AGENDA

2nd Meeting, 2006 (Session 2)

Tuesday 17 January 2006

The Committee will meet at 2.45 pm in Committee Room 6.

1. **Violence and knife crime:** The Committee will receive a briefing from Dr Michael Sheridan, Emergency Medicine Specialist Registrar, Southern General Hospital, Glasgow and Dr Jean Moller, Emergency Medicine Specialist Registrar, Royal Alexandria Hospital, Paisley.

   *Not before 3.15 pm.*

2. **Subordinate legislation:** Hugh Henry MSP (Deputy Minister for Justice) to move S2M-3803—

   That the Justice 2 Committee recommends that the draft Police Act 1997 Amendment (Scotland) Order 2006 be approved.

3. **Subordinate legislation:** The Committee will consider the following negative instruments—

   The Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment Regulations 2005 (SSI 2005/630)

   The Adults with Incapacity (Countsignatories of Applications for Authority to Intromit) (Scotland) Amendment Regulations 2005 (SSI 2005/631).

4. **Police, Public Order and Criminal Justice (Scotland) Bill (in private):** The Committee will consider a draft Stage 1 Report.

Tracey Hawe/Gillian Baxendale
Clerks to the Committee
Papers for the meeting—

Agenda Item 2

Cover Note (including SSI and Executive Note) J2/S2/06/2/1

Agenda Item 3

Cover Note (including SSI and Executive Note) J2/S2/06/2/2

Cover Note (including SSI and Executive Note) J2/S2/06/2/3

Agenda Item 4

Draft Report (PRIVATE PAPER) J2/S2/06/2/4

Letter from the Scottish Executive (PRIVATE PAPER) J2/S2/06/2/5

The following documents are circulated for information only—

Letter to the Justice 2 Committee from the Deputy Minister for Justice on the Adults with Incapacity Act 2000

Letter to the Justice 2 Committee from the Scottish Prison Service on Prisons and Young Offenders’ Institutions (Scotland) Rules 1994 (including press release)

Forthcoming meetings—

• Tuesday, 24 January 2006, 2pm, Committee Room 4

• Tuesday, 31 January 2006, 2pm, Committee Room 5
1. This Order was laid on 15 December 2005. Under Rule 10.6.19(b), the Order is subject to affirmative resolution before it can be made. It is for the Justice 2 Committee to recommend to the Parliament whether the Order should be approved. The Deputy Minister for Justice seeks the Justice 2 Committee’s recommendation that the Order be approved.

2. The Subordinate Legislation Committee considered the instrument at its meeting on 20 December 2005, and agreed to draw the attention of Parliament to it on the grounds of the Order being made by what appears to be an unusual use of the power. The relevant extract from the Committee’s report is attached as Annex A.

3. The Deputy Minister will attend this Committee meeting. The discussion will begin with an opportunity for members to ask any factual questions or ask for clarification, whilst officials are seated at the table with the Minister. The Deputy Minister will then be asked to move the motion to open the debate. The Committee will then formally debate the motion. Officials cannot take part in that debate. The debate is limited to a maximum of 90 minutes (Rule 10.6.3), but may be much shorter. At the end of the debate the Committee must decide whether or not to agree the motion and report to the Parliament accordingly.
4. If members have any queries or points of clarification on the instrument which they wish to have raised with the Scottish Executive in advance of the meeting, please could these be passed to the Clerk to the Committee as soon as possible.

Clerk to the Committee
12 January 2005
Annex A

This instrument provides for the correction of a number of drafting errors in the Serious Organised Crime and Police Act 2005. It also creates new regulation-making powers in relation to criminal records checks and the manner in which associated fees may be paid.

The Order is made under the powers in section 173(1)(a) of the 2005 Act which confers a general power on Ministers to make such supplementary, incidental or consequential provisions as they “consider appropriate for the general purposes or any particular purpose” of the 2005 Act or in consequence of, or giving effect to, any provision made by the Act.

The Committee considers the creation of legislative powers by way of subordinate legislation under such an ancillary power to be an unusual use of that power and reports the instrument to the lead Committee and Parliament on that ground.
JUSTICE 2 COMMITTEE

2nd Meeting 2006 (Session 2)

Tuesday 17th January 2006

SSI title and number: The Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment Regulations 2005 (SSI 2005/630)

Type of Instrument: Negative

Meeting: 17 January 2006

Date circulated to members: 12 January 2006

Justice 2 Committee deadline to consider SSI: 30 January 2006

Motion for annulment lodged: No

SSI drawn to Parliament's attention by Sub Leg Committee: No
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Dear Annabel

Adults with Incapacity (Scotland) Act 2000 – vehicle for legislative changes

I was pleased to have the opportunity to report on progress on the Adults with Incapacity (Scotland) Act 2000 (the 2000 Act) at your meeting on 13 December. I am now delighted to be able to advise that Cabinet agreement has been secured to include the changes to the 2000 Act in the Protection of Vulnerable Adults (Scotland) Bill which was announced in the First Minister’s statement on the legislative programme for 2006-07.

I outlined these changes in my letter to you of 6 December 2005. The proposed changes do not deviate from the original policy intentions of the 2000 Act but aim to ensure that the legislation is better able to meet its objectives by simplifying and streamlining the protections for adults with incapacity and improving access to them. The detail of the changes is currently being considered following the consultation - “Improving with Experience”- which closed on 4 November.

I am copying this letter to the Convener of the Justice 1 Committee for information.

Hugh Henry

HUGH HENRY
11 January 2006

Ms Tracey Hawe  
Clerk to Justice 2 Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

Dear Ms Hawe

THE PRISONS AND YOUNG OFFENDERS’ INSTITUTIONS (SCOTLAND) RULES 1994

I am writing to offer you some background and further information on a Statutory Instrument which Ministers are laying before Parliament to amend the above Rules. The purpose of the amendment is to increase the period of short (home) leave that may be granted to a prisoner, in terms of Rule 120, from 3 nights to 7 nights.

In May 2004 the Minister for Justice announced a package of measures to improve prison conditions and make more effective use of custody following Lord Bonomy’s judgment in the Napier case. As part of this package Ms Jamieson announced that Ministers had agreed to enhance home leave arrangements for low risk long-term prisoners nearing the end of their sentences. I am pleased to attach the news release that accompanies the laying of the Statutory Instrument. This explains its purpose and outlines the considerable progress that has been made since the Minister’s announcement 18 months ago. Following on from the physical improvements which have been made to the prison estate, and the passage of the Management of Offenders Act with its focus on reducing re-offending, the time is now right to put in place the arrangements for enhanced home leave.

We are conscious that the 1994 Rules have been amended on a number of occasions and that the Committee may wish to understand what work is underway on consolidation. The Scottish Prison Service (SPS) and the Office of the Solicitor to the Scottish Executive (OSSE) are working on a consolidation of the Rules but have not yet been able to complete the task – not least because of the work involved in the court cases following the Napier judgement and other legal challenges raised on behalf of prisoners.
A consolidation of the Rules will require the existing Rules to be renumbered. We have had some concern about confusion arising if certain of the Rules are renumbered, for example the current Rule 80 which deals with the removal of prisoners from association. The numbering of these Rules is well known to prisoners and any change may give rise to apprehension by prisoners (at least in the short term) that we had changed the Rules rather than just renumbered them. A change to rule numbers would also require us to amend certain forms and paperwork commonly used within prisons. We are working to resolve these and other practical issues and to identify the best way to ensure the Rules are consolidated on a regular basis.

I hope this is helpful.

Yours sincerely

RACHEL GWYON
Director of Corporate Services
NEWS
RELEASE

Making more effective use of Custody

In May 2004 the Minister for Justice announced a package of measures to improve prison conditions and make more effective use of custody following Lord Bonomy’s Judgement in the Napier case. These measures included:

- additional investment in the prison estate to help eradicate slopping out;
- the creation of an additional 200 places in rapid build units on existing SPS sites;
- the use of electronic tagging to reduce remands; and
- enhanced arrangements for home leave for prisoners nearing the end of their sentences.

Considerable progress has been made since the Minister’s announcement 18 months ago. SPS ended slopping out in HMP Barlinnie in July 2004 after more than 100 years and at HMP Edinburgh in June 2005 after more than 80 years. SPS’s redevelopment of HMYOI Polmont continues and slopping out is planned to end there in 2006. New accommodation has also now been opened in HMP Glenochil.

SPS has reduced the number of places without access to night sanitation, from 1,905 in 2001 to 375 in 2006. This now means that 94% of all prisoner places have access to night sanitation. No prisoner now shares a cell in slopping out conditions.

The quick build accommodation at HMP Castle Huntly and HM Institution Cornton Vale have also been completed and are now occupied. In total this represents an investment of approximately £260m in Scotland’s prisons since the conclusion of the Prisons’ Estates Review in 2002.

Following on from the physical improvements which have been made to the Prison Estate and to promote the most effective use of custody, enhanced arrangements for home leave for prisoners at the end of their sentences are being put in place. This will mean an increase in the maximum period of home leave from 3 to 7 days.

Prior to prisoners being eligible to participate in these arrangements they will, as at present, have to meet a number of defined criteria and be subject to a rigorous risk assessment. Only those prisoners who are deemed to be a low risk will be allowed to participate.

As well as helping to address the issues arising from Lord Bonomy’s judgment there are some additional benefits arising from these arrangements:

- it will assist in maintaining family relationships, which is widely considered to be of great value in reducing re-offending;
• all long-term prisoners should have an allocated social worker from the area they are returning to. Increased home leave gives a potential of more frequent contact with these social workers pre-liberation; and

• it will also help offenders build links with other services in their home area, which will support their re-integration back into the community.

Tony Cameron (Chief Executive of the Scottish Prison Service) said, “I am pleased with the progress that we have made in delivering the commitments made by the Minister in her announcement in May 2004. We have made considerable progress to realising our vision of a prison estate that is fit for purpose for the 21st century. After a great deal of preparatory work we are now in a position to implement further reforms in making more effective use of our prisons through these enhanced arrangements for home leave.

Tom Fox
Head of Communications
Scottish Prison Service
Tel: 0131 244 8463
Fax: 0131 244 8648

Note to News Editors

1. The Justice Minister announced the package of measures to reform prison conditions in response to PQ S2W-08152 answered on 12 May 2004.

2. Enhanced home leave makes provision for prisoners to spend up to a maximum 7 days at a time at home preparing for release.

3. All prisoners will be subject to strict license conditions and can be returned to custody at any time.

4. This initiative will effect a maximum of 6% of the prison population.