.1. **The accession of 10 new Member States**

The Commission identifies three main objectives for 2004:

- To ensure the successful completion of the accession process for the ten new Member States joining the European Union on 1 May 2004. This includes fulfilling the legal obligations of the European Union and the new Member States vis-à-vis the *acquis communautaire* from the first day of accession. The top priorities are the implementation of legislation, the extension of the existing programmes, instruments and procedures to the new Member States, the further development of administrative capacity and the development of an economic convergence strategy;

- To pursue negotiations with the remaining candidate countries (Bulgaria and Romania), to assess and produce a recommendation as regards the possible opening of accession negotiations with Turkey and prepare the opinion on Croatia’s application for EU membership;

- To shape future directions for the enlarged European Union and to consolidate institutional and regulatory reform.
Key Initiatives

- **Finalise the 2004 accessions**

1. Adapt existing programmes to the membership of the new Member States.

2. Apply and monitor the application of Community legislation in the new Member States, including:
   - Enforcement of the acquis, especially in the areas of food safety, agriculture, environment, customs union, internal market, justice and home affairs, maritime safety;
   - Implementation of the Schengen Facility and checking implementation of the relevant acquis on external border control by the new Member States;
   - Ensuring that the levels of nuclear safety in the new Member States are as high as in the existing Member States.

- **Ongoing accession negotiations and strategy for possible future accessions**

3. Continue negotiations for the accession of Bulgaria and Romania.

4. Analyse Turkey's compliance with criteria for accession, as decided at the Copenhagen European Council.

5. Examine Croatia’s application to join the European Union.

- **Adapting the framework of the enlarged European Union**

6. Follow up the results of the Intergovernmental Conference on a Constitutional Treaty for the European Union.

7. Prepare the EU’s financial perspective for the period after 2006, including:
   - Financial and legislative proposals for major spending programmes after 2006, a proposal on the Own Resources system and a draft inter-institutional agreement.

8. Update, codify and simplify the *acquis communautaire* in line with the Better Regulation initiative (see Annex 5).

9. Complete the reforms announced by the Commission in its White Paper of March 2000 and ensure that all necessary administrative preparations for accession are in place.

3.2. **Stability**

The Commission identifies two main objectives for 2004:

- To develop a stable and comprehensive political framework for cooperation with neighbouring countries in order to create an area of peace, stability and prosperity and to avoid new dividing lines in Europe subsequent to the enlargement of the Union.
To develop internal EU policies that support stability and security, in particular consolidating progress towards creating an area of freedom, justice and security (completing the Tampere agenda) and to integrate those policies effectively in a coherent EU external action. Particular attention will be given to managing the common borders effectively, balancing tough action against illegal immigration with measures on the fair treatment and integration of legal immigrants, and further measures in the fight against crime and terrorism.

Key Initiatives

- European Neighbourhood Policy / Wider Europe

1. Creation of an enlarged area of peace, stability and prosperity encompassing the enlarged EU’s eastern and southern neighbours, based on shared values, common interests and deeper integration. This will combine progress demonstrating shared values and effective implementation of political, economic and institutional reforms, with the prospect of closer economic and political links with the EU, including a stake in the internal market and improved cross-border and regional/transnational cooperation at the EU’s external borders.

   - Prepare a series of action plans, starting with up to eight countries from Eastern Europe and the Mediterranean;

   - Develop a framework for neighbouring countries with the prospect of having a stake in the Single Market, in particular in the area of transport, energy and telecommunications networks, while paying the necessary attention to the environmental aspects of such activities;

   - Encourage greater EU political involvement in conflict and crisis prevention;

   - More cultural cooperation and efforts to enhanced mutual understanding.

- Russia and the countries of Eastern Europe

2. Implement the decision of the May 2003 EU-Russia summit at St-Petersburg to develop four “common spaces” (economic, justice and home affairs, security, research/culture). Improve implementation of the Partnership and Cooperation Agreements with Russia and Ukraine, including in the area of Justice and Home Affairs on the basis of the action plan against organised crime with Russia and the JHA action plan with Ukraine.

- Balkans

3. Pursue the agenda agreed in Thessaloniki with the Balkan countries, prepare a partnership agreement, and feasibility studies on Bosnia-Herzegovina and Serbia-Montenegro in view of the Spring 2004 European Council.

- Develop EU policies to support stability and security

4. Evaluate the progress achieved in relation to the Tampere programme, working with the Council to secure maximum adoption of proposals needed to create a European area of freedom, security and justice by the deadline of 1 May 2004.
• Present final evaluation of the implementation of the Tampere agenda and its impact, and orientations for the next stage in the development of the area of freedom, security and justice.

• Establish an agency to manage control of the external borders.

• Establish the legal framework for the second generation Schengen information system (SiS II) and the visa information system.

5. Implement new co-operation programmes with third countries in the area of migration and develop a balanced approach to immigration that both ensures the maintenance of high levels of employment and productivity and encourages better integration and fair treatment of legally-resident migrants in European societies.

6. Develop a policy for security of communication networks and information.

7. Continue action against international terrorism and bio-terrorism, and enhance European security measures in support of the Petersberg’s tasks, including in the area of research.

3.3. Sustainable growth

Sustainable growth is a broad priority, covering the actions designed to promote and develop the European Economic and Social model (prosperity, economic convergence, social cohesion, environmental protection and a better quality of life). The Commission’s aim is to highlight certain aspects of this priority that deserve a particular focus in 2004. Its objectives are:

• To reinforce the effective delivery of the strategic policy goals already set for the enlarged European Union;

• To highlight a certain number of concrete actions that will help to deliver sustainable growth and improve the quality of life for European citizens;

• To improve economic and budgetary policy coordination between Member States to secure the smooth functioning of EMU, and

• To continue combating poverty and promoting sustainable growth in the wider world.

Key Initiatives

- Cross-cutting aspects of sustainable growth

1. Accelerate progress on achieving the goals set in the European Union’s Lisbon strategy, with a particular emphasis on reviewing the strategy and the measures necessary to stimulate growth, competitiveness and employment, including investment in networks and knowledge, in a sustainable framework:

   • Spring Report to the European Council assessing progress achieved and identifying problems requiring urgent implementation;
2. Prepare the next steps in the EU’s sustainable development strategy, including:

- Review the internal and external policy dimensions of the EU’s Sustainable Development Strategy, adopted at the Göteborg European Council in June 2001 and follow-up the Johannesburg World Summit on Sustainable Development;

- Implementation of the EU water and energy initiatives announced at Johannesburg.

- Sectoral contributions to sustainable growth

3. Investment in networks and knowledge:

- Develop European transport, energy and other infrastructure networks with a view to increasing the interconnectivity and sustainability of the enlarged European Union’s economy;

- Develop the European Research Area and implement the action plan to increase investment in research and development in line with the 3% GDP objective and to attract adequate human resources in research;

- Support innovative sustainable and energy-saving technologies as well as efforts towards the long-term availability of appropriate energy sources and carriers;

- Advance preparations for the Galileo satellite, which will improve traffic management and reduce congestion and improve energy infrastructure monitoring;

- Review and adjust the eEurope 2005 initiative, in particular with a view to promote the development and use of a European secure broadband infrastructure, and improve international management of the internet.

4. Integration of sustainability considerations into European Union policies, including:

- Present a Communication on the use of economic instruments to protect the environment;

- Present environmental thematic strategies (soils, pesticides, waste prevention and recycling) within the framework of the 6th Environment Action Programme, pursue the Community strategy on climate change and put forward an action plan on environment and health 2004-2010.


- External dimension of sustainable growth

5. Take part in WTO negotiations and start, or pursue ongoing, regional or bilateral trade negotiations with partners such as Mercosur, Canada, the Gulf Cooperation countries as well as the ACP countries in the context of the regional Economic Partnership Agreement negotiations.
6. Prepare the mid-term review of the Cotonou Agreement, reflect on its revision, and prepare the successor to the 9th European Development Fund. Monitor implementation of the debt initiative and the Global Health Fund and implement the Action Plan on communicable diseases and reproductive health.

4. **EXTENDED IMPACT ASSESSMENT OF SELECTED PROPOSALS**

The Commission’s Communication of 5 June 2002 on Impact Assessment³ introduced a *new integrated procedure for impact assessment* of all its major initiatives, i.e. those presented in the Annual Policy Strategy or the annual Legislative and Work Programme. The objective of the new procedure is to improve the quality and coherence of the policy development process and to increase transparency and communication with the European citizens on the expected impact of European wide initiatives and legislation. This new procedure integrates, streamlines and replaces all existing separate impact assessments previously used in the analysis of Commission proposals.

The selection of proposals for extended impact assessment forms part of the Commission Programming and planning cycle. On the basis of a preliminary impact assessment statement, the Commission decides in the Annual Policy Strategy or at the latest in its annual Legislative and Work Programme which proposals should undergo an extended impact assessment. In deciding, it takes the following criteria into account:

- Whether the proposal will result in substantial economic, environmental and/or social impacts on a specific sector or several sectors;
- Whether the proposal will have a significant impact on major interested parties;
- Whether the proposal represents a major policy reform in one or several sectors.

The proposals eligible for selection include both a) proposals representing early stages of strategic decisions on options such as Communications setting out a policy, strategy or special course of action and b) legislative proposals.

The extended impact assessment focuses on the economic, social and environmental as well as the regulatory impacts of a proposal. It also includes an analysis of subsidiarity and proportionality. Finally, an extended impact assessment process normally includes a consultation with interested parties and relevant experts according to the Commission’s minimum standards for consultation.

2004 marks the first year of full implementation for the new impact assessment procedure. A number of proposals were identified in the initial APS list of proposals for extended impact assessment in 2004. Most of these have been confirmed and several have been added to produce the final list of proposals selected for extended impact assessment in this Work Programme. The proposals represent initiatives from a wide range of sectors within the three priorities for 2004.

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In the interest of transparency, the preliminary impact assessments on major new proposals are made public when this Legislative and Work Programme is adopted\(^4\), while the extended impact assessments reports will be made available to other institutions and the public when the Commission adopts the corresponding proposals.

5. **Conclusions**

2004 will be a crucial year for the European Union. The overarching task in 2004 will be to complete the successful integration of ten new Member States into the European Union and to define its future shape. At the same time, the European Union will need to press forward with its policy agenda, ensuring that its 453 million citizens can enjoy good prospects for stability and sustainable growth.

The Commission intends to play its full part in meeting these challenges and will use the year ahead to complete the programme of strategic objectives announced at the start of its mandate.

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\(^4\) This Legislative and Work Programme and the preliminary impact assessments can be found on the following Commission website address: http://europa.eu.int/comm/off/work_programme/index_en.htm
ANNEX 1

COMMISSION LEGISLATIVE AND WORK PROGRAMME FOR 2004

List of legislative proposals and non-legislative acts

List 1: Legislative proposals and non-legislative acts corresponding to the political priorities for 2004

List 2: Other legislative proposals and non-legislative acts likely to be brought forward in 2004

Explanatory Notes

(1) List 1 contains specific proposals or non-legislative acts corresponding to the priorities as well as proposals carried over from 2003 which the Commission engages itself to pursue in 2004.

(2) List 2 contains an indicative forecast of other proposals and acts that the Commission could envisage being adopted in 2004.

(3) The lists only exist in the original language version (part English, part French).

(4) The Commission updates its planning each month and transmits a “3-month rolling programme” to the other EU institutions to help them organise their work5.

(5) The first list is arranged by political priority and then by policy area (e.g. “Agriculture” or “Internal Market”), while the second list is arranged by policy area. The lists provide the following information:

- Reference number: e.g. 2004/ADMIN/001.
- Commission department(s) responsible
- estimated date of adoption
- whether legislative proposal or non-legislative act
- provisional indication of the likely legal base and the corresponding inter-institutional procedure (e.g. co-decision)
- whether mandatory or optional consultation of the Committee of the Regions (CoR) and/or the European Economic and Social Committee (CESE) is foreseen

5 In the interests of transparency, this is also made available to the public on the Commission’s Internet homepage  http://europa.eu.int/comm/index_en.htm (“The Commission at your service”, “Work Programme”, “3-month rolling programme”).
- brief description, political motivation, and an indication of whether the proposal will undergo an extended impact assessment
- “Political motivation sort code”, enabling proposals to be re-ordered according to the political priorities: accession, stability, sustainable growth.
ANNEX 2

Proposals that will undergo an extended impact assessment before their adoption

N.B. Given the specific circumstances of 2004 (see introduction) there are a number of important proposals on which the Commission cannot guarantee the timing of the delivery, but for which it will undertake an impact assessment. They are listed in the table with an asterisk.

In the Work Programme list, these proposals are flagged with the abbreviation "EXT" in the impact assessment column.

ISG = Inter-departmental Steering Group

Before submitting any proposal in the social field, the Commission is bound to consult the social partners on its possible type and content (according to Article 138 of the Treaty). This consultation is an integral part of the impact assessment process.

<table>
<thead>
<tr>
<th>Priority</th>
<th>DG</th>
<th>Title</th>
<th>Agenda planning number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>AGRI with ISG</td>
<td>Council Regulation on support for rural development from the EAGGF</td>
<td>2004/AGRI/003</td>
</tr>
<tr>
<td></td>
<td>BUDG</td>
<td>Proposal for a Council decision on the system of the European Communities own resources</td>
<td>2004/BUDG/007</td>
</tr>
<tr>
<td></td>
<td>EMPL with ISG</td>
<td>Regulation of the European Parliament and of the Council on the European Social Fund for the next programming period</td>
<td>2004/EMPL/036</td>
</tr>
<tr>
<td></td>
<td>REGIO with ISG</td>
<td>Draft regulation for the new Structural Funds period post 2006</td>
<td>2004/REGIO/001</td>
</tr>
<tr>
<td></td>
<td>SG</td>
<td>The next financial perspectives post 2006</td>
<td>2004/SG+/011</td>
</tr>
<tr>
<td>2</td>
<td>JAI with ISG</td>
<td>Proposal for a Regulation defining the Visa Information System (VIS), the objectives of the system, the types of data to be introduced, the access issues</td>
<td>2004/JAI/014</td>
</tr>
<tr>
<td></td>
<td>JAI, TAXUD, MARKT</td>
<td>Framework Decision on the penalties in the Member States in the fight against counterfeiting</td>
<td>2004/JAI+/006</td>
</tr>
<tr>
<td></td>
<td>RELEX</td>
<td>Proposal for a Council Regulation concerning the provision of assistance to the partner States in Eastern Europe, the Caucasus and Central Asia</td>
<td>2004/RELEX/014</td>
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<tr>
<td>Department</td>
<td>Title</td>
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<td>AGRI</td>
<td>Report on the common market organisation for bananas</td>
<td>2004/AGRI/001</td>
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<tr>
<td>COMP *</td>
<td>Review of the guidelines on State aid for rescue and restructuring</td>
<td>2004/COMP/011</td>
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<td>DEV</td>
<td>Negotiation mandate for the Review of the Cotonou agreement</td>
<td>2004/DEV/001</td>
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<tr>
<td>DEV</td>
<td>Regulation on Forest Law Enforcement, Governance and Trade (FLEGT)</td>
<td>2004/DEV/003</td>
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<tr>
<td>EMPL *</td>
<td>Follow up to the Commission Communication on working time</td>
<td>2004/EMPL/004</td>
<td></td>
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<tr>
<td>EMPL</td>
<td>Revision of the European works Councils Directive-consultation social partners</td>
<td>2004/EMPL/005</td>
<td></td>
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<tr>
<td>EMPL *</td>
<td>Extending scope of directive on carcinogenic agents</td>
<td>2004/EMPL/007</td>
<td></td>
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<tr>
<td>EMPL *</td>
<td>Prevention of violence at work</td>
<td>2004/EMPL/008</td>
<td></td>
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<tr>
<td>EMPL *</td>
<td>Integration of persons excluded from the labour market</td>
<td>2004/EMPL/011</td>
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<tr>
<td>ENTR with ISG</td>
<td>Programme for the competitiveness of enterprises</td>
<td>2004/ENTR/007</td>
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<tr>
<td>ENTR with ISG</td>
<td>Action Plan/Follow up of the Innovation Policy Communication</td>
<td>2004/ENTR/086</td>
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<td>ENTR</td>
<td>Commission proposal for a directive consolidating and strengthening elements common to all &quot;new approach&quot; directives</td>
<td>2004/ENTR/069</td>
<td></td>
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<tr>
<td>ENV with ISG</td>
<td>Thematic Strategy on waste</td>
<td>2004/ENV/001</td>
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<tr>
<td>ENV with ISG</td>
<td>Thematic Strategy on pesticides</td>
<td>2004/ENV/003</td>
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<tr>
<td>ENV</td>
<td>Soil Thematic Strategy</td>
<td>2004/ENV/002</td>
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<tr>
<td>ENV</td>
<td>Mercury Strategy</td>
<td>2004/ENV/004</td>
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<tr>
<td>FISH</td>
<td>Proposal for a Council Regulation on the access regime to certain Community fishing grounds beyond the 12-miles limit. (the proposal will be split into 2 proposals)</td>
<td>2004/FISH/003</td>
<td></td>
</tr>
<tr>
<td>INFSO with ISG *</td>
<td>Communication on interoperability in interactive digital TV, and Cion conclusions re mandating Multimedia Home Platforms (MHP) standards</td>
<td>2004/INFSO/001</td>
<td></td>
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<td>INFSO</td>
<td>Revised eEurope 2005 Action Plan in an enlarged Europe</td>
<td>2004/INFSO/019</td>
<td></td>
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<tr>
<td>JAI</td>
<td>Directive on small claims</td>
<td>2004/JAI/016</td>
<td></td>
</tr>
<tr>
<td>MARKT</td>
<td>Proposal for a directive on capital requirements for credit institutions and investment firms (Capital Adequacy Directive)</td>
<td>2001/103</td>
<td></td>
</tr>
<tr>
<td>MARKT *</td>
<td>Action Plan for efficient implementation of the legal framework for electronic public procurement</td>
<td>2004/MARKT/004</td>
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<tr>
<td>MARKT</td>
<td>Proposal for a directive on collective management of copyright and related rights in the Internal Market</td>
<td>2004/MARKT/007</td>
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<td>SG</td>
<td>Sustainable development strategy review</td>
<td>2004/SG/010</td>
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<tr>
<td>TAXUD</td>
<td>Council Directive to restructure the tax bases of the Annual Circulation and Registration taxes in order to make passenger car taxation more CO2 efficient and more consistent with the internal Market and introduce a Registration Tax Refund System.</td>
<td>2004/TAXUD/023</td>
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<tr>
<td>TAXUD</td>
<td>Commission Communication/Recommendation on the experimental application of &quot;Home State Taxation&quot; to small and medium-sized enterprises in the EU</td>
<td>2004/TAXUD/007</td>
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<tr>
<td>TREN with ISG</td>
<td>ERIKA III Package on Maritime Safety</td>
<td>2004/TREN/057</td>
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<tr>
<td>TREN</td>
<td>Commission Communication on the rights of users in the transport sector</td>
<td>2004/TREN/052</td>
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Provisional assessment of progress towards the Prodi Commission’s strategic objectives

Introduction

1. The Prodi Commission established four strategic objectives at the start of its mandate:

- promoting new forms of European governance,
- a stable Europe with a stronger voice in the world,
- a new economic and social agenda,
- and a better quality of life.

An assessment of progress against these strategic objectives shows that the Prodi Commission is building a significant legacy for its successors. The Prodi Commission will leave behind a European Union of twenty-five Member States, with a reformed Treaty, a reformed Commission and reformed policies.

I. Promoting New Forms of European Governance

Revised Treaty

2. The Commission made its contribution to the Inter-Governmental Conference, which concluded in the Treaty of Nice. The Commission has supported the implementation of this Treaty. The Treaty of Nice made the adjustments necessary for the accession of the ten new Member States, and this was an important step.

3. Nevertheless, the Commission, along with other parties, considered that the Treaty of Nice could be improved. The Commission supported the establishment of the Convention to consider the institutional structure of a European Union of 25 Member States. The Commission delegation, led by Commissioners Barnier and Vitorino, have been active participants in the Convention. The Commission considers that the Convention is a significant improvement on previous negotiations on the Treaty, but also believes that the draft text can be improved in the Inter-Governmental Conference.

Internal Commission Reforms

4. The Prodi Commission came into office with a commitment to achieve a broad programme of internal reform. The three main pillars covered are personnel reform, strategic planning and programming and financial management. Key achievements include:

- Agreeing with the Council revised staff regulations, allowing new pay and pensions structures to be put in place. A new system of performance appraisal and promotion has been introduced.

- Introducing a new strategic planning and programming cycle, which has assisted in the Commission’s preparations for enlargement. Accountability has been improved through a new system of Annual Activity Reports for each Commission service.

- Agreeing a new Financial Regulation for the management of Community funds.

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• Introducing new procedures on public access to Commission documents and a code of conduct for Commission officials.

5. The scale of the reform programme means that not all of its benefits will be felt immediately and will increase in the years to come. New procedures take time to be fully established, and some, such as the accounting procedures, are not yet fully in place. Difficulties do remain in the Commission’s administration, shown by the recent allegations concerning Eurostat. The Commission remains determined to address these difficulties.

Better Governance

6. The Commission has carried out a number of initiatives to improve European governance. The Governance White Paper of July 2001 contained a number of proposals. This led directly to the Better Regulation package of June 2002. Measures included a new Impact Assessment procedure for developing major proposals, and minimum standards for consultation. In addition, the Commission is carrying forward a major programme to simplify European Union legislation. The full benefits of these initiatives will be evident shortly.

II. Stabilising the continent and boosting Europe’s voice in the world

Enlargement

7. The Prodi Commission has supported the successful conclusion of the enlargement process. At the Copenhagen European Council of December 2002, Member States agreed to the Commission’s recommendation that Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia should join the European Union. All nine subsequent referenda have shown strong popular support in those countries for entry into the European Union.

8. The Commission has supported the preparations of accession states to enter the European Union. The Commission has also carried out internal preparations to ensure that programmes and policies will accommodate the new Member States. The accession day of 1 May 2004 marks a decisive step in the history of the European continent. The Commission has also supported the preparations of Bulgaria and Romania for entry into the European Union with target dates of 2007. The Commission is supporting Turkey’s efforts made in order to fulfil the Copenhagen political criteria for opening accession negotiations with the Union and is preparing its Opinion on Croatia’s application to join the Union.

Stability

9. The Commission has played an important part in the development of stability beyond the borders of an enlarged European Union. The «Wider Europe» agenda is likely to continue in the years to come. A clear success at this stage has been the programme of stabilisation in the Balkans. Significant progress has been made in those countries. A European Union’s peacekeeping force is deployed in the Former Yugoslav Republic of Macedonia at the explicit request of their government.

10. The Commission has also developed its links with Russia and the other countries of Eastern Europe, the Caucasus and Central Asia.
Wider Europe - Neighbourhood

11. In a Communication on Wider Europe – Neighbourhood of March 2003, the Commission put forward an ambitious vision: the creation of an enlarged area of peace, stability and prosperity encompassing the neighbours to the East and the South that currently do not have a perspective of EU membership, based on shared values, common interests, and deep integration. This combines progress demonstrating shared values and effective implementation of political, economic and institutional reforms, with the prospect of closer economic and political links with the EU, including a stake in the internal market and improved cross-border and regional/transnational co-operation at the Union’s external borders.

12. In addition, the Commission has taken forward the Barcelona process towards a Euro-Med free trade area. Progress has been hampered by the crisis in Israel and Palestine. The Commission has supported all efforts to broker peace, notably the road-map initiative. The European Union has entered an Association Agreement with Egypt, and concluded negotiations for Association Agreements with Algeria and Lebanon.

Action in the world

13. The Prodi Commission has played a leading part in efforts to establish new multilateral global governance. The Commission played a leading role in the drive for ratification of the Kyoto Protocol on climate change, for a successful conclusion of the World Summit on Sustainable Development in 2002 and in the launch of new multilateral trade negotiations in Doha. The Commission remains convinced that multi-lateral dialogue is the best way forward as countries deal with the effects of globalisation. The Commission also remains committed to the United Nations’ Millennium Development goals. In this context, it completed the negotiations of the Cotonou Agreement and prepared a new Community development policy. The institution has improved the focus and delivery of development programmes to maximise its contribution.

III. A New Economic and Social Agenda

Lisbon and Sustainable Development

14. On the basis of the Commission’s contribution, the European Council agreed in March 2000 in Lisbon, on an objective that the European Union should become by 2010 «the most competitive and dynamic knowledge based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion». As proposed by the Commission, the Göteborg European Council of June 2001 integrated the environmental dimension into the Lisbon Strategy and established a sustainable development strategy. The Commission has taken forward the Lisbon economic reform agenda with determination. Achievements include the liberalisation of energy markets and telecommunications services, the creation of the European Research Area and proposals to liberate rail and air transport. A key factor in the European Union’s ultimate success in achieving the Lisbon objective will be the level of engagement of Member States.

15. The Nice Social Agenda complements and forms part of the Lisbon Strategy. It was revised in June 2003 to take into account the evolution of the labour market and of society. The Commission has introduced the open method of coordination in the fields of social inclusion and pensions, has renewed the European Employment Strategy and has coordinated the European Year of People with Disabilities. In the field of industrial relations, it has
supported social dialogue and when necessary has initiated specific legal proposals, for example on health and safety at work and on temporary work.

**Single Market and the Introduction of the Euro**

16. The euro notes and coins were successfully introduced in 12 Member States. Based on the undertaking to conduct sound macroeconomic policies, the euro contributes to growth, competitiveness and employment. However, the introduction of the euro also highlights further changes that are still needed for Europe to gain the full benefits of the single market. Given the success of the physical introduction of the euro, economic and monetary union undoubtedly qualifies as one of the significant landmarks of European integration, ranking alongside such earlier achievements as the customs union of 1968 and the single market of 1992.

**Agriculture and Fisheries**

17. The Commission’s reform agenda has continued into the Common Agricultural Policy and Common Fisheries Policy. On 26 June 2003, EU farm ministers adopted a fundamental reform of the Common Agricultural Policy (CAP). The new CAP will be geared towards sustainable agriculture, while giving EU farmers the freedom to produce what the market wants. In future, the vast majority of subsidies will be paid independently from the volume of production.

18. In December 2002, EU Fisheries Ministers agreed on a reform of the Common Fisheries Policy with a view to conserve fish stocks better, protect the marine environment, ensure the economic viability of the fishery and aquaculture sectors and provide good quality food to consumers.

**IV. Better Quality of Life**

**Justice and Home Affairs**

19. The Commission has taken forward measures to create a European area of freedom, security and justice, as mandated by the European Council in Tampere in October 1999. The Commission’s growing expertise in this area enabled it to respond promptly to the events of 11 September 2001. The Council has agreed on a number of proposals, including a common European arrest warrant and on combating illegal immigration. Nevertheless, further progress is needed to respond to the demands of citizens and the European Council’s political goals.

**Public Health, Environment, Transport and Energy**

20. The European Commission is working with Member States to ensure that the European Union achieves its goals for reduction in carbon emissions agreed at the Kyoto environmental conference. Climate change is one of the principal themes of the European Union’s Sixth Environment Action Programme, to be completed by 2012, alongside protecting nature and biodiversity, contributing to the quality of life and social well-being for citizens, better resource efficiency and resource and waste management. The Commission is managing a new Public Health Action Programme from 2003 to 2008. The Commission has established a Food Safety Authority, a Maritime Safety Agency and is proposing a European Centre for Disease Prevention and Control.
21. The Commission has also devised a ten year Transport Programme, which will run to 2010, with the goal of refocusing Europe’s transport policy on the demands and needs of its citizens. The Commission has also developed a long-term strategy to ensure the security of energy supply in Europe. The Commission has contributed actively to stimulating implementation of the trans-European transport network, opening rail networks to competition and improving transport safety (notably maritime safety). It has also actively promoted the access to quality services of general interest.

22. Finally, the Commission has introduced a “Solidarity Fund” to enable the European Union to assist Member States and accession states following a natural disaster. The Solidarity Fund has already been used following the floods in Central Europe of summer 2002 and the forest fires in Southern Europe in summer 2003.
ANNEX 4

Commission proposals awaiting action by the legislative authority in 2004

General Affairs and External Relations
– Proposal for a Regulation on decentralised co-operation (2003/0156/COD)
– Proposal for a Regulation on promoting gender equality in development co-operation (2003/0176/COD)

Taxation / Customs Union
– Proposal for a Regulation on the prevention of money laundering by means of customs co-operation (2002/0132/COD)

Justice and Home Affairs

Common asylum policy:
– Proposal for a Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status (2000/0238/CNS)

Common immigration policy and fight against illegal immigration:
– Proposal for a Directive on the conditions of entry and residence of third country nationals for the purposes of studies, vocational training or voluntary service (2002/0242/CNS)
– Proposal for a Directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities (2002/0043/CNS)
– Proposal for a Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed economic activities (2001/0154/CNS)

Internal and external borders, common visa policy:
– Proposal for a Directive relating to the conditions in which third-country nationals shall have the freedom to travel in the territory of the Member States for periods not exceeding three months, introducing a specific travel authorisation and determining the conditions of entry and movement for periods not exceeding six months (2001/0155/CNS)

A genuine area of justice in civil law matters:
– Proposal for a Regulation creating a European enforcement order for uncontested claims (2002/0090/CNS)
Fight against crime and terrorism and a genuine area of justice in criminal matters:

- Proposal for a Council Framework Decision on combating racism and xenophobia (2001/0270/CNS)
- Proposal for a Council Framework Decision laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking (2001/0114/CNS)
- Proposal for a Directive on source pollution and on the introduction of sanctions, including criminal sanctions, for pollution offences (2003/0037/COD)
- Proposal for a Framework Decision to strengthen the criminal-law framework for the enforcement of the law against ship-source pollution (2003/0088/CNS)
- Proposal for a Directive on the criminal-law protection of the Community’s financial interests (2001/0115/COD)
- Proposal for a Council Framework Decision on combating the sexual exploitation of children and child pornography (2001/0025/CNS)
- Proposal for a Decision establishing a Community action programme to promote activities in the field of the protection of the Community’s financial interests (2003/0152/COD)
- Proposal for a Decision on counterfeit euro coins: analysis, cooperation and information exchange (2003/0158/CNS)

Employment, Social Policy, Health and Consumer Affairs

- Proposal for a Directive on working conditions for temporary workers (2002/0072/COD)
- Proposal for a Regulation amending Regulation (EEC) n° 1612/68 on freedom of movement for workers within the Community (1998/0229/COD) and proposal for a directive amending directive n° 68/360/EEC on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families (1998/0230/COD)
- Proposal for a Regulation on consumer protection cooperation (2003/0162/COD)
- Proposal for a Regulation establishing a European centre for disease prevention and control (2003/0174/COD)
- Social security: coordination of systems in view of the free movement of persons (1998/0360/COD)
- Proposal for a Regulation amending Council Regulation (EEC) N° 1408/71 on the application of social security schemes to employed persons and their families moving within the Community (2003/0138/COD)
- Proposal for a Council Regulation on the European Monitoring Centre on Racism and Xenophobia (2003/0185/CNS)

Competitiveness (Internal Market, Industry and Research)

Internal Market:

- Proposal for a Directive on the recognition of professional qualifications (2002/0061/COD)
- Proposal for a Regulation on sales promotion in the internal market (2001/0227/COD)
- Proposal for a Regulation on the Community Patent (2000/0177/CNS)
- Proposal for a Directive on the patentability of computer-implemented inventions (2002/0047/COD)
- Proposal for a Regulation amending the regulation on the Community Trademark (2002/0308/CNS)
- Proposal for a Directive on the enforcement of intellectual property rights (2003/0024/COD)
– Proposal for a Directive on take-over bids (2002/0240/COD)
– Proposal for a Directive on the harmonisation of transparency requirements with regard to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (2003/0045/COD)

Consumer policy:
– Proposal for a Directive on the harmonisation of the laws, regulations and administrative provisions of the Member States concerning credit for consumers (2002/0222/COD)
– Proposal for a Directive concerning unfair commercial practices (2003/0134/COD)

Enterprise:
– Proposal for a Directive on the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Recast version) (2003/0153/COD)

Competition:
– Proposal for a Regulation on the control of concentrations between undertakings (2002/0296/CNS) -if not adopted in 2003

Transport, Telecommunications and Energy
– Proposal for a Council Regulation amending Regulation (EURATOM) No 2587/1999 defining the investment projects to be communicated to the Commission in accordance with Article 41 of the Treaty establishing the European Atomic Energy Community (COM(2003) 370)
– Proposal for Directives concerning the alignment of measures with regard to security of supply for energy products (2002/0219/COD, 2002/0220/COD) and 2002/0221/CNS
– Proposal for a Regulation on the harmonisation of certain social legislation relating to road transport (2001/0241/COD)
– Proposal for a Directive on a transparent system of harmonised rules for driving restrictions on heavy goods vehicles involved in international transport on designated roads (weekend bans) (1998/0096/COD)
– Amended Proposal for a Regulation on action by Member States concerning public requirements and the award of public service contracts in passenger transport by rail, road and inland waterway (2000/0212/COD)
– Proposal for a Regulation on the negotiation and implementation of air service agreements between Member States and third countries (2003/0044/COD)
– Proposal for a Regulation amending Regulation 3922/91 to establish common requirements for the commercial operation of aeroplanes (2000/0069/COD)

Proposal for a Directive on ship-source pollution and on the introduction of sanctions, including criminal sanctions, for pollution offences (2003/0037/COD)

Proposal for a Regulation on enhancing ship and port facility security (2003/0089/COD)


**Agriculture and Fisheries**


Proposal for a Regulation on maximum residue levels of pesticides in products of plant and animal origin (2003/0052/COD)

Proposal for a Regulation laying down requirements for feed hygiene (2003/0071/COD)

Proposal for a Regulation on the protection of animals during transport and related operations, amending Directives 64/432/EEC and 93/119/EC (2003/0171/CNS)

Series of proposals linked to the implementation or follow-up of the reform of the Common Fisheries Policy, such as the proposal for a Council Regulation establishing measures for the recovery of cod stocks (COM(2003) 237) and the proposal for a Council Regulation establishing measures for the recovery of the Northern hake stock (COM(2003) 374 - if not adopted in 2003

**Education, Youth and Culture**


Proposal for a Decision establishing a Community Action Programme to promote bodies active at European level in the field of youth (2003/0113/COD)

Proposal for a Decision establishing a Community action programme to promote bodies active at European level and support specific activities in the field of education and training (2003/0114/COD)

Proposal for a Decision establishing a Community action programme to promote bodies active at European level in the field of culture (2003/0115/COD)

Proposal for a Decision establishing a Community action programme to promote active European citizenship (civic participation) (2003/0116/CNS)

Environment

- Proposal for a Directive on environmental liability with regard to the prevention and remedying of environmental damage (2002/0021/COD)
- Proposal for a Directive concerning the quality of bathing water (2002/0254/COD)
- Proposal for a Directive on the management of waste from the extractive industries (2003/0107/COD)
- Proposal for a Regulation on Shipments of Waste (2003/0139/COD)
- Proposal for a Directive relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (2003/0164/COD)
- Proposal for a Directive amending the Directive establishing a scheme for greenhouse gas emission allowance trading within the Community, in respect of the Kyoto Protocol's project mechanisms (2003/0173/COD)
- Proposal for a Regulation on certain fluorinated greenhouse gases (2003/0189/COD)
- Proposal for a Directive on the protection of groundwater against pollution (2003/0210/COD)
- The REACH proposal (2002/ENV+/015), adopted by the Commission on 29 October 2003
- Proposal for a Directive on environmental access to justice (2003/0246/COD) and for a Regulation on the application of Aarhus principles to the Community (2003/0242/COD)
ANNEX 5

Simplification and codification of Community legislation

Simplification priorities 2004

The Commission launched in February 2003 a framework for action to up-date and simplify Community legislation. A key action of this initiative aims at legislative simplification through a reinforced political attention and a new methodology based on the following steps:

- the development of prioritisation indicators to guide the Commission in selecting sectors where simplification appears particularly relevant;

- the Commission selects policy sectors and carries out a screening for simplification potential. This screening may result in identification of specific legislative acts as candidates for simplification;

- legal acts identified as candidates for possible simplification are examined in detail and concrete simplification proposals are developed, using best practice methodology and procedures, and adopted as Commission proposals.

The main novelty of this methodology is the establishment of priority indicators and, on this basis, a more systematic and wide-spread screening of Community policy sectors by Commission services to identify simplification potential. The Framework for Action is being implemented in three phases. At the end of each phase (October 2003, April 2004 and end-2004), the Commission reports on the achievements during the previous phase and sets out planned work for the coming phase.

The Commission presented in October 2003 the first report on the implementation of the Framework for Action, covering Phase I (February – September 2003). This report demonstrates that very considerable efforts are currently being made by Commission services towards legislative simplification across a broad range of policy areas. Completion of this work, in the form of final Commission proposals, will take place over the coming years. The Commission’s programming of simplification work follows the 3-phased implementation of the February 2003 initiative, in particular the screening of policy sectors. Individual legislation with confirmed simplification potential is programmed in the context of the ordinary programming cycle.

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8 In the February Communication, the Commission defined simplification broadly. Simplification can, on the one hand, mean modification of legislation without affecting the substance of the underlying policy. This can be relevant when, for example, more efficient or proportional legislative instruments and techniques are available than those currently used. On the other hand, simplification can also mean simplifying the substance of a policy by adapting or entirely redesigning the legislative approach.
### Simplification priorities for 2004

<table>
<thead>
<tr>
<th>Policy Area</th>
<th>Screening of policy sectors during Phase II (October 2003 - March 2004)</th>
<th>Key initiatives with simplification impacts that are likely to be adopted in 2004</th>
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<td>Enterprise</td>
<td>- Motor vehicles type approval system</td>
<td>- Emissions from heavy-duty vehicles</td>
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<td>- Cosmetics</td>
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<td>- Pre-packaging legislation</td>
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<td>- Processed agricultural products</td>
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<td>Agriculture</td>
<td>- Import quotas</td>
<td>- Processed citrus fruit</td>
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<td>- Sugar CMO</td>
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<td>- Information actions</td>
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<td>Health and Food Safety</td>
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<td>- Feed materials and compound feedstuffs</td>
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<td>- Novel food (procedure authorisation)</td>
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<td>Environment</td>
<td>- Waste legislation</td>
<td>- Waste legislation</td>
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<td>- Air quality legislation</td>
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<td>Fisheries</td>
<td>- Fisheries organisation/NAFO</td>
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<td>European Contract law</td>
<td>- General contract law and cross-border contracts</td>
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<td>Employment and Social Policy</td>
<td>Health and safety at work</td>
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<td>Energy and Transport</td>
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<td>- Functioning of aviation market</td>
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<td>- Driving licences</td>
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<td>Taxation and customs</td>
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<td>- Capital Duty Directive</td>
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<td>Internal Market</td>
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<tr>
<td>Competition</td>
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<td>- Implementing regulation on antitrust</td>
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<td>- Implementing and interpretative rules on mergers and antitrust</td>
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</tbody>
</table>
Codification of EU legislation

The Commission is working towards its objective of completing its codification programme by the end of 2005. Around 60 codification proposals are planned for 2004. The Commission invites the European Parliament and the Council to give urgent consideration to the Commission’s proposals under the codification programme in order to adopt all proposals no later than the end of 2006.
CRIMINAL PROCEDURE (AMENDMENT) (SCOTLAND) BILL

SUBMISSION OF EVIDENCE FROM:

The Association of Scottish Police Superintendents

1. Introduction

The Association of Scottish Police Superintendents welcomes the Scottish Executive’s aims identified in the ‘Partnership for Scotland’: Partnership Agreement, which introduce greater certainty into High Court proceedings.

2. Summary of ASPS Views

The Association welcomes the general aspirations of the Bill and are content that many of the proposals are likely to address matters that we have raised over the years.

- In short the time wasted by officers and witnesses at court where cases are delayed due to lack of preparation by either the defence agent or crown.
- The accused pleading guilty on the day the case is ready to proceed.
- The accused not appearing at trial despite his agent being briefed and prepared to represent him/her.
- The unwillingness of members of the public to attend as witnesses for fear of retribution from the accused.
- The fear of victims to give evidence for the same reasons.
- The unwillingness of members of the public to attend as witnesses due to their experience of having their time wasted on a previous occasion.

Further matters which we feel need fuller consideration are as follows:

- Is it likely that there will be penalties on either prosecutors or the accused’s legal representatives if they fail to lodge written records of their state of preparation timeously?
- Where the preliminary diet is dispensed with, assurances are sought that the trial cannot be delayed following the setting of that date by the clerk.
- Can an accused continually delay the trial diet by repeatedly dismissing their legal representation?
- Is it likely that a similar extension to the preparation time for crown and defence representatives would be considered for the police service to submit cases and statements especially in relation to forensic science practitioners, pathologists, etc?
The Association are uncomfortable with proposals to coerce witnesses to provide evidence and would wish to be assured that vulnerable witnesses are supported throughout court proceedings.

The Association feel that it would be sensible if a monitoring process was put in place, in order that any strengths and/or weaknesses are identified at an early stage and appropriate adjustments made.

**Criminal Procedure (Amendment) (Scotland) Bill – Submission of Evidence**

1. The Scottish Executive’s commitment to reforming the courts and legal system should ensure that the process will deal with cases more efficiently, assist victims and witnesses, complementing the changes being progressed through the ‘Vulnerable Witnesses Bill’ and ASPS welcome this attempt to move the High Court into the 21st century.

2. In this response, the Association will comment on the areas that impact on the work of the Scottish Police Service as a whole and in particular those affecting Police Superintendents, as the strategic and operational managers of the Scottish Police Service.

3. **The proposals to introduce mandatory preliminary hearings into High Court Proceedings so that the court may ascertain the readiness of the parties to go to trial are welcomed.**

   3.1 We would however seek information as to whether the impact of this process on the additional amount of time taken up by police officers has been fully considered, as, if the accused is required to attend at the High Court, at this time, then Court and dock officers will normally be required too.

   3.2 The Association seeks further guidance as to whether there are likely to be penalties on either prosecutors or the accused’s legal representatives if they fail to lodge written records of their state of preparation timeously?

   3.3 We would also seek assurances that where the preliminary diet is dispensed with, there will be no likelihood that the trial can be delayed following the setting of that date by the clerk.

   3.4 We do not feel that the Bill, in its current form, sets out what assurances there would be, that an accused could not continually delay the trial diet by repeatedly dismissing legal representation.

4. **In relation to the proposal to modernise the time limits for High Court proceedings to ensure adequate time for preparation so that trials proceed in a proper fashion without unnecessary disruption is supported by ASPS and would seek your views as to whether a similar extension to the preparation time would be considered for the police service to submit**
cases and statements especially in relation to forensic science practitioners, pathologists, etc?

5. We welcome proposals to bring a level of certainty to dates of trials by replacing the present system of trials within sittings with a system of trials on dates appointed by the court, so as to create greater certainty for all who have to attend, especially witnesses.

5.1 This may assist in a reduction in abstraction of officers from general policing duties and may encourage witnesses to agree to participate in proceedings if they can be assured that their time is unlikely to be wasted.

5.2 We would also put forward the case for the opportunity to agree more minutes of admission which we feel would assist in reducing the numbers of witnesses having to attend.

5.3 The Association feel that an even more efficient use of officers’ time would be for them only to attend by appointment to give their evidence and that the Procurator Fiscal and High Court managers should have responsibility for police overtime costs. Ideally they should be asked to cover these additional costs.

6. The aim to remove the provision whereby an accused person may escape prosecution for all time because of a technical breach of custody time limits are welcomed. This should help prevent the occasional loss of cases.

7. In relation to the proposal to clarify the provisions whereby the court may reduce a sentence in recognition of a plea of guilty by the accused to encourage earlier realistic pleas we would put forward the following views.

7.1 We believe that there must be an opportunity for an accused to make a final plea before a trial to save witnesses having to attend on the day. The savings to police time will be an obvious benefit.

7.2 It would be helpful for all concerned if there was clarification and consistency in the treatment of accused who plead guilty. The Association would support the saving of the Court’s time as well as that of witnesses and the affects of a court appearance on victims.

7.3 We feel that there should be absolutely no last minute change of pleas and if there is this should be reflected in the sentence due to the inconvenience to police officers, the general public and the court itself.

8. The proposal to give the Court power to proceed with a Solemn Trial in the absence of the accused is supported by the Association.
8.1 The introduction of a mechanism which can prevent delay due to non-attendance of the accused, if their agent is present and has been briefed, seems a sensible approach and will bring Scotland into line with the rest of the UK.

9. Enable Action to be taken with a view to Ensuring the Attendance at Court of Reluctant Witnesses.

9.1 The Association is uncomfortable with proposals to coerce witnesses to provide evidence and would wish to be assured that vulnerable witnesses are supported throughout court proceedings.

9.2 Further whilst this proposal may refer to witnesses “deliberately avoiding citations” we have concerns about how this can be proved and the effect that this might have on police processes for serving citations.

10. In Conclusion

10.1 The Association feel that it would be sensible if a monitoring process was put in place when these alterations to procedure are brought forward, in order that any strengths and/or weaknesses are identified at an early stage and appropriate adjustments made. It is important that these changes are an improvement on the current proceedings and that the impact is seen to be beneficial for all involved.

10.2 We hope that you find the views of the Association to be helpful and would reiterate our desire to cooperate with the process of ensuring that the management of the High Court is effective and efficient for all involved and appreciate the opportunity to give evidence to the Justice 1 Committee.