The Committee will meet at 2.00 pm in Committee Room 4.

1. **Item in private:** The Committee will consider whether to take item 5 in private.

2. **Police, Public Order and Criminal Justice (Scotland) Bill:** The Committee will take evidence on proposed Scottish Executive amendments to this Bill in relation to the management of sex offenders from—

   Hugh Henry MSP, Deputy Minister for Justice
   
   Ian Fleming, Police Division 1, Justice Department, Scottish Executive

3. **Police, Public Order and Criminal Justice (Scotland) Bill:** The Committee will consider the Bill at Stage 2 (Day 2).

4. **Legislative consent memorandum on the Police and Justice Bill:** The Committee will take evidence on the legislative consent memorandum on the Police and Justice Bill, currently under consideration in the UK Parliament, from—

   Hugh Henry MSP, Deputy Minister for Justice
   
   Bill Barron, Police Division 1, Justice Department, Scottish Executive

5. **Work programme:** The Committee will consider its work programme.

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

**Agenda Item 2**

Correspondence from Scottish Executive (including draft amendments) J2/S2/06/6/1

SPICe briefing on sex offenders notification regime (revised) J2/S2/06/6/2

**Agenda Item 3**

2nd Marshalled List of Amendments for Stage 2 (Day 2) – to follow

Groupings – to follow

Members are reminded to bring with them copies of the Bill, Explanatory Notes and Policy Memorandum, available from Document Supply or from the Parliament’s website (http://www.scottish.parliament.uk/business/bills/46-policePublic/index.htm) together with any papers from the Stage 1 process that are considered relevant (such as the Committee’s Stage 1 Report)

**Agenda Item 4**

Note by Clerk (including Legislative Consent Memorandum) J2/S2/06/6/3

Members are reminded to bring with them previously circulated copies of the Bill and Explanatory Notes

**Agenda Item 5**

Note by Clerk (PRIVATE PAPER) J2/S2/06/6/4

Note by Clerk (PRIVATE PAPER) J2/S2/06/6/5

Legal Profession and Legal Aid (Scotland) Bill, with Explanatory Notes and Policy Memorandum

**Documents circulated for information only—**

Justice 2 Committee’s Brussels visit – Scottish Executive Outline Commentaries

Letter from Finance Committee on Inquiry into Accountability and Governance, 1 March 2006

**Forthcoming meetings—**

- Tuesday 14 March 2006, 2pm, Committee Room 5
- Tuesday 21 March 2006, 2pm, Committee Room 2
DRAFT AMENDMENTS

Police, Public Order and Criminal Justice (Scotland) Bill – Stage 2
Draft amendments in relation to control of sex offenders

Please note that the following are draft amendments only.

After section 72

Hugh Henry

1 After section 72, insert—

<

Powers to take data and samples from persons subject to notification requirements
(1) After section 19A of the 1995 Act there is inserted—

“19AA Samples etc. from sex offenders

(1) This section applies where a person is subject to the notification requirements of Part 2 of the 2003 Act.

(2) This section applies regardless of whether the person became subject to those requirements before or after the commencement of this section.

(3) Subject to subsections (4) to (7) below, where this section applies a constable may—

(a) take from the person or require the person to provide him with such relevant physical data as the constable considers reasonably appropriate;

(b) with the authority of an officer of a rank no lower than inspector, take from the person any sample mentioned in any of paragraphs (a) to (c) of subsection (6) of section 18 of this Act by the means specified in that paragraph in relation to that sample;

(c) take, or direct a police custody and security officer to take, from the person any sample mentioned in subsection (6A) of that section by the means specified in that subsection.

(4) The power conferred by subsection (3) above shall not be exercised where the person has previously had taken from him or been required to provide relevant physical data or any sample under section 19(2) or 19A(2) of this Act unless the data so taken or required have been or, as the case may be, the sample so taken has been, lost or destroyed.

(5) The power conferred by subsection (3) above shall not be exercised where the person has previously had taken from him or been required to provide relevant physical data or any sample under that subsection unless the data so taken or required or, as the case may be, the sample so taken—

(a) have or has been lost or destroyed; or

(b) were or was not suitable for the particular means of analysis or, though suitable, were or was insufficient (either in quantity or quality) to enable information to be obtained by that means of analysis.

(6) The power conferred by subsection (3) above may be exercised only—

(a) in a police station; or
DRAFT AMENDMENTS

(b) where the person is in legal custody by virtue of section 295 of this Act, in the place where the person is for the time being.

(7) The power conferred by subsection (3) above may be exercised in a police station only—

(a) in pursuance of a requirement made by a constable to attend for the purpose of exercising the power; or

(b) while the person is in custody in the police station following his arrest or detention under section 14(1) of this Act in connection with an offence under section 91(1) of the 2003 Act.

(8) A requirement under subsection (7)(a) above—

(a) shall give the person at least seven days’ notice of the date on which he is required to attend; and

(b) may direct him to attend at a specified time of day or between specified times of day.

(9) A requirement under subsection (7)(a) above in a case where the person has previously had taken from him or been required to provide relevant physical data or any sample under subsection (3) above shall contain intimation that the relevant physical data were or the sample was unsuitable or, as the case may be, insufficient, as mentioned in subsection (5)(b) above.

(10) Before exercising the power conferred by subsection (3) above in a case to which subsection (7)(b) above applies, a constable shall inform the person that he is exercising that power.

(11) Any constable may arrest without warrant a person who fails to comply with a requirement under subsection (7)(a) above.

(12) In this section, “the 2003 Act” means the Sexual Offences Act 2003 (c.42).”.

(2) Section 19B of the 1995 Act (power of constable in obtaining relevant physical data etc.) is amended as follows—

(a) in subsection (1)—

(i) in paragraph (a), for “or 19A(2)(a)” there is substituted “, 19A(2)(a) or 19AA(3)(a)”;

(ii) in paragraph (b), for “or 19A(2)(b)” there is substituted “, 19A(2)(b) or 19AA(3)(b)”;

(b) in subsection (2), for “or 19A(2)(c)” there is substituted “, 19A(2)(c) or 19AA(3)(c)”.

(3) For sections 87(4) and (5) of the Sexual Offences Act 2003 (“the 2003 Act”) (power to take fingerprints etc to verify person’s identity), there is substituted—

“(5A) Where a notification is given in Scotland under section 83(1), 84(1) or 85(1), the relevant offender must, if requested to do so by the police officer or person referred to in subsection (1)(b)—

(a) allow the officer or person to photograph the offender,

(b) allow the officer or person to take from the offender, or provide to the officer or person, such relevant physical data as the officer or person considers appropriate,
DRAFT AMENDMENTS

(c) allow the officer or person to take from the offender any sample mentioned in any of paragraphs (a) to (c) subsection (6) of section 18 of the Criminal Procedure (Scotland) Act 1995 by the means specified in that paragraph in relation to that sample,

(d) allow the officer or person to take from the offender any sample mentioned in subsection (6A) of that section by the means specified in that subsection, or

(e) do any two, three, or all, of those things.”.

(4) In section 88 of the 2003 Act (interpretation of section 87), after subsection (2) there is inserted—

“(2A) “Relevant physical data” has the meaning given by section 18(7A) of the Criminal Procedure (Scotland) Act 1995.

(5) In section 91(1)(a) of the 2003 Act (offence of failing to complying with certain provisions of Part 2, including section 87(4), after “87(4)” there is inserted “, (5A)”.

Hugh Henry

2 After section 72, insert—

<Control of sex offenders

Sex offender notification requirements

(1) Section 83 of the 2003 Act (which requires certain offenders to make an initial notification of certain information) is amended in accordance with subsections (2) and (3).

(2) In subsection (5), after paragraph (g) there is inserted—

“(h) whether he has any passports and, in relation to each passport he has, the details set out in subsection (5A);

(i) such other information, about him or his personal affairs, as the Scottish Ministers may prescribe in regulations.

(5A) The details are—

(a) the issuing authority;

(b) the number;

(c) the dates of issue and expiry;

(d) the name and date of birth given as being those of the passport holder.”.

(3) After subsection (7), there is inserted—

“(8) In this section, “passport” means—

(a) a United Kingdom passport within the meaning of the Immigration Act 1971 (c.77); 

(b) a passport issued by or on behalf of the authorities of a country outside the United Kingdom, or by or on behalf of an international organisation;

(c) a document that can be used (in some or all circumstances) instead of a passport.”.
DRAFT AMENDMENTS

(4) Section 84 of the 2003 Act (which requires certain changes to notified information to be notified within 3 days) is amended in accordance with subsections (5) and (6).

(5) In subsection (1)—

(a) the word “or” immediately after paragraph (c) is repealed;

(b) after paragraph (d) there is inserted—

“(e) his losing or ceasing to have a passport notified to the police under section 83(1) or this subsection,

(f) his receiving a passport which has not been notified to the police under section 83(1) or this subsection, or

(g) the occurrence, in relation to information required to be notified by virtue of regulations made under section 83(5)(i), of an event prescribed by the Scottish Ministers in regulations.”; and

(c) for “(as the case may be) the fact that he has been released” there is substituted “the fact that he has been released, the fact that he has lost or ceased to have the passport, the details set out in section 83(5A) in relation to the passport or (as the case may be) such information as the Scottish Ministers prescribe in regulations”.

(6) After subsection (1), there is inserted—

“(1A) In subsection (1), “passport” has the same meaning as in section 83.”.

(7) In section 87 of the 2003 Act (method of notification and related matters), after subsection (5A) (as inserted by section (Powers to take data and samples from persons subject to notification requirements)) there is inserted—

“(5B) Where a notification is given in Scotland under section 83(1), 84(1) or 85(1), the relevant offender must, if requested to do so by the police officer or person referred to in subsection (1)(b), produce each passport he has to that officer or person, for inspection by that officer or person.

(5C) In subsection (5B), “passport” has the same meaning as in section 83.”.

(8) In section 91(1)(a) of the 2003 Act (offences of failing to comply with certain provisions), after “(5A)” (as inserted by section (Powers to take data and samples from person subject to notification requirements)) there is inserted “or (5B)”.

(9) In section 138 of the 2003 Act (orders and regulations), in subsection (2), after “21,” there is inserted “83, 84,”.

Hugh Henry

3 After section 72, insert—

<Information about release: power to require giving of specified information

In section 96 of the 2003 Act (information about release or transfer), after subsection (2) there is inserted—

“(2A) The regulations may make provision requiring the person who is responsible for an offender, in giving notice under the regulations, to give notice of information about the offender, or his personal affairs, specified in the regulations.”.>
Hugh Henry

4  After section 72, insert—

<Police powers of entry and examination of relevant offender’s home address

After section 96 of the 2003 Act there is inserted—

“Entry and examination of home address

96A Police powers of entry and examination of relevant offender’s home address

(1) A sheriff may, if satisfied on the application of a senior police officer of the relevant force as to the matters mentioned in subsection (2), grant a warrant authorising any constable of the relevant force to enter premises in the sheriffdom (if necessary using reasonable force) and to examine and search them, and anything in them, for the purpose mentioned in subsection (3).

(2) Those matters are—

(a) that either—

(i) the address of the premises has been notified as the home address of a relevant offender in his most recent notification of a home address under this Part; or

(ii) there are reasonable grounds for believing that a relevant offender resides there, or may regularly be found there;

(b) that the offender is not one to whom subsection (4) applies;

(c) that it is necessary, for the purpose mentioned in subsection (3), for a constable of the relevant force to examine and search the premises and anything in them; and

(d) that on more than one occasion, a constable of the relevant force has sought entry to the premises in order to examine and search them, and anything in them, for the purpose mentioned in subsection (3), and has been unable to obtain entry for that purpose.

(3) That purpose is assessing the risks posed by the offender.

(4) This subsection applies to the relevant offender if he is—

(a) remanded in or committed to custody by an order of a court;

(b) serving a sentence of imprisonment or a term of service detention;

(c) detained in a hospital; or

(d) outside the United Kingdom.

(5) A warrant under subsection (1) does not confer power to seize anything in the premises to which it relates.

(6) A warrant under subsection (1) must be executed at a reasonable hour.

(7) A warrant under subsection (1) continues in force until the earlier of—

(a) the purpose for which the warrant was granted having been satisfied; and

(b) the expiry of the period of one month beginning with the date of the warrant’s grant.
DRAFT AMENDMENTS

(8) This section does not prejudice any other power of entry, examination, search or seizure.

(9) In this section—

“the relevant force” means the police force maintained for the area in which the premises are situated; and

“senior police officer” means a constable of the rank of superintendent or above.”.

Section 89

Hugh Henry

5 In section 89, page 55, line 35, leave out <and>

Hugh Henry

6 In section 89, page 55, line 36, at end insert <; and

“the 2003 Act” means the Sexual Offences Act 2003 (c.42).>
POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) BILL

1. I would like to thank the committee for providing the opportunity for Scottish Executive officials to give evidence on the amendments the Executive intends to lodge during Stage 2 to the Justice 2 committee on 21 February. During that evidence session a number of points were raised on which officials undertook to write to you. This letter responds to the points raised during the discussions on the proposed amendments on the management of sex offenders and on mandatory drug testing and assessment.

Irving Report – management of sex offenders

2. The Committee wanted to know whether the proposed amendment to enable the police to take DNA samples from registered sex offenders would allow such samples to be taken and retained from people who had not been convicted.

3. The proposal is that a DNA sample should be taken and retained from any person who is subject to the sex offenders notification requirements (the sex offenders register). If this proposal is accepted it will mean that the police will be able to take and retain DNA samples from any person who is a registered sex offender, if the police do not already have a DNA sample for such a person. It is also proposed that the police should be able to take a DNA sample from a registered sex offender for identification purposes when that offender attends a police station to notify.

4. Section 80 of the Sexual Offences Act 2003 (the “2003 Act”) sets out the categories of person who are subject to the notification requirements:

   • people convicted of an offence listed in Schedule 3 to the Act;
people found not guilty by reason of insanity of such an offence;

people found to be under a disability and to have been under the act charged against them in respect of such an offence; or

people cautioned in England, Wales or Northern Ireland, or in the case of young people under 18, reprimanded or warned by the police after they have committed the offence.

5. In accordance with sections 97-99 of the 2003 Act, anyone in a foreign country who has received a conviction for a sexual offence or has been found by a court to have committed a sexual offence, or who is cautioned, will be subject to the sex offenders notification requirements if they move to the UK.

6. The proposed amendment will therefore allow DNA to be taken and retained from any people who have been convicted of a sexual offence and where a court has made a finding that the registered sex offender has committed a sexual offence.

7. DNA samples will be able to be retained from a registered sex offender who has been cautioned for a sexual offence in England, Wales and Northern Ireland (or in another country), if that person moves to Scotland. A person receives a caution whenever they formally admit and that they have committed an offence. It is therefore formally recorded that these individuals have committed a sexual offence.

8. All categories of person who are subject to the sex offenders notification scheme are subject to the scheme because a court has found that they have committed a sexual offence, or it has been formally recorded that a sexual offence has been committed by them. These persons are subject to the sex offenders notification requirements due to the nature of the offence they have committed and they are considered to pose an increased risk to the public.

9. All registered sex offenders may be required to provide the police with their fingerprints and have their photograph taken when they attend a police station for notification purposes (section 87(4) and (5) of the 2003 Act). Professor Irving felt this notification regime could be strengthened if the police could also take and retain the DNA samples from any registered sex offender which they do not hold.

10. In any event, the proposals to obtain DNA from registered sex offenders will be largely consistent with the current arrangements for taking and retaining prints and samples, such as DNA, under sections 18, 19 and 19A of the Criminal Procedure (Scotland) Act 1995. For example, section 19A(6) of the 1995 Act already makes it clear that prints and DNA can be taken (and retained) from sex offenders who have been acquitted of a sexual offence on the grounds of insanity. Similarly the police already take and retain DNA from individuals who are subject to the notification requirements by virtue of being found to be under a disability and to have done the act charged.

11. The effect of the proposed amendment will be to enhance the effectiveness of the information held by the police on the sex offenders register and the national DNA data base to ensure that DNA samples of all registered sex offenders in Scotland, including those who fall into the categories set down in section 80 of the 2003 Act, are retained.

12. Finally, having read the Official Report of last week’s evidence taking session, I realise that officials may have unintentionally misled the Committee in one important aspect, namely our
proposal to provide the police with powers to enter and search the home of registered sex offenders. I would like to take the opportunity in this letter to clear that misconception up.

13. In response to a specific query about the purpose for such powers, officials stated that it would be used by the police solely for the purposes of validating the information held by the police on the sex offenders register. In fact, the purpose of such a power would be to enable the police to enter and search the home of a registered sex offender in order to assess the risks posed by the offender, if there is no other way to assess this risk. This is made clear in the draft provision which was being made available to the Committee on Thursday 2 March.

Mandatory drug testing and assessment

14. The committee also asked about how a person who was required to attend an assessment but whose appointment date for that assessment was changed, would be informed of that change in assessment date. Specifically how notices of altered assessment dates would be delivered and by whom.

15. When a person who has tested positive reports to get the date and time of their assessment, their contact details will be taken. The person will be made aware that it is in their best interests to ensure that there is sufficient opportunity for them to be contacted as failure to attend for the assessment would be regarded as a new offence. In the event that it proves necessary to change the date for the assessment a recorded delivery letter will be sent to the person advising of the new appointment details.

16. I hope you find this response helpful and look forward to discussing these issues further with you as Stage 2 continues.

Yours sincerely

Hugh Henry

HUGH HENRY
A review of the operation and effectiveness of the sex offender notification regime in Scotland, carried out on behalf of the Executive by Professor George Irving in 2005, found that there was a need for more efficient risk assessment and risk management within the system. The resulting report “Registering the Risk” produced 36 recommendations to improve the system most of which were accepted by the Executive. The Executive intends to implement two of the recommendations by lodging amendments to the Police, Public Order and Criminal Justice (Scotland) Bill (the Police Bill) currently before the Parliament.

The recommendations the Executive intends to take forward by amendment to the Police Bill relate to:

- extending the notification requirements in relation to the Sex Offenders Register (Recommendation 1) and
- giving police the power of entry to the home or place of residence of sex offenders for the purposes of undertaking a risk assessment, monitoring their activities and validating the information contained in the Register (Recommendation 19). This would include the power to search the premises.

This briefing gives some policy background to these two recommendations by providing information on the system currently in place in Scotland for monitoring sex offenders. In order to present a fuller picture of measures adopted to deal with concerns about sex offenders, it also provides information on the system for preventing unsuitable people working with children.

**Notification requirements**

The **Sex Offenders Act 1997** (the 1997 Act) introduced a requirement for those who have committed certain serious sexual offences, including rape and indecent assault, to register their name and address with the police (this is what is often referred to as the Sex Offenders Register). Offenders are required to register with their local police whenever they move residence throughout the period when registration is required, and failure to register is a criminal offence. The Act applies across the United Kingdom, and sex offenders moving between jurisdictions within the United Kingdom have
identical registration requirements, and commit the same offence in each jurisdiction if they fail to register.

The **Criminal Justice and Court Services Act 2000**\(^1\) (the 2000 Act) introduced significant changes to the notification and registration regime including:

- a reduction in the initial period during which offenders must register from 14 days to 3 days and a requirement that initial notification to the police be in person
- a new power for the police, on initial notification, to take fingerprints and photographs of the offender
- a provision enabling the Scottish Ministers to prescribe by regulations those police stations at which notifications may be made
- an increase in the maximum penalty for a failure to comply with the 1997 Act’s requirements from six months to five years imprisonment on indictment
- a new requirement that a relevant offender must notify the police of his or her intention to leave the United Kingdom (including for holidays) and of his or her return

In 2000/01, the Home Office and Scottish Executive jointly reviewed and consulted on the 1997 Act and on sexual offences more broadly. The proposals from the joint review fed into a white paper, *Protecting the Public* (Cm 5668), published in November 2002. As a result, the Sexual Offences Bill was introduced in the House of Lords on 29 January 2003. The resulting **Sexual Offences Act 2003** (the 2003 Act) came into force on 1 May 2004.

The 2003 Act repealed the 1997 Act in its entirety, together with Schedule 5 of the 2000 Act. Schedule 5 contained the amendments to the 1997 Act listed above. The notification requirements of the Sex Offenders Act 1997, as amended by the 2000 Act, were replaced by **Part 2** of the 2003 Act.

Under Section 83 of the 2003 Act a relevant offender\(^2\) is currently required to give notification of his:

- date of birth
- national insurance number
- name or names on the relevant date (i.e. date on which convicted of a relevant offence or found not guilty by reason of insanity)
- home address on the relevant date

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\(^1\) Following a joint review of the Sex Offenders Act by the UK Government and the Scottish Executive, the Executive introduced motion S1M-1240 to the Parliament to enable Westminster to extend these provisions of the Criminal Justice and Court Services Bill to Scotland.

\(^2\) Relevant offenders are those who were convicted of a relevant offence, or were found to be under a disability and to have done the act charged in respect of such an offence, or found not guilty by reason of insanity. Relevant offences are listed in Schedule 3 to the 2003 Act and include: rape, abduction of woman or girl with intent to rape, assault with intent to rape or ravish, indecent assault and lewd, indecent or libidinous behaviour or practices.
• name on the date on which notification is given and, where he uses one or more other names on that date, each of those names
• home address on the date on which notification is given
• address of any other premises in the United Kingdom at which, at the time the notification is given, he regularly resides or stays

Proposed amendment to the Police Bill - Extension of notification requirements
Irving argues that the police require more comprehensive information about sex offenders to enable them to conduct more accurate risk assessments and to better monitor sex offenders in the community. He recommends, therefore, that notification requirements should be extended to include: household details – partner, other occupants, children; main associates; leisure activities; employment; vehicle and access thereto; telephone numbers; computers – internet access; bank account details (for tracking purposes if necessary); passport details; provision of a DNA sample if not already taken at the time of charge or conviction.

The risk assessment process
The need for improvements in the way serious violent and sexual offenders were assessed and monitored in the community was identified in the report of the MacLean Committee on Serious Violent and Sexual Offenders. The Committee was set up in March 1999 and reported to the Scottish Parliament in June 2000. MacLean produced a number of recommendations relating to sentencing disposals for and management and treatment of high risk offenders, including high risk sex offenders. These included proposals for a new authority to assess the risk to the public posed by violent and sexual offenders (Recommendation 5) and a new sentence – the Order for Lifelong Restriction, for certain categories of violent and sexual offender who present a continuing threat of re-offending (Recommendation 12).

Risk Management Authority
The Risk Management Authority (RMA) was established by section 3 of the Criminal Justice (Scotland) Act 2003. The role of the RMA is to ensure the effective assessment, management and minimisation of risk of serious violent and sexual offenders. It is also intended to be the national centre for expert advice on offender risk assessment and management. The RMA is directly accountable to the Scottish Ministers. The 2003 Act also established the Order for Lifelong Restriction (OLR) as a new High Court disposal for high risk sexual and violent offenders. Before an OLR can be imposed, the court must make a Risk Assessment Order under which a risk assessment is prepared by an assessor accredited by the RMA. The offender may also instruct his own risk assessment, and has the opportunity to challenge the report prepared for the court.

The Expert Panel on Sex Offending
The Expert Panel on Sex Offending was set up in 1998 under the Chairmanship of Lady Cosgrove. Although established earlier, the Expert Panel reported after the MacLean Committee. While the MacLean Committee
dealt only with serious violent and sexual offenders, the Report of the Expert Panel on Sex Offending produced 73 recommendations for improving risk assessment, risk management and monitoring sex offenders more generally. Most of the recommendations were accepted by the Executive and, where necessary, given legislative effect including:

- a requirement for judges to ask for both a social enquiry report and a psychological assessment where an offender is convicted on indictment of a sexual offence, or an offence with a significant sexual element
- amendments to broaden the scope of offences to which the notification requirements apply
- extension of the requirement to provide notification to include any offender convicted of any crime containing a sexual element, at the discretion of the sentencing judge
- placing a statutory duty on Chief Constables and Chief Social Work Officers to establish joint arrangements for assessing, monitoring and managing risk.

The Management of Offenders etc (Scotland) Act

The Management of Offenders etc (Scotland) Act 2005 (the 2005 Act) makes various changes in relation to the assessment and management of risk. These include placing a duty on the responsible authorities within a local authority to establish joint arrangements for the assessment and management of risks posed by certain categories of offender, including those subject to the sex offender notification requirements under Part 2 of the Sexual Offences Act 2003. It also gives the Scottish Ministers an order making power to compel other agencies to co-operate with the relevant authorities to implement these arrangements. The 2005 Act also gives the court, in the case of a mentally disordered offender who meets both the risk criteria for an OLR and the criteria for a Compulsion Order, the power to choose between these two disposals.

Police powers of entry

In general the police in Scotland do not have the right to enter a person’s house or other private premises without their permission. However, they can enter without a search warrant under any of the following circumstances:

- when in close pursuit of someone who has committed, or attempted to commit, a serious crime
- to quell a disturbance
- if they hear cries for help or of distress
- to enforce an arrest warrant

Proposed amendment to Police Bill – police right of entry to a sex offender’s home or residence

The police have no greater powers of entry in relation to the homes or places of residence of sex offenders, than they do for any other individual or group. The joint review of sex offender registration carried out by the Home Office
and Scottish Executive in 2000 considered the issue of whether the police should have the power of entry to a sex offender’s home or residence. The review team concluded that a power of entry could not be justified on the grounds that observing an offender and their belongings at an address one day does not mean that they will be there the next. The review group recognised that there was a problem with keeping an offender’s details up to date, but decided that the way to deal with this was by requiring annual re-notification (Section 85 of the Sexual Offences Act 2003) rather than increasing police powers to visit them.

Despite the fact that the police have no specific powers of entry to a sex offender’s home, a research study for the Home Office “Where Are They Now?: An evaluation of sex offender registration in England and Wales” (July 2000) found that almost all offenders co-operated with home visits.

Nevertheless, Irving has identified a concern that some sex offenders do not co-operate in this way. He recommends, therefore, that there should be a statutory police power of entry to the home or residence of a registered sex offender, to check that his details are correct or to help with risk assessment. (Recommendation 19)

The Executive intend to go beyond this recommendation to give the police the power to apply for a (civil) court order which would include powers of entry and search.

Protecting children
The following sections provide some background on measures in place in Scotland for preventing unsuitable people from working with children.

Disqualified from Working with Children List
Lord Cullen’s 1996 report of the Public Inquiry into the shootings at Dunblane Primary School, and the Children’s Safeguards Review (the Kent Report) in England and Wales, identified the need for adequate checks on the suitability of people working with children and young people. At this time the only list of individuals deemed unsuitable to work with children in Scotland was List 1R maintained by the Scottish Executive Education Department. This list, now discontinued, held details of those who had been struck off, or refused admission to the Register of the General Teaching Council for Scotland.

Following an Executive consultation “Protecting Children, Securing their Safety”, a new list “the Disqualified from Working with Children List” (DWCL) was established by the Protection of Children (Scotland) Act 2003. The DWCL is maintained by the Scottish Ministers and is designed to prevent people who have harmed children in the past working with children, in paid or voluntary work. People may be referred to the DWCL either by their employer, if they have harmed a child or put a child at risk of harm and been dismissed or moved as a consequence, or by the courts if they are convicted (or acquitted on grounds of insanity) of certain offences involving children which demonstrates their unsuitability.
The list and accompanying measures came into force in January 2005 and provide that:

- disqualified people commit an offence if they apply for work or continue to work with children
- organisations must refer people in child care positions to the list if they harm a child or put a child at risk and are dismissed or moved away from contact with children as a consequence
- organisations can check whether people they are considering appointing to child care positions are disqualified
- organisations can make retrospective referrals to the list if they have appropriate evidence
- organisations which fail to check whether people they are considering appointing to a child care position are on the list commit an offence

**Disclosure System**

The system under which information on an individual’s criminal convictions can be disclosed to employers is operated by Disclosure Scotland which was established in 2002 by Part V of the Police Act 1997. Disclosure Scotland is part of the Scottish Criminal Record Office.

There are three levels of disclosure: basic, standard and enhanced. All applications for disclosure are initiated by the applicant. An employer, therefore, cannot require a disclosure without the agreement of the applicant. The basic disclosure results in one certificate being issued to the applicant. In the case of the standard and enhanced disclosures, the application must be countersigned by an authorised person who will receive a copy of the certificate that is issued to the applicant.

In a basic disclosure only convictions which are unspent under the Rehabilitation of Offenders Act 1974 are disclosed. Under a standard disclosure both spent and unspent convictions are disclosed and, where the applicant is applying to work with children, whether the applicant is on the DWCL or the equivalent lists held in other UK jurisdictions.

In addition to the information provided by a standard disclosure the police have discretion in an enhanced disclosure to disclose non-conviction information that they consider relevant to the position being considered. Applicants for jobs (paid or unpaid) working with children or vulnerable adults are currently eligible for either a standard or enhanced disclosure depending on the regularity of the contact.

The Executive plans to introduce interim changes to the current disclosure arrangements to allow those posts working with children and vulnerable adults, which are currently only eligible for a standard disclosure check, to be eligible for an enhanced check. This change will be implemented by summer 2006.

**Relationship between the Sex Offenders Register and the DWCL**
An enhanced disclosure is required for anyone who works with children or applies for a childcare position as defined by Schedule 2 of the Protection of Children (Scotland) Act 2003. This is intended to ensure that full disclosure is made of past offences and convictions before anyone is employed to work with children. Under the provisions of this Act, applicants and countersignatories within Registered Bodies must state specifically on the Disclosure Scotland application form that the application relates to a childcare position and provide details of the position involved. Disclosure Scotland then cross check the application against the DWCL.

However, the Register covers a wide range of sexual offences and not just those involving children. Unlike those on the DWCL, individuals on the Sex Register are not automatically barred from working with children. However, employers are required to take all past convictions and, in some cases non-conviction information, into account in making recruitment decisions.

**Intelligence sharing between police forces**

Shared intelligence is crucial to the effective monitoring of sex offenders as the Sex Offenders Register currently does not contain all those who are known to have committed, or are suspected of committing, sexual offences. Since 1992, the Scottish Police have had a shared database which flags up the fact that local intelligence is held about particular individuals by police forces. To further assist intelligence sharing the Scottish police have developed a common IT system - the Scottish Intelligence Database (SID) and introduced a new computerised database, the Violent and Sex Offenders Register (VISOR), developed in England and Wales. It is planned to link VISOR to SID and this should help standardise the information held by Scottish police forces on sex offenders and facilitate the exchange of information.

Denis Oag
SPICe Research
15 February 2006

Note
Committee briefing papers are provided by SPICe for the use of Scottish Parliament Committees and clerking staff. They provide focused information or respond to specific questions of interest to committees and are not intended to offer comprehensive coverage of a subject area.
Legislative Consent Memorandum: Police and Justice Bill

Note by the Clerk

Background
1. At its meeting on 21 February 2006, the Committee considered a note by the Clerk together with a legislative consent memorandum from the Scottish Executive concerning the Police and Justice Bill introduced in the House of Commons on 25 January 2006. The Committee agreed to take oral evidence from the Minister for Justice and to seek written evidence from ACPOS, HMIC, SPIS (Scottish Police Information Strategy) and the Law Society of Scotland. Given the short timescale for responses, the deadline for written responses is Friday 3 March. All responses received will be forwarded as late papers.

2. The Bill and explanatory notes can be found at http://www.publications.parliament.uk/pa/cm200506/cmbills/119/2006119.htm

3. As previously advised, Scottish Executive officials have stated that there is no overlap or connection between this bill and the Police, Criminal Justice and Public Order (Scotland) Bill currently being considered by the Committee.

Evidence
4. The Subordinate Legislation Committee will be considering this LCM at its meeting on the morning of 7 March. Depending on the outcome of that Committee’s discussions, either the Convener of the Subordinate Legislation Committee will attend the Justice 2 Committee meeting to provide an oral report to Members or a clerk’s note will be provided.

5. Members’ are directed specifically to pages 3 – 8 of the Legislative Consent Memorandum LCM(S2) 4.1 which detail the specific clauses and schedules in respect of which Westminster will be asked to legislate for Scotland.

6. The Committee is invited to question the Deputy Minister for Justice.

Timetable
7. Clerks have not been advised of any change to the anticipated timetable at Westminster. The final amending stage in the House of Commons is still expected to take place during the week beginning 27 March and it is normal for Parliament’s consent to be sought before this stage.

8. Standing Orders provide that a motion will not normally be taken earlier than the fifth sitting day after the day on which the lead committee’s report is published (rule 9B.2.3). A draft report will be brought to the Committee for consideration at its next meeting (any amendments will have to be agreed by correspondence) for publication on 16 March. This will allow consideration by the Parliament on 23 March

Clerk to the Committee
March 2006
JUSTICE 2 COMMITTEE
BRUSSELS VISIT – SCOTTISH EXECUTIVE OUTLINE COMMENTARIES

COVER NOTE

The Scottish Executive has prepared two outline commentary notes for members of both Justice Committees but particularly to assist the members of the Justice 2 Committee who are visiting Brussels on 6 / 7 February 2006. The Scottish Executive was asked to provide update notes on those areas deemed high priority and those areas in which the Committees had previously expressed interest. There are two notes, one entitled “Selected Criminal Justice Dossiers” and the other “

Selected Criminal Justice Dossiers

This note gives some background detail on selected criminal justice dossiers. Members will recall that the Justice 2 Committee had been maintaining a watching brief on three particular issues:

(1) the Framework Decision on Certain Procedural Rights in Criminal Proceedings. This is listed as the second item in the SE Selected Criminal Justice Dossier paper under “Minimum Standards in Criminal Proceedings.” Progress has been slow in working group and a decision is expected at the February Council meeting on how this is to be taken forward.

(2) the Commission Green Paper on Bail (entitled “Mutual Recognition of Non-Custodial Pre-Trial Supervision Measures) published in August 2004. This is listed as the third item in the SE Selected Criminal Justice Dossier. The Executive advises that the Commission has been studying the responses to the Green Paper and is expected to publish a draft Framework Decision shortly. The Scottish Executive response to this Green Paper is enclosed as paper 5 for Members’ information.

(3) the Commission Green Paper on Sentencing. This is not listed in the SE paper as no specific proposals have been published by the Commission. Again, the Scottish Executive’s response to this Green Paper is enclosed as paper 6 for Members’ information. Members may wish to follow this up with Commission officials to establish where, in terms of the Commission’s priorities, this lies. The fourth item in the SE commentary note, “Transfer of Sentenced Persons” is a recent Austro-Finnish initiative published as a framework decision in January 2005. This is separate from the Commission’s Green Paper and any draft Framework Decision that might be published by the Commission but it does cross-over with some of the issues covered in the Commission’s Green Paper.
Civil Justice Aspects of the Hague Programme

On the civil justice aspects of the Hague Programme, there are a number of areas that the Justice 1 Committee has been maintaining an interest in:

(1) Applicable Law and Jurisdiction in Divorce (Rome III)
(2) Commission Green Paper on Wills and Succession
(3) Matrimonial Property
(4) Alternative Dispute Resolution

The Justice 2 Committee, to date, has not taken forward any particular civil areas.
<table>
<thead>
<tr>
<th><strong>Justice</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Conflict of laws in matters of matrimonial property regimes</td>
<td>Green Paper</td>
</tr>
<tr>
<td>A European system for the attachment of bank accounts</td>
<td>Green Paper</td>
</tr>
<tr>
<td>Drugs and civil society in the EU</td>
<td>Green Paper</td>
</tr>
<tr>
<td>Applicable law and jurisdiction in divorce matters</td>
<td>Regulation</td>
</tr>
<tr>
<td>Proposal for a computerised system of exchange of information on criminal convictions</td>
<td>Decision (CFSP/JHA)</td>
</tr>
<tr>
<td>Conflicts of Jurisdiction and the Principle of <em>ne bis in idem</em> in criminal proceedings</td>
<td>Framework decision (JHA)</td>
</tr>
<tr>
<td>Implementation of the rights of the child</td>
<td>Communication</td>
</tr>
<tr>
<td>European Cyber-security and Cyber-crime policy</td>
<td>Communication</td>
</tr>
<tr>
<td>Hague Action Plan – Scoreboard</td>
<td>Implementation report</td>
</tr>
</tbody>
</table>

1 There are currently no Community rules in the field of applicable law to divorces.
2 *cf* Articles 54-58 of the Convention Implementing the Schengen Agreement (CISA).
1. EUROPEAN EVIDENCE WARRANT (EEW)

Background and scope
- The EEW is intended as the first step within the EU to replacing traditional mutual legal assistance (MLA).
- MLA generally relates to the provision of evidence from abroad for use in criminal proceedings and has up until now operated according to the provisions of the 1959 Council of Europe Convention and its subsequent Protocols.
- However, it is felt that within the EU, closer co-operation is needed according to the mutual recognition principle.
- As it is a first step, it does not include all MLA – for example it does not cover conducting interviews or obtaining information in “real time”, such as through the interception of communications. The plan is that issues like these will be dealt with in a future initiative, “EEW 2”.

Progress to date
- This initiative was first published by the Commission in late 2003 and entered the working group in July 2004. Although significant progress was made during the UK Presidency last year it was not however possible to reach a general approach.

Outstanding issues
Agreement has yet to be reached on a number of matters, for example:
- the right to refuse requests for assistance on grounds of territoriality (where the alleged crime was committed in the requested State) and essential national security
- the procedure where EEWs will be validated when they are not issued by a judicial authority, such as a prosecutor
- the precise obligations with regard to requests which may require search and seizure

Next steps
- The Austrians have yet to indicate how they intend to deal with this initiative over the next 6 months during their Presidency.

2. MINIMUM STANDARDS IN CRIMINAL PROCEEDINGS

Background and scope
- Aimed at setting common minimum standards with regard to certain procedural right throughout the EU, including:
  - access to legal advice,
- access to free interpretation and translation,
- ensuring that persons who are not capable of undertaking or following the proceedings receive appropriate attention,
- the right to communicate, inter alia, with consular authorities in the case of foreign suspects and notifying suspects of their rights.

- This Framework Decision would apply not only to individuals who found themselves in another Member State, but as an all encompassing measure applying throughout the EU to all citizens.

Progress to date
- Published by the Commission in early 2004, this initiative first appeared at working group level in September 2004.
- Progress in the working group has been slow, mainly due to the difficulty in arriving at a common approach where procedure may vary in its detail across different jurisdictions in the EU.

Outstanding issues
- Some delegations still question whether in fact there is a legal base for this initiative within current Treaties.

Next steps
- The Austrians have yet to indicate how they intend to take forward this initiative over the next 6 months during their Presidency.

3. (BAIL) - MUTUAL RECOGNITION OF NON-CUSTODIAL PRE-TRIAL SUPERVISION MEASURES

Background and scope
- We expect the thrust on this initiative to be that where it is viewed appropriate for a national of a Member State to be granted interim liberation by a court of his State of nationality, pending further criminal proceedings, that right should also be extended to a foreigner where the situation of the individual concerned is similar to that of the national.
- It is believed, for example, that many foreign nationals are imprisoned after being refused bail, simply on the grounds of their nationality and that there is no guarantee that they will return for the subsequent proceedings.
- It is thought that the draft Framework Decision when published will propose the mutual recognition of bail orders, with conditions and obligations built in to ensure attendance at any subsequent proceedings, to be guaranteed by the State of nationality.

Progress to date
- A Green Paper on this subject was published by the Commission in 2004.
• The Commission has been studying the responses to the GP and is now expected to publish the draft Framework Decision shortly.

Outstanding issues
N/A

Next steps
• The first matter which will require attention is identifying working group time to deal with this initiative.
• As it has not yet been published, this is unlikely to be during the time of the Austrian Presidency.

4. TRANSFER OF SENTENCED PERSONS

Background and scope
• All EU Member States have ratified the Council of Europe Convention on the transfer of Sentenced Persons of 21 March 1983. Under that Convention, sentenced persons may be transferred to serve the remainder of their sentence only to their State of nationality and only with their consent and that of the States involved.
• The Additional Protocol to the Convention of 18 December 1997, which allows transfer without the person’s consent, subject to certain conditions, has not been ratified by all the Member States, including the UK.
• Neither instrument imposes any basic duty to take charge of sentenced persons for enforcement of a sentence.
• The aim of this initiative is to ensure that a custodial sentence imposed in one EU member State is recognised and enforced in another - with the aim of improving re-socialisation of offenders by allowing them to serve their sentences in countries in which they understand the language and have the most family and other close links.
• The transfer of a sentenced person to the State of nationality or the State of permanent legal residence to serve their sentence will facilitate social rehabilitation.
• Not withstanding the necessity of providing the sentenced person with adequate safeguards, his or her involvement in the proceedings should no longer be dominant by requiring his or her consent to the forwarding of a judgement to another member State for the purpose of its recognition and enforcement of the sentenced imposed.
Progress to date

- The draft Framework Decision was published as an Austrian initiative in January 2005 and some progress was made during the time of the UK Presidency last year.

Outstanding issues

Include the extent to which:

- “dual criminality” (that the offence in question is a crime in both the sentencing and administering State) should be dispensed with when considering transfers; and
- prisoners themselves should have a say in the matter of transfers.
- The issue of dual criminality will be referred to the Article 36 Committee and a written legal opinion on the issue of consent will be obtained from Council Legal Services prior to the next meeting on 9 February.

Next steps

- The Austrians have made this a priority (it is their own initiative) and hope to be in a position to reach a general approach on the text by summer 2006.
- However, it is as yet too early to say whether this is a realistic proposition or not.

5. EXCHANGE OF INFORMATION FROM THE CRIMINAL RECORD

Background and scope

- This initiative, as would be expected, relates to the way in which Member States exchange information with one another from the criminal record.
- A central issue is the proposal that each individual in the EU should have a complete record of their criminal convictions gathered in one place - and that that ought to be in the State of nationality.
- Other issues are likely to centre on the need to have some EU wide harmonisation in order to allow such exchanges to take place and also the technical requirements for electronic exchange of information.

Progress to date

- A Commission White Paper on the subject was published in early 2005
- A limited scope Council Decision was published by the Commission in late 2004 and this was adopted towards the end of 2005.
- It identified the need to improve quickly some of the aspects of existing arrangements for the exchange of criminal record
information, which are contained within the 1959 Council of Europe Convention on Mutual Legal Assistance.

- In some instances it was believed for example that important information which could help in preventing crime, and in employment vetting, was not getting through.
- A new draft Framework Decision was published by the Commission in December 2005 to take forward the matters mentioned under the first heading above.

Outstanding issues

N/A

Next steps

- A series of experts’ meetings have been organised by the Commission for the spring of 2006
- It is anticipated that formal working group consideration of the new draft Framework Decision will begin towards the end of the Austrian Presidency.

6. MUTUAL RECOGNITION OF DISQUALIFICATION FROM WORKING WITH CHILDREN

Background and scope

- The Belgians identified a need to have an initiative in this area as a result of a French sex offender obtaining a job as a caretaker in a Belgian school.
- It proposes the mutual recognition within the EU of arrangements which Member States may have barring individuals working with children in respect of convictions for certain sex crimes contained within the scope of the Framework Decision of 22 December 2003 on combating the sexual exploitation of children.
- The aim therefore is that a ban should apply in another MS if an individual moves there.

Progress to date

- This initiative was published late in 2004, but negotiations did not commence until the second half of 2005, under the UK Presidency.

Outstanding issues

- It has transpired in the initial stages that Member States have very diverse systems for barring individuals from working with children.
- For example, some have specific banning orders made by the courts, while others rely on scrutiny of the criminal records by employers.
- In light of this information negotiations have not progressed as quickly as many had hoped – as Member States would of course have difficulty in mutually recognising a measure which might not exist at all in their procedures.
Next steps
- The Austrians have yet to indicate fully how they intend to take this forward under their Presidency.
- Delegations are currently studying and contemplating information which has been circulated by Member States on the systems they use and which has highlighted the diversity of procedure between them.

7. MUTUAL RECOGNITION OF PREVIOUS CONVICTIONS

Background and scope
- This initiative has a fairly limited scope. It simply proposes that where an individual has a criminal conviction in another EU Member State, and where there are new criminal proceedings on the basis of new facts (i.e. a new criminal case), that such previous convictions should be taken account of in the same ways as the courts would domestic criminal convictions.
- It is proposed that this would apply at pre-trial, trial and sentencing stages.

Progress to date
- A Commission White Paper published early in 2005 dealt with this in the context of exchange of information from the criminal record more generally.
- A draft Framework Decision was then published shortly afterwards. However, due to pressure of other business in the working groups negotiations have not yet begun.

Outstanding issues
N/A

Next steps
- The Austrian Presidency have indicated that they will begin negotiations, but it is not thought that this will be a priority for them.

8. GREEN PAPER ON CONFLICTS OF JURISDICTION

Background and scope
- In the context of the increase of serious crime with an international origin the Green Paper seeks to promote discussion on what approach ought to be taken within the EU where it turns out that more than one Member State would be able to exercise jurisdiction and bring a prosecution.
- It also asks for views on the matter of how ne bis in idem (double jeopardy) should be approached within the EU in future, which is currently regulated by certain provisions in the Schengen Convention.
Progress to date
• Views are asked for by 31 March 2006

Outstanding issues
N/A

Next steps
• New initiatives may be brought forward by the Commission in light of the contributions made to the Green Paper.
CIVIL JUSTICE ASPECTS OF HAGUE PROGRAMME

OUTLINE COMMENTARY BY SCOTTISH EXECUTIVE

The Hague Programme is a multi-annual framework programme for the creation of a common European area of freedom, security and justice. It was adopted by the European Council in November 2004. A more detailed Action Plan for implementation of the Hague Programme, including timetables for different projects, was approved by Member State Justice Ministers last June.

The following are the current “live” civil justice projects under the Hague Programme.

1. LAW APPLICABLE TO NON-CONTRACTUAL OBLIGATIONS (ROME II)

- Proposed Regulation on the Law Applicable to Non-Contractual Obligations (“Rome II”). This would regulate which country’s law should apply to a dispute with an international element concerning a non-contractual obligation. “Non-contractual obligations” cover an extremely wide range of cases- anything from road traffic accidents to liability for defective products to medical negligence, to give just a few examples. However, the Regulation would not harmonise national laws on these subjects, only their conflicts rules determining which country’s law should apply when there are international elements to the case. The most politically sensitive aspect of Rome II is defamation, where the search continues for a solution which will do justice between the parties while protecting freedom of expression in the media.

Rome II is in the later stages of negotiation in Working Group. The Presidency hopes to put this to Council in February, or April at the latest. The European Parliament has already considered the dossier and proposed amendments under the co-decision procedure.

2. SERVICE REGULATION

- Proposed Regulation amending the existing instrument on the service of judicial and extrajudicial documents in civil or commercial matters (‘the Service Regulation’). The Commission tabled its proposals in July 2005, which include amendments designed to facilitate further the process of cross-border service of documents and improve safeguards for recipients in particular. The first working group meeting took place in October 2005 and negotiations recommence in February. The UK is broadly content with the proposed amendments.
3. MAINTENANCE OBLIGATION

- Proposed Regulation on Jurisdiction, Applicable Law, Recognition of Decisions and Co-operation in Matters Relating to Maintenance Obligations. This is an attempt to reduce forum shopping and improve recovery of maintenance in cross-border cases within the Community. It runs in parallel to ongoing negotiations on a new Hague Maintenance Convention, which should improve and update existing worldwide arrangements. The applicable law aspect of this proposal is controversial. A number of Member States, including the UK jurisdictions, do not apply foreign law to maintenance claims, regardless of whether they have a foreign element. Changing this system would be liable to cause delay and additional expense in maintenance proceedings. In addition, while accepting that in principle this instrument would have to be unanimously agreed (because it relates to family law), the Commission has published a Communication asking Member States to convert this to qualified majority voting. The UK is however in favour of measures to ensure speedier international enforcement of maintenance decision. The proposal for a Regulation was published on 15 December. Working Groups are due to begin on 13 February.

4. LAW APPLICABLE TO CONTRACTUAL OBLIGATIONS (ROME I)

- Proposed Regulation on the Law Applicable to Contractual Obligations ("Rome I"). This is intended to convert the Rome Convention on the same topic, to which all Member States are parties, into a Community Regulation, while making some revisions in the light of experience. The proposal was published on 15 December 2005 and Working Groups are scheduled to start in March.

5. APPLICABLE LAW AND JURISDICTION IN DIVORCE (ROME III)

- Applicable Law and Jurisdiction in Divorce ("Rome III"). This Green Paper has been published and the UK Government response (to which the Scottish Executive contributed) has been submitted. Once again applicable law is controversial, as Courts in the UK jurisdictions do not apply foreign law in divorce cases. A proposal for a Regulation is expected to be published in late spring or summer 2006, though it is possible that this might slip.

6. GREEN PAPER ON WILLS AND SUCCESSION

- International Aspects of Succession and Wills. This Green Paper was published in March 2005, and aims to ensure common rules are applied to international successions, and that procedures are in place to allow the deceased’s assets to be collected and distributed without difficulty, even if they are in several countries. This is a complex and technical area which the Hague Conference on Private International Law has tried and failed to resolve at a global level. The UK
jurisdictions are still informally consulting external stakeholders before responding.

7. MATRIMONIAL PROPERTY

• International Aspects of Matrimonial Property. The Commission intends to publish a Green Paper in 2006 on international aspects of matrimonial property regimes, including jurisdiction and recognition. It is not yet clear how this will relate to Rome III, as if financial elements of divorce are included in the latter there is likely to be some overlap.

8. EUROPEAN PAYMENT ORDER

• This is a proposal for a simplified procedure for obtaining and enforcing a judgement in uncontested claims. Council has approved in general the text of the regulation and listed the finalisation and adoption of it as a priority for 2006. Specification of the forms mentioned in the regulations is one of the issues to be finalised.

9. SMALL CLAIMS PROCEDURE

• Work will continue during the Austrian Presidency on the proposal for a Regulation of the European Parliament and the Council establishing a European Small Claims Procedure. This simplified procedure would be available up to a limit of €2,000 and judgements would be enforceable in any Member State. The European Parliament is expected to vote in its draft report on this dossier at its April plenary session.

10. ALTERNATIVE DISPUTE RESOLUTION

• Scope of proposed Draft Directive on Mediation was considered by the EU Civil Law Committee throughout 2005. Agreement is still to be reached regarding its application to internal as well as cross-border disputes. Initial reactions from the European Parliament’s JURI Committee meeting on 14 September 2005 expressed doubts about the need for such a proposal. The rapporteur, Arlene McCarthy (a UK Labour MEP) called for comments on the proposal to be sent to the European Parliament by 30 November 2005. The Parliament’s response is awaited. An exchange of views on the proposal is to take place at the JURI Committee’s meeting on 30-31 January 2006.