The Committee will meet at 10.00 am in Committee Room 3.

1. **Budget Process 2005-6**: The Committee will consider its approach to the budget process 2005-6.

2. **HM Young Offenders’ Institution Polmont**: Committee members will give an oral report of the Committee’s recent joint visit with the Justice 2 Committee to HM Young Offenders’ Institution Polmont.

3. **Criminal Procedure (Amendment) (Scotland) Bill (in private)**: The Committee will consider a draft Stage 1 report.

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/S2/04/5/1

Agenda item 3

Draft Stage 1 Report (PRIVATE PAPER)(TO FOLLOW) J1/S2/04/5/2

Papers for information circulated for the 2nd meeting, 2004 (session 2)—

Correspondence from the Convener of the Equal Opportunities Committee in respect of the Gender Recognition Bill – UK legislation J1/S2/04/5/3

Correspondence from the Minister for Justice in respect of the European Commission’s green paper on alternative dispute resolution J1/S2/04/5/4

Scottish Executive, Working Group on Hate Crime – Consultation Paper and covering letter (NB – consultation paper circulated only in hard copy to members; available online at http://www.scotland.gov.uk/consultations/justice/wghc-00.asp) J1/S2/04/5/5

Scottish Executive, Pre-Council Report for the Justice and Home Affairs Council of EU Ministers, 19 February 2004 J1/S2/04/5/6

Criminal Procedure (Amendment) (Scotland) Bill—

Preliminary hearings – note by the Adviser J1/S2/04/5/7


Documents not circulated

Copies of the following have been provided to the Clerk:

- Scottish Children’s Reporter Administration, Annual Report 2002-03;
- Crown Office and Procurator Fiscal Service, Strategic Plan 04-06;

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 business—

Wednesday 11 February 2004 – Justice 1 Committee meeting

Wednesday 25 February 2004 – Justice 1 Committee meeting

Wednesday 3 March 2004 - Justice 1 Committee meeting
JUSTICE 1 COMMITTEE
5th Meeting 2004 (Session 2)
Consideration of 2005-06 draft Budget

Note by the Clerk

Background

1. The Scottish Executive’s budget proposals for 2005-06 are expected to be published on 31 March 2004. Subject committees will be required to report to the Finance Committee around mid-May.

2. In previous years, the two Justice Committees decided, with the agreement of the Bureau, to meet jointly to scrutinise the budget proposals. This arrangement took account of the fact that each committee gains a different range of information, evidence and expertise during the year.

3. Last year, the committees jointly appointed Professor Brian Main from the University of Edinburgh to assist their consideration of the Executive’s spending proposals, to identify areas on which it would be useful to take evidence, advise on lines of questioning and prepare the report to the Finance Committee. As in previous years, there will be some support available this year from the Finance Committee’s standing adviser, Professor Arthur Midwinter. However as he will be covering the whole of the budget, some subject committees are also proposing to appoint their own advisers.

2005-06 budget process

4. The Committee is invited to agree that permission should again be sought from the Bureau to meet jointly to consider the budget proposals this year.

5. The Committee is also invited to agree in principle that an adviser should be appointed to assist with the budget scrutiny, assuming that a suitable person can be identified.

6. Some Committees are seeking, or have secured, the appointment of a standing adviser to assist them with the budget scrutiny for more than one year or indeed the whole parliamentary session. There are potential benefits in having a standing adviser in terms of continuity and efficiency and ability to track funding and issues arising without unnecessary duplication each year. In addition, past experience suggests that there is only a relatively small pool of potential candidates with expertise in both finance and justice matters. Alternatively, the Committee might prefer to gain different perspectives through appointing a different adviser each year. It may also be that potential advisers find it difficult to make a commitment for more than one year.
7. The Committee is therefore invited to decide whether it wishes to seek the appointment of a standing adviser and if so, whether the appointment should be for the remainder of this session.
Dear Committee,

GENDER RECOGNITION BILL – UK LEGISLATION

I am aware that your Committee is to take evidence from the Minister on the Gender Recognition Bill – UK Legislation at its meeting on 28 January.

As you know, the Equal Opportunities Committee took evidence from a range of groups representing transsexual people in Scotland at its meeting on 9 December 2003. These groups were generally supportive of the Bill and of the use of the Sewel route, on the basis that this would deliver the legislation more quickly.

However, during the session several issues of concern were raised in relation to certain specific provisions of the Bill. I have been asked by members of the Committee to bring these to the attention of the Justice 1 Committee. In this regard, I attach as an Annex to this letter a summary of the main points which emerged. I should be grateful if you would arrange for this to be circulated to your Committee members in advance of your meeting tomorrow.

Please accept my apologies for the lateness of this submission, which I hope will assist your Committee in its considerations.

Yours faithfully,

Cathy Peattie MSP
Convener
Equal Opportunities Committee
EQUAL OPPORTUNITIES COMMITTEE

ANNEX

Gender Recognition – Summary of Evidence

Witnesses

Andrea Brown, TransAlba
Maxwell Reay, Trans Men Scotland
Zara Strange, Press for Change
Nick Laird, Equality Network Transgender Issues Forum/Sandyford
Transsexual Support Group
George Burrows, LBGT Youth Scotland

Written submissions also received from:

Equality Network
Brian Dempsey

Issues discussed in evidence

The difficulties currently faced by transgender people
1. It was noted that without the Bill, transgender people are not permitted to marry and that there are issues regarding pension rights, next-of-kin status and accessing benefits. Andrea Brown noted that “… we are not recognised as our true selves.”\(^1\) Maxwell Reay said that the Bill would help people to live ordinary lives without the fear of being outed and the ramifications that that might have for their employment and housing, for their families, and for their personal safety and security.\(^2\)

General support for the Bill
2. All witnesses welcomed the Gender Recognition Bill in general, but accepted that there were still issues of concern. Andrea Brown said: “We welcome the Gender Recognition Bill as a step towards ironing out a lot of those irregularities and problem areas.”\(^3\) Nick Laird noted that “… the Sex Discrimination Act 1975 should be extended to cover discrimination against trans people in the provision of goods and services.”\(^4\) He also noted that the definition of transgender persons should be consistent between the Sex Discrimination Act 1975 and the Gender Recognition Bill.

3. Andrea Brown also expressed concerns that the provisions of the proposed Bill created a form of ‘institutional outing’ for some transgender people by forcing them to end an existing marriage.\(^4\)

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\(^1\) Official Report Tuesday 9 December 2003, col 250  
\(^2\) Ibid, col 251  
\(^3\) Ibid  
\(^4\) Ibid
**ANNEX**

**Age limit for applicants in Scotland should be 16**

4. A majority of those providing evidence stated that the age limit for gender registration should be set at 16 in Scotland, the age at which people can marry without parental permission, rather than at 18 as proposed. It was further noted in evidence that it was possible for transsexual people to have lived in the acquired gender for two years by the time they are 16.

**Other criteria for registration**

5. The Equality Network expressed concerns in written evidence that due to considerable prejudice against transsexual people, including within some parts of the health service, it could be difficult for some transsexual people to access the health services they need, and therefore possibly also to obtain the medical certification they need for gender recognition.

**Provisions for establishing gender recognition panels as outlined in Schedule 1 to the Bill**

6. The witnesses were generally in agreement with the provisions to establish gender recognition panels but Zara Strange noted that she would like to see a gender recognition panel set up in Scotland with Scottish representatives. She pointed out: “If there is to be an appeals process, a lot of people would find it expensive to travel to the panel if it were set up in the south of England.”

7. The Equality Network in its written evidence noted that: “It is very important that the Gender Recognition Panel includes members legally qualified in Scotland.” They gave the example of English institutions refusing to acknowledge the new name of a post-transition transsexual person resident in Scotland in the absence of evidence of a deed poll, although deed polls are not used for change of name in Scotland.

**Potential costs to applicants**

8. Concerns were raised in evidence regarding the potential costs involved in reregistering – possibly as much as £1,640. It was noted that “it is probable that more than half the transsexuals in the United Kingdom are on benefits rather than in work.”

9. Written evidence received from young transsexuals proposed that the cost should be no more than the current cost of applying for a passport and that the fee should be waived completely for applicants who receive benefits such as income support.

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^5 Ibid, col 253
^6 Equal Opportunities Committee paper EO.S2.03.10.04 Written submission from the Equality Network
^7 Official Report, Tuesday 9 December 2003, col 255
10. In written evidence, the Equality Network recommended: “The UK Government should clarify the proposed level of application fee as soon as possible, and should ensure that it is affordable for all transsexual people.”

Requirement to end an existing marriage
11. The following views were put forward in relation to the requirement to end an existing marriage prior to reregistering gender:
   • People should not be forced to end a marriage that they wish to retain;
   • If an existing marriage is to be replaced by a civil partnership, the transition should be seamless with no loss of rights relating to the length of time the relationship has been in place.

12. Andrea Brown noted in oral evidence: “... it would be perfectly possible to insert one line in the bill, to say that, where the marriage in question is legal and both parties wish it to continue, that should be allowed. I do not think that that would set a precedent, because it would not allow same-sex couples to enter into a marriage; it would simply allow an existing marriage to continue.”

13. Maxwell Reay commented: “There are people who will not want to be divorced, because they had a religious marriage ceremony.”

Six month time limit on interim gender recognition certificate
14. Zara Strange noted in evidence: “… I support the proposed Scottish way of proceeding on divorce or annulment on the basis that an interim gender recognition certificate has been granted. … and that anyone who has an interim certificate will be able to apply at any time, not just within the first six months.”

15. Andrea Brown expressed the view: “The arbitrary setting of a period of six months is one of the big flaws in the bill.”

16. Nick Laird noted: “There is no reason why the interim certificate should lapse – that provision was not included in the draft bill and was not consulted on – and it could continue.”

Provisions relating to pensions
17. Concern was expressed regarding the effect of the provision that female-to-male transsexuals currently in receipt of a retirement pension and below the age of 65 would lose that pension until they became eligible as men at 65.

18. Andrea Brown noted: “We are not saying that all trans men should be entitled to a pension at 60. We are just saying that if someone is over 60

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8 Equal Opportunities Committee paper EO.S2.03.10.04 Written submission from the Equality Network
9 Official Report Tuesday 9 December 2003, col 258
10 Ibid, col 259
11 Ibid, col 258
12 Ibid, col 257
13 Ibid, col 253
ANNEX

when the bill is enacted, and they are in transition, they should be allowed to continue."\textsuperscript{14}

19. Maxwell Reay pointed out that only a small number of people would be affected and commented: "We certainly support a change so that the position becomes more equal and we think that such people should retain their pensions until the pension age is made equal to everyone."\textsuperscript{15}

'Fast-track' procedure (Clause 26)

20. Zara Strange expressed support\textsuperscript{16} for the fast-track procedure proposed in clause 26 and George Burrows commented that it might be difficult for some young transsexuals to provide acceptable evidence due to a variety of factors such as living in a family in which it is not practically possible to do so\textsuperscript{17}.

21. Nick Laird was concerned that the six month period in which this was available would not be long enough for many transsexuals who transitioned a long time ago and may not be in contact with any support groups. He suggested that it should be extended to two years.\textsuperscript{18}

Recognition of rape in Scots law for post-operative transsexuals

22. It was noted in evidence that rape is a key issue for transsexual people in Scotland. Andrea Brown commented: "Probably a third of all male-to-female transsexuals in Scotland whom I know have been raped... The current rape laws do not protect us."\textsuperscript{19}

23. Nick Laird pointed out that the relevant law in England (the Sexual Offences Act 2003) already specifically mentions surgically constructed genitalia\textsuperscript{20} and that the law in Scotland should be amended to afford the same protection to transsexuals in Scotland.

24. In addition, Andrea Brown pointed out: "My birth certificate says that I am male. Under Scots law as it stands no one can rape me. The issue of rape is much wider than the bill and it needs to be looked at."\textsuperscript{21}

Privacy provisions in the Bill

25. Maxwell Reay expressed concerns regarding the apparent need for transsexuals to inform people that a gender recognition certificate had been issued in order to protect their privacy under clause 21(4)(c): "In a sense, to get protection from being outed, I would have to out myself with my certificate

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\textsuperscript{14} Ibid, col 261
\textsuperscript{15} Ibid
\textsuperscript{16} Ibid, col 262
\textsuperscript{17} Ibid, col 261
\textsuperscript{18} Ibid, col 253
\textsuperscript{19} Ibid, col 262
\textsuperscript{20} Ibid, col 262
\textsuperscript{21} Ibid, col 263
every time that I took a new job. I think that that paragraph needs to be
looked at and changed.”

26. Zara Strange recorded her concerns, in relation to the provisions where it
would not be an offence to disclose protected information, that clause
21(4)(e), which states:
“the disclosure is for the purpose of instituting, or otherwise for the
purposes of, proceedings before a court or tribunal”
was too all-embracing, could include witnesses, jurors and victims. She was
of the view that 21(4)(e) should therefore be removed. She further noted
that 21(4)(d): “the disclosure is in accordance with an order of a court or
tribunal” and 21(4)(f): “the disclosure is for the purpose of preventing or
investigating crime” were sufficient to ensure that justice was done and seen
to be done.

Views regarding the use of Sewel motion

27. There was consensus amongst those giving oral evidence that the Sewel
route would deliver the legislation more quickly and was, therefore,
acceptable.

28. Nick Laird of the Equality Network noted: “Overall the bill is good. There
are things in it that could be changed, but the Sewel motion is the best way
forward, because it will be quicker.”

29. Zara Strange expressed the following view: “Time is of the essence and …
if a Sewel motion can produce a result quicker … I would like the legislation to
be passed as soon as possible.”

30. In correspondence to the Convener, Brian Dempsey expressed an
objection to the use of a Sewel motion for this legislation. He attached an
article to be submitted to Gay Scotland which raised a number of concerns in
relation to the Bill, including the lack of Scottish representation on the UK
Joint Commission on Human Rights, and concluded: “… when it comes to
Scots family law the Scottish Parliament is best placed to legislate for
transsexual people in Scotland.”

22 Ibid, col 264
23 Ibid, col 265
24 Ibid, col 259
25 Ibid
Dearest Pauline,

Thank you for your letter of 11 December in which you asked a number of questions stemming from Justice 1 Committee’s consideration of the European Commission’s Green Paper on Alternative Dispute Resolution.

First, you asked whether the Scottish Executive has any plans to use, or currently uses, mediation as a method of resolving disputes involving public bodies. The Executive supports and encourages the use of mediation for individuals, public bodies and other organisations where feasible and appropriate. The essence of mediation is that the parties enter it voluntarily and there will always be instances where there is reluctance to do so, or where there are important issues of fact, or points of law, in dispute that require an authoritative decision by the court. But mediation can be very useful and the Executive is keen to encourage its use.

There is a wide range of active interest in mediation across the Scottish Executive, straddling a number of diverse areas. An example would be the draft Education (Additional Support for Learning) (Scotland) Bill, which proposes a new duty for independent mediation services to be set up in all education authorities, helping resolve disputes between parents and schools. Another would be the Department of Health working group which is looking at the potential for greater use of mediation in patient/health service disputes. The Executive also provides funding for mediation and advice services to a range of bodies including SACRO, which provides a nationwide service from which all local authorities and housing associations can benefit. In relation to contractual disputes with the Executive itself, our Procurement Directorate has recently produced information and guidance for contractors and suppliers on methods of alternative dispute resolution which has received wide circulation and is available on the Scottish Executive website. We also intend to produce more general guidance for the public on dealing with disputes without going to court. This guidance should be available this Spring.
You also asked whether the Executive will bring together the profession in Scotland under an umbrella organisation. We have no plans to do so at present, though we have not ruled out future consideration of such a measure. Our attention at present is focussed on discussion of the issues with key players in the mediation field, for example the Scottish Mediation Network. We shall consider carefully the outcomes from this before reaching any conclusions.

Finally, you asked what action had been taken to improve the use of ADR in Glasgow Sheriff Court specifically and more generally to consider what action might be taken to improve use of ADR in other aspects of the Scottish justice system. As mentioned by Professor Sturrock in his address to the Committee on 12 November, reference is made to alternative dispute resolution in the sheriff court commercial rules, which are in use in Glasgow. Those rules allow the sheriff to make “any order which the sheriff thinks will result in the speedy resolution of the action (including the use of alternative dispute resolution)”.

The Sheriff Court Rules Council is also taking an active interest in mediation and set up a Mediation Committee last June. Part of the Committee’s remit is to consider what the functions of the court should be in relation to the use by the parties to an action of alternative dispute resolution procedures. The Committee will report back to the Council with recommendations at the end of this year.

I hope this is helpful.

CATHY JAMIESON
Please note that this Pre Council Report is based on a provisional agenda set in January 2004. The agenda may be subject to substantial change.

Asylum and Immigration

Directive on minimum standards on the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection

Directive on minimum standards on procedures for granting and withdrawing refugee status

Directive on assistance in cases of transit through the territory of one or more Member States in the context of removal measures taken by Member States against third country nationals

(possible) Report on common readmission policy

The Executive has a co-ordination role with regard to the provision of services for asylum seekers and refugees. Any changes to operations in Scotland will be for the Home Office to implement.

POLICE CO-OPERATION

Triennial report on CEPOL and eventual follow-up

The European Police College Network (CEPOL) was set up on 1 January 2001. It was established to help train senior police officers of the Member States (although provision has been made for other ranks) by optimising co-operation between its various component police training institutes. It supports the development of a European approach to the main problems facing Member States in the fight against crime, crime prevention, and the maintenance of law and order and public security, in particular the cross-border dimensions of those problems. The Director of the Scottish Police College is a member of the Governing Board. A permanent secretariat to assist CEPOL with the administrative tasks is to be set up by the Governing Board. The permanent secretariat may be set up within one of the national police academies and the UK Government are keen to see this being established at Bramshill with a representative of the Scottish Police College being a member of the secretariat. Costs will be met by CEPOL.

Communication on Police and Customs Co-operation

It is highly unlikely that this item will be on the final agenda.

CRIMINAL AND JUDICIAL CO-OPERATION
Draft Framework Decision to strengthen the criminal law reform framework for the enforcement of the law against ship-source pollution

It is highly unlikely that this item will be on the final agenda. The Framework Decision seeks to approximate criminal sanctions for the unlawful discharge of polluting substances into the environment by shipping across the EU. The FD as drafted requires Member States to conduct a criminal investigation when informed of a suspected offence within its state and also details the criminal procedures to be followed during the investigation.

Draft Framework Decision on the Execution in the EU of Confiscation Orders

This proposal was first tabled by the Danish Presidency in 2002. It is part of the programme of measures to implement the principle of mutual recognition of decisions within the EU in Criminal matters. The central principle is to facilitate the confiscation of crime from convicted offenders. If implemented, mutual recognition of confiscation orders would be a devolved matter. The UK, including Scotland, already has well-developed procedures with regard to the confiscation of the proceeds of crime, as provided by the Proceeds of Crime Act 2002.

Draft Framework Decision on the application of the “ne bis in idem” principle

It is highly unlikely that this item will be on the final agenda. This proposal was first tabled by the Greek Presidency during the first half of 2003. The Framework Directive as originally drafted is about how double jeopardy is recognised between Member States. If implemented the Framework Directive will not require changes to domestic law.


It is highly unlikely that this item will be on the final agenda.
JUSTICE 1 COMMITTEE

Criminal Procedure (Amendment) (Scotland) Bill

Matters to be addressed at preliminary hearings

Note by the Adviser

In many respects, the provisions of the Bill assimilate the procedures at the proposed preliminary hearing in the High Court to existing procedures at the first diet in solemn proceedings in sheriff courts. There will continue to be differences between the preliminary hearing and the first diet but in many respects the two hearings are quite similar. This is especially true in relation to matters which can be disposed of at this pre-trial stage and in relation to matters which must be lodged by the defence prior to the preliminary hearing.

1. Special defences and related matters

Not less than seven days before the preliminary hearing the accused must give notice of any special defence, any plea of incrimination, automatism or coercion, and in certain sexual offences notice of intention to plead consent on the part of the complainer. Notice must be lodged with the Clerk to Justiciary and intimated to the Crown and to any co-accused.¹

The previous rule was that such matters had to be lodged not less than 10 days before the trial, and there was a provision² which allowed such matters to be raised although notice had not been given. The time limit is now changed to seven days before the preliminary hearing, and the power of the court to direct that such defences might be led without notice having been given is repealed.

2. Preliminary plea and preliminary issues

Section 72(3) of the 1995 Act³ provides that at the preliminary hearing the court “shall” dispose of any “preliminary plea” of which a party has given advance notice. The same section states that notice of any preliminary plea must be lodged with the court not less than seven days before the preliminary hearing, and section 79(1) of the 1995 Act⁴ provides that preliminary pleas cannot subsequently be raised except with leave of the court, on cause shown.

Section 72(b)(i) and section 79(1) of the 1995 Act and make similar provision in respect of “preliminary issues”.

¹ Criminal Procedure (Scotland) Act 1995, as amended by paragraph 16 of the Schedule to the Criminal Procedure (Amendment) (Scotland) Bill.
² Section 78(1)(b) of the 1995 Act.
³ As substituted by section 1(3) of the Bill.
⁴ As substituted by section 13 of the Bill.
For these purposes a “preliminary plea” is:

- a matter relating to the competency or relevancy of the indictment
- objections to the citation of a party
- a plea in bar of trial

For these purposes a “preliminary issue” is:

- an application for separation or joining of trials or charges
- objections in relation to proof of age or other matters
- an application to exclude certain matters from the knowledge of the jury
- certain objections to the admissibility of evidence
- possibly unexceptionable evidence
- other matters which could be resolved with advantage before trial.

3. Vulnerable witnesses

The court, at a preliminary hearing, will be required to determine whether there are any vulnerable witnesses and what measures require to be taken in relation to any such witness.

4. Admissibility of evidence

Certain matters of admissibility may be determined at this stage, at least where the issues is one of law rather than fact. But it would appear to be inconsistent with the nature of a preliminary hearing for the court to enter into an inquiry as to admissibility where this would require an examination of witnesses in relation to the question of admissibility.
1. The Subordinate Legislation Committee considered the delegated powers provisions in the Criminal Procedure (Amendment) (Scotland) Bill at its meetings on 16th December 2003 and 6th January 2004. The Committee submits this report to the Justice 1 Committee, as the lead committee for the Bill, under Rule 9.6.2 of Standing Orders.
Criminal Procedure (Amendment) (Scotland) Bill

Report of the Subordinate Legislation Committee

Stage 1

Committee remit
1. Under the terms of its remit, the Committee considers and reports on proposed powers to make subordinate legislation in particular Bills or other proposed legislation and on whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation.

2. The term “subordinate legislation” carries the same definition in the Standing Orders as in the Interpretation Act 1978. Section 21(1) of that Act defines subordinate legislation as meaning “Orders in Council, orders, rules, regulations, schemes, warrants, bye-laws and other instruments made or to be made under any Act”. “Act” for this purpose includes an Act of the Scottish Parliament. The Committee therefore considers not only powers to make statutory instruments as such contained in a Bill but also all other proposed provisions conferring delegated powers of a legislative nature.

Background
3. The Bill is part of the Executive’s package of reforms to the criminal justice system with the overall aim of reforming court procedure and enabling the courts to deal with cases more efficiently. The provisions of, and policy underlying, the Bill are described in the Bill’s Accompanying documents and summarised in paragraphs 2 and 3 of the memorandum provided by the Executive for the use of the Committee in its examination of the delegated powers in the Bill. The memorandum is reproduced at Appendix 1.

4. In brief, Parts 1 and 2 of the Bill make amendments to criminal proceedings in the High Court of Justiciary and generally in relation to solemn proceedings respectively. Part 3 makes amendments in relation to bail and applies both to the summary and to solemn proceedings. Part 4 contains miscellaneous and general provisions.

Delegated powers

Act of Adjournal powers
5. The Bill contains a considerable number of delegated powers. However, the great majority relate to the making of Acts of Adjournal by the High Court to regulate practice and proceedings. Act of Adjournal powers are to be found, as indicated in the Executive’s memorandum, in sections 1(3) (three powers), 2, 7, 8, 12, 19 and paragraph 22(a) of the schedule. The Memorandum gives a full description of all the powers, each of which is concerned with purely practical matters.
6. The Committee agreed that it is entirely appropriate that such matters should be dealt with by Act of Adjournal in the normal way. They are concerned with the practice of the Court which is properly a matter for it to determine. The Committee therefore had no further comment to make on these powers in the Bill. Only sections 12, 14, 21 and 22 confer substantive regulation and order-making powers.

**Section 12**  
(Reluctant witnesses)

**Background**

7. Section 12 inserts into the Criminal Procedure (Scotland) Act 1995 new sections 90A to 90E setting out how the court may deal with reluctant witnesses. Those sections make provision in relation to the apprehension of a reluctant witness and the options available to the court following the arrest of that witness. The options include the making of an order releasing the witness on bail, new section 90B(1)(b).

8. Subsection (8) of new section 90B (page 19) applies certain provisions of new section 24A (bail conditions: remote monitoring of restrictions on movements) of the 1995 Act, inserted by section 14 of the Bill as they apply to an order under new section 24A. The provisions applied include subsection (10) (page 25, line 5) of new section 24A which applies the regulation-making powers under section 245A(8) and 245C(3) of the 1995 Act to orders under new section 24A as they apply to restriction of liberty orders. Details of the regulation-making powers are described in paragraph 4.9 on page 7 of the Executive’s memorandum in its comments on the powers in section 14 below.

9. The Executive states in its memorandum that the powers will be exercisable by the Scottish Ministers by statutory instrument subject to annulment, but see comments below.

**Report**

10. To the Committee, it seems entirely sensible in principle that the existing provisions relating to restriction of liberty orders in the 1995 Act as amended should be applied in respect of reluctant witnesses, or accused persons on bail. The provisions in the Bill do not prevent different provision being made in different cases but allow for a uniform approach where appropriate.

11. The Executive has not given any justification for the use of delegated powers in this case or under section 14 other than parity with existing legislation in a similar area. This may not by itself provide sufficient argument for delegating legislative powers but the Committee accepts that, in principle, a case can be made for such delegation in this instance. The powers are concerned largely with matters of detail that are likely to require to be changed from time to time.

12. The Committee observes, however, that the drafting device adopted by the Bill is very complex, particularly in the case of section 12. In relation to the powers to make subordinate legislation, the reader has first to amend new section 24A(10) (inserted by section 14) in accordance with section 90B(8) (as inserted by section 12) and then read section 245A as amended by section 24A(10) as so amended. Such a paper chase does not make for easy understanding of the legislation and can lead to errors.
13. It appeared to the Committee that an error may indeed have arisen in relation to the application of section 245A of the 1995 Act. The Executive states that regulations under section 245A of the 1995 Act as applied by new section 90B(8) will be made by statutory instrument subject to annulment. However, the Committee doubted whether, if this was the intention, it was achieved by the Bill as presently drafted. It is a statutory requirement that, if subordinate legislation is to be made in the form of a statutory instrument, the enabling Act must contain a statement to that effect. The enabling Act must also set out the procedure, if any, that is to apply to any such instrument.

14. The procedural provisions that are to apply to regulations made under section 245A are set out in subsections (13) and (14) of that section but new section 24A(10) applies only subsections (8) to (10). It seemed to the Committee therefore that, under the Bill as currently drafted, regulations made under the new powers conferred by section 12 of the Bill (and section 14) under section 245A of the 1995 Act as applied by the Bill will neither be made as statutory instruments nor subject to any procedure. This did not seem to the Committee appropriate nor does it appear to accord with the Executive’s stated policy. The Committee therefore asked the Executive to clarify the drafting of this power.

15. In its reply, reproduced at Appendix 2, the Executive confirmed that there is indeed an error in the drafting of new section 24A(10) through the failure to attract the provisions of subsections (13) to (14) of section 245A of the Criminal Procedure (Scotland) Act 1995. The Executive proposes to address the problem by amendment at Stage 2. The Committee was pleased that the Executive also undertook to look again generally at the drafting of sections 12 and 14.

16. The Committee welcomes these undertakings, drawing them to the attention of the lead committee. Regulations made under section 245A as applied by the Bill will, therefore, be made by statutory instrument. The Committee is otherwise content with the delegation of power and considers that the negative procedure proposed is appropriate.

17. The Bill also applies section 245C of the 1995 Act, which is also a regulation-making power, to orders under new section 90B. However in the case of section 245C the difficulty outlined above does not arise. The procedural provisions that relate to regulations made under section 245C are contained in subsection (4) of that section. As new section 24A(10) of the Bill applies the whole of section 245C rather than specified subsections, the procedural provisions in subsection (4) are also attracted to the powers as applied for the purposes of the Bill. The Committee therefore has no difficulties with this power.

Section 14 Bail conditions: remote monitoring of restrictions on movements

Background
18. New section 24A provides that the court may, in the order admitting an accused to bail subject to a condition restricting the applicant’s movements, impose a requirement that compliance with that condition be remotely monitored.
19. As in the case of the reluctant witness provisions referred to above, subsection (10) of the new section applies section 245A(8) to (10) and section 245C of the 1995 Act to such orders as they apply to restriction of liberty orders.

20. The Executive’s memorandum outlines the content of the powers so conferred and the effect of their application by new section 24A (10). The Executive states that the powers will be exercisable by the Scottish Ministers by statutory instrument subject to annulment.

Report

21. The Committee’s comments and the Executive’s reply above in relation to section 12 above apply.

Sections 21 and 22

22. The Committee asked the Executive for further explanation of the interaction of sections 21 and 22, both of which contain power to make transitional, transitory or saving provisions but only the former is subject to any Parliamentary procedure. The Committee noted that the power in section 21 has been limited in its application to section 22.

Report

23. Having considered the Executive’s reply and, in particular, the reassurances given in paragraph 3 the Committee approves the delegation of power and the procedures chosen in these instances.

24. There are no further delegated powers in the Bill of concern to the Committee.
MEMORANDUM TO THE SUBORDINATE LEGISLATION COMMITTEE
BY THE SCOTTISH EXECUTIVE

CRIMINAL PROCEDURE (AMENDMENT) (SCOTLAND) BILL

Provisions Conferring Power to Make Subordinate Legislation

PURPOSE

This memorandum has been prepared by the Scottish Executive to assist the Subordinate Legislation Committee in its consideration, in accordance with rule 9.6.2, of the provisions in the Criminal Procedure (Amendment) (Scotland) Bill which confer power to make subordinate legislation. It describes the purpose of each such provision and explains the reasons why these matters have been left to subordinate legislation rather than included in the Bill.

BACKGROUND TO THE BILL

The Bill is intended to introduce greater certainty in the processing of the first instance business of the High Court by promoting a more managed system, with the emphasis on better communication between the Crown and defence and earlier preparation by both parties. It is intended to assist victims and witnesses by creating greater certainty about when trials will proceed and preventing unnecessary adjournments. This Bill is part of the Executive’s programme of work on modernising justice. As part of that process, Lord Bonomy, a High Court judge, carried out an independent review of the High Court of Justiciary. He delivered his report “Improving Practice” to the Executive in November 2002. In parallel, a review of summary justice is being undertaken by Sheriff Principal John McInnes QC. In “A Partnership for a Better Scotland” the Scottish Executive said it would legislate to reform the courts and the legal system to deal with cases more efficiently. This Bill fulfils that commitment in relation to the High Court of Justiciary.

The Executive consulted on Lord Bonomy’s report between 11th December 2002 and 11th April 2003. During that period 1,080 copies of the report were sent to a wide range of organisations and individuals thought likely to have an interest in the report. In order to access the widest possible views a proactive consultation approach was adopted using focus groups and a nationally representative survey using a random sampling framework. Questionnaires were sent to a number of jurors, victims and witnesses; and the Deputy First Minister (whose portfolio then included justice) offered to meet with any of the key stakeholders. The White Paper, “Modernising Justice; The Reform of the High Court of Justiciary”, was published on 19th June 2003. An analysis of the consultation responses was published on 15th July. All 3 documents are available on the Scottish Executive website at www.scotland.gov.uk/publications.
OUTLINE AND SCOPE OF THE BILL

The Bill amends the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"). It is divided into 4 parts.

**Part 1** is confined to criminal proceedings in the High Court and is principally concerned with the introduction of a mandatory diet before the trial diet, to be called a preliminary hearing.

**Part 2** contains a miscellany of amendments to solemn criminal proceedings generally. Some of these, such as changes to time limits and the new provision on preliminary pleas and issues, are connected with the introduction of preliminary hearings.

**Part 3** relates to bail (and affects both solemn and summary proceedings).

**Part 4** contains miscellaneous amendments, some of which apply to both solemn and summary proceedings. It also contains general provisions.

DELEGATED POWERS

A ACT OF ADJOURNAL POWERS

All of the powers described in paragraphs 5.1 to 7.2 relate to new sections inserted into the 1995 Act or substitutions of existing sections of that Act. The powers are all Act of Adjournal powers. The general provisions regarding Acts of Adjournal are found in section 305 of the 1995 Act which enable the High Court of Justiciary to regulate practice and procedure in relation to criminal procedure.

*Reason for taking the powers*

The Executive considers that all of the powers described in these paragraphs are appropriate to be exercised by the High Court of Justiciary because they relate to technical or procedural matters or the prescription of relevant court forms.

In a number of cases Act of Adjournal is already used for similar purposes in relation to the existing provisions of the 1995 Act which are to be replaced or amended.

**Part 1** Criminal Proceedings in the High Court

**Section 1(3) Preliminary Hearings**

(a) **New section 72B(10)** appointment of trial diet by Clerk of Justiciary.

Power conferred on: The High Court of Justiciary  
Power exercisable by: Act of Adjournal  
Parliamentary procedure: None required.

New section 72B(8) to (10) makes provision for the court to dispense with a preliminary hearing where it is content that one is unnecessary, but only where the
parties jointly apply for such dispensation, and the court is satisfied that parties are prepared for trial and that there are no outstanding preliminary issues or other matters that require consideration. The court will then order the Clerk of Justiciary to appoint a trial diet. Subsection (10) provides that appointment of the diet by the Clerk is to be in accordance with procedures prescribed by Act of Adjournal.

(b) **New section 72C(5)** form of notice where preliminary hearing does not proceed

Power conferred on: the High Court of Justiciary
Power exercisable by: Act of Adjournal
Parliamentary procedure: none required.

New section 72C makes provision where the preliminary hearing does not proceed. Subsections (2) to (5) provide for the situation where the proceedings have been temporarily suspended and no further hearing date has been set. In these situations subsection (3) enables the prosecution to give notice to an accused indicted to the High Court at any point within the following two months of a further preliminary hearing at which he or she is to appear and answer to the original indictment. There is scope for the Crown to reconsider the court to which the case has been indicted. It may within the same period serve notice instead to appear and answer the indictment at a first diet and trial diet in the sheriff court, where the charge is one which the sheriff court may lawfully try.

Under subsection (5) the notice must be in the form, or as nearly as may be in the form, prescribed by Act of Adjournal.

(c) **New section 72D(6)** form and manner of preparation of minutes of proceedings at preliminary hearings.

Power conferred on: the High Court of Justiciary
Power exercisable by: Act of Adjournal
Parliamentary procedure: none required.

Subsections (4) to (6) of new section 72D ensure that proceedings at a preliminary hearing are duly recorded (by mechanical or shorthand means) and certified as correct in line with the provisions of section 93(2) to (4) of the 1995 Act. Subsection (6) of the new section requires the Clerk of Justiciary to prepare a minute of the proceedings to include in particular whether any preliminary pleas or issues were raised and how the court disposed of them. The minute is to be prepared in such form and manner as may be prescribed by Act of Adjournal.

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

**New section 72E(4)** form of, and information to be contained in, written record.

Power conferred on: the High Court of Justiciary
Power exercisable by: Act of Adjournal
Parliamentary procedure: none required.
Section 2 inserts a new section 72E into the 1995 Act and makes provision for the preparation by prosecution and defence of a joint written record of the state of preparation of their cases. This record must be lodged with the Court at least two days before the preliminary hearing. Subsection (4) of the new section provides that the form and information to be contained in the record are to be as prescribed by Act of Adjournal.

**Section 7**

**Procedure where trial does not take place**

**New section 81A(5)**

form of notice where trial diet does not take place.

- **Power conferred:** the High Court of Justiciary
- **Power exercisable by:** Act of Adjournal
- **Parliamentary procedure:** none required.

Section 7 of the Bill inserts a new section 81A into the 1995 Act and makes provision where the trial diet does not proceed. Subsection (3) provides for the situation where proceedings have been temporarily suspended and no further trial date has been set. This subsection enables the prosecution to give notice to the accused to appear and answer to the indictment at a further preliminary hearing. Subsection (5) of the new section 81A provides that the form of the notice shall be as prescribed by Act of Adjournal or as nearly as may be in that form.

**Section 8**

**Continuation of trial diet**

**New section 83A**

**subsection (1)(a)**

form of minute continuing trial diets.

**subsection (1)(b)**

number of days which the case may be continued.

- **Power conferred:** High Court of Justiciary
- **Power exercisable by:** Act of Adjournal
- **Parliamentary procedure:** none.

Section 8 inserts a new section 83A into the 1995 Act and makes provision for two different approaches which the court may take in appointing and continuing a trial diet. The trial diet may be appointed to a date on which the case must be called if the indictment is to remain ‘live’. The other approach is that the trial is appointed to a particular date on which it may call or may be continued administratively by the Clerk of Justiciary on a day to day basis without calling.

In relation to the latter subsection (1) of the new section provides that the form of the minute in respect of the continuation and the maximum number of days after the original diet over which the case may be continued administratively shall be as prescribed by Act of Adjournal.
Part 2  Solemn Proceedings Generally

Section 12  Reluctant witnesses

New section 90A
subsection (4)(b)(i) form of written application for warrant to apprehend witness
subsection (5) form of warrant for apprehension of witness.

Powers conferred on: High Court of Justiciary and sheriff court
Powers exercisable by: Act of Adjournal
Parliamentary procedure: none required.

Section 12 inserts into the 1995 Act new sections 90A to 90E setting out how the court may deal with reluctant witnesses. These sections make provision in relation to the apprehension of a reluctant witness and the options available to the court following the arrest of that witness.

Subsection (4)(a) of new section 90A provides that an application for a warrant for the apprehension of a reluctant witness may be made orally or in writing. Subsection (4)(b)(i) provides that written application must be in the form, or as nearly as may be in the form, prescribed by Act of Adjournal.

Under subsection (5) of new section 90A, when the court grants a warrant for the apprehension of a reluctant witness, that warrant must be in the form (or as nearly as may be in the form) set out by Act of Adjournal.

PART 4  Miscellaneous and general

Section 19  Citation of witness for precognition

New section 267A(2) form of citation.

Power conferred on: High Court of Justiciary and sheriff court
Power exercisable by: Act of Adjournal
Parliamentary procedure: none required.

Section 19 inserts a new section 267A into the 1995 Act, which re-enacts in an updated form section 67A of that Act. In particular, new section 267A provides that the 1995 Act is sufficient warrant to cite witnesses for precognition. Subsection (2) of that section provides that citation shall be in the form specified by Act of Adjournal.
Schedule: Minor and Consequential Modifications Of The 1995 Act

Paragraph 22(a)

Substitution of section 85(2) of the 1995 Act

lists of jurors.

Power conferred on: High Court of Justiciary
Power exercisable by: Act of Adjournal
Parliamentary procedure: None required.

The schedule is introduced by section 20 of the Bill. Paragraph 22(a) substitutes a new subsection (2) in section 85 (juries: citation and attendance of jurors) of the 1995 Act to take account of the proposed system in the High Court under which trials will be appointed by the court for a particular date rather than set down, by the Crown, for a sitting. The new subsection provides that the list and number of jurors shall be in such form as may be prescribed by Act of Adjournal.

B OTHER SUBORDINATE LEGISLATION POWERS

Part 2 Solemn Proceedings Generally

Section 12 Reluctant witnesses

New section 90B(8) application of new section 24A(10) (see paragraph 4.9 below).

Powers conferred on: the Scottish Ministers
Powers exercisable by: regulations made by statutory instrument
Parliamentary procedure: negative resolution of the Scottish Parliament.

As noted at paragraph 4.5 above section 12 inserts into the 1995 Act new sections 90A to 90E setting out how the court may deal with reluctant witnesses. Those sections make provision in relation to the apprehension of a reluctant witness and the options available to the court following the arrest of that witness. The options include the making of an order releasing the witness on bail, new section 90B(1)(b).

Subsection (8) of new section 90B applies certain provisions of new section 24A (bail conditions: remote monitoring of restrictions on movements) of the 1995 Act, inserted by section 14 of the Bill as they apply to an order under new section 24A. The provisions applied include subsection (10) of new section 24A. As noted below that subsection applies the regulation making powers under section 245A(8) and 245C(3) of the 1995 Act to orders under new section 24A as they apply to restriction of liberty orders. The nature of the powers under section 245A(8) and 245C(3) are outlined at paragraph 4.9 below.
Part 3  Bail

Section 14  Bail conditions: remote monitoring of restrictions on movements

New section 24A(10)  application of regulation making powers under section 245A(8) and 245C(3) of the 1995 Act to orders made under new section 24A.

Powers conferred on:  the Scottish Ministers
Powers exercisable by:  regulations made by statutory instrument
Parliamentary procedure:  negative resolution of the Scottish Parliament.

New section 24A provides that the court may, in the order admitting an accused to bail subject to a condition restricting the applicant’s movements, impose a requirement that compliance with that condition be remotely monitored.

Subsection (10) of the new section applies section 245A(8) to (10) and section 245C of the 1995 Act to such orders as they apply to restriction of liberty orders.

Subsection (8) of section 245A confers power to make regulations as to the court or class of court that may make orders; the method or methods of monitoring compliance; and the class or classes of offenders in respect of which orders may be made. Different provision may be made as to the method or methods of monitoring compliance and the class or classes of offenders in relation to different courts or classes of court.

Subsections (9) and (10) of section 245A make supplementary provision as to the power under subsection (8). Subsection (9) provides, without prejudice to the generality of power conferred by subsection (8) in relation to district courts that regulations under that subsection may make by reference to whether the court is constituted by a stipendiary magistrate or by one or more justices. Subsection (10) provides that regulations under subsection (8) may include transitional and consequential provisions.

Subsection (3) of section 245C confers power to make regulations specifying the devices which may be used for the purpose of remotely monitoring the compliance of an offender with the requirements of an order.

References in section 245A(8) to (10) and 245C(3) to an offender or offenders are by virtue of paragraph (a) of new section 24A(10) modified to read as if they were references to an applicant or applicants under the new section.

Regulations under section 245A(8) and 245C(3) are made by statutory instrument and subject to negative resolution of the Scottish Parliament. The powers are exercisable by the Scottish Ministers.
Part 4  Miscellaneous and General

Section 21  Ancillary provision

Power conferred on: the Scottish Ministers
Power exercisable by: order made by statutory instrument
Parliamentary procedure: negative resolution of the Scottish Parliament (affirmative if textually amending primary legislation).

Sections 21(1) enables Ministers to make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes or in consequence of the Act.

Under subsection (2) an order under section 21(1) may modify any enactment including any Act resulting from the Bill.

Section 21(4) stipulates that an order under section 21 which textually amends an Act is to be made under the “affirmative resolution” procedure. In all other cases the order will be made under the “negative resolution” procedure. The Executive considers that it is appropriate to apply the affirmative procedure where textual amendments are made to primary legislation but that for other provision negative resolution is appropriate.

Reason for taking power

The Bill makes a large number of important and technical changes to solemn criminal procedure. Those are effected by textual amendment of the 1995 Act. At present, the Executive has identified only a need for consequential changes to that Act. The Executive believes that it has, in the Bill, made all the appropriate changes to the 1995 Act. The possibility, however, of some consequential or collateral amendment to another statute being found to be necessary or expedient cannot be ruled out. Where any such amendments are identified while the Bill is before the Parliament amendments will be brought forward at Stage 2 or 3 to insert them into the Bill.

However, amendments to another statute may be identified at a stage where it is too late to include the provision in the Bill. That other statute could be, for example, the Act resulting from a contemporaneous Bill such as the Vulnerable Witnesses (Scotland) Bill, the events of the parliamentary passage of which it is impossible to predict with absolute certainty. For reasons of that kind, the power to make incidental, supplemental, consequential and saving provision, is contained in section 21(1).

For similar reasons it is thought necessary to seek power to amend any Act resulting from the Bill itself (albeit for the limited purposes authorised by section 21(1)). If, after the Bill is passed, a problem is identified with the way the new provisions introduced by the Act mesh with another statute or area of law, it would be desirable to have power to resolve the problem by making a change in the Bill itself (or Act as would then be) as opposed to making stand-alone supplemental provision where that would be the best way of dealing with it.
The power to make transitional, transitory and associated saving provisions is a standard way of moving from one statutory regime to another. Section 22(2)(b) also enables such provision to be made where necessary or expedient in connection with the coming into force of the Act. But that provision may be made only in the commencement order. The power to make provision of this kind under section 21 is not circumscribed in this way and could therefore be exercised after the commencement power (which, once exercised, is spent).

Section 22   Commencement and Short Title

Power conferred on:   the Scottish Ministers
Power exercisable by: order made by statutory instrument
Parliamentary procedure: none.

Section 22 provides for Scottish Ministers to appoint a day when the provisions of the Bill shall come into force. It also provides that different days may be appointed for different purposes. Section 22(2) provides for an Order under section 22(2) to makes such transitional, transitory or savings provision in connection with the coming into force of the provisions of the Bill as Scottish Ministers consider necessary or expedient in connection with the coming into force.

Reason for taking the power

This is a standard commencement provision to enable effective commencement of the Bill.

As the Financial Memorandum indicates, it is not intended to have phased implementation of any of the provisions. The High Court of Justiciary is managed and run as a single court. It is therefore proposed to bring in each of the core provisions of the Bill as a whole from a single date although different dates may be appointed for different types of provisions, e.g. preliminary hearings and bail.

It is anticipated that transitional provision will require to be made, at least in relation to the core provisions of the Bill that provide for the new preliminary hearings, to ensure the smooth implementation of the old solemn system to the new system. Appropriate transitional provision will be needed to ensure clarity about which existing cases are to be handled under the new procedures and which cases should continue to be handled under the procedures in force before that date. This will depend upon the stage at which the case has reached.
Appendix 2

THE CRIMINAL PROCEDURE (AMENDMENT) (SCOTLAND) BILL

On 16 December the Committee requested an explanation on the following matters:

The Committee questioned whether an error had occurred in respect of the failure of new section 24A(10) and, through it, new section 90B(8), to attract the provisions of section 245A(13) to (14) which make provisions as to the form in which regulations are to be made and the procedure to apply.

The Committee asked for an explanation as to the operation of sections 21 and 22 both of which contain power to make transitional transitory of saving provision but only the former of which is subject to Parliamentary procedure.

The Scottish Executive Justice Department responds as follows:

1. As regards the first point, the Executive accepts that there is a problem in respect of the failure to attract section 245A(13) to (14) of the 1995 Act and is grateful to the Committee for pointing this out. The Executive will bring forward an amendment at Stage 2 to address the matter. The Executive also notes the Committee’s concerns about the complexity of sections 90B(8) and 24A(10) and will consider these further.

2. As regards the second point, section 22 confers commencement powers and subsection (2)(b) of that section provides that the powers include power to make transitional, transitory or saving provision. Having regard to the nature of the provisions of the Bill which concerns criminal procedure, the Executive believes that it is clearly appropriate that there should be power to make transitional and savings provisions associated with commencement. The powers are exercisable so far as necessary or expedient in connection with the coming into force of the provisions brought into force. As is customary in the Scottish Parliament and at Westminster with commencement powers, whether or not they include power to make transitional and savings provisions, the commencement powers provided by section 22 are not subject to Parliamentary procedure.

3. There are good and sound reasons for absence of further Parliamentary procedure in the case of commencement orders because the purpose and effect of such orders are those which Parliament may properly be regarded as having approved in passing the relevant Act. Where any such order makes transitional provisions then those provisions will only be such as may be considered to have been within the contemplation of Parliament having regard to the terms and nature of the provision which it has passed and intends should be brought into effect. Any order which purported to go beyond that in order to evade Parliamentary scrutiny would undoubtedly, and rightly, be the subject of criticism. The power to include transitional provision in the commencement order would not extend to the amendment or modification of enactments because it is considered that this type of transitional provision does merit scrutiny.
4. Section 21 confers power to make ancillary provision for the purposes or in consequence of the Bill. This power also includes power to make transitional provisions and is, as the Committee notes, subject to Parliamentary procedure. This power is broader than that in section 22. It is possible that the need for transitional and savings provisions may be identified after the commencement of particular sections when the power in section 22 will no longer be available. The Executive accepts that it is appropriate that such provisions which may not have been the subject of scrutiny in relation to the purposes of the Bill should be the subject of Parliamentary procedure.

Scottish Executive Justice Department

18 December, 2003