

Workers (Aggravated Offences)
(Scotland) Bill

Public Consultation

by

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FOREWORD BY HUGH HENRY MSP

Violent physical assaults against workers serving the public in Scotland are an all too common phenomenon. While progress has been made in strengthening criminal penalties for assaults against some workers, too many still lack sufficient protection at work.

In 2005 the Emergency Workers Act introduced tougher criminal penalties for those who assault, hinder or obstruct specified emergency service workers in the course of their work. While there is no doubt this constitutes progress and that there is widespread support for this Act, there is recognition that many other workers who provide a service to the public are not covered. It is legitimate to ask why a nurse would be covered but a bus driver would not be? After all if a bus service is withdrawn as a result of an assault a whole community suffers – not just the driver, similarly shop closures due to persistent attacks on staff can leave whole communities isolated. If a train driver is assaulted there is a danger to passengers and the public as well as a potential loss of service. There are countless examples of workers who provide vital public services who are vulnerable because of their occupation. And many of these examples demonstrate how the wider public could be adversely affected by the withdrawal of services following an assault.

The Emergency Workers Act 2005 sought to provide additional protection to certain groups of workers by introducing tougher penalties for those found guilty of assaulting, hindering or obstructing those workers. This proposed legislation seeks to apply the protections contained within the Emergency Workers Act to any worker who provides a face to face service to the public.

I commend my proposal to you. Your input will be extremely valuable so that we can, together, shape a bill that will offer additional protection to these workers.

Yours sincerely

A handwritten signature in black ink that reads "Hugh Henry". The signature is written in a cursive style with a large 'H' and 'H'.

Hugh Henry MSP
Paisley South

INTRODUCTION

I intend to prepare for introduction a Workers (Aggravated Offences) (Scotland) Bill in the Scottish Parliament.

The intention of this proposed bill is to extend the application of the tougher criminal penalties in the Emergency Workers Act 2005 (EWA) to workers employed in any profession where they provide a service coming face to face with the public.

While there is widespread support for the current Emergency Workers legislation there is recognition that many other workers who provide a public service are not adequately protected. With violent assaults against such workers increasing, it is vital we extend the application of the tougher penalties contained in the Emergency Workers Act. My bill seeks to provide for this.

This consultation paper sets out the background, makes the case for change and explains the way forward. After considering it, you are invited to respond to a series of questions to assist me in finalising the approach I will then take.

BACKGROUND

There is a wide variety of public service professions which involve face to face contact with members of the public. The majority of the time these roles can be personally fulfilling as public service workers serve their communities. However, increasingly too many workers serving the public are victims of violent physical assault.

In 2007/08 the total number of physical assaults against public sector workers was 32,263. This number included 9121 assaults on local government workers, representing an increase of 3000 on the previous year's figures for assaults on local government workers¹.

The proposed Bill would apply to the private sector as well as public sector workers. In 2007 the British Retail Crime Survey Report detailed a 50 percent increase in physical assaults against shop workers compared to 2006². An Usdaw survey showed that nearly one third of shops experienced at least one physical assault against staff in 2007.³

While shop workers and local government workers have experienced a general upward trend in the number of assaults, there has been a simultaneous reduction in the number of assaults perpetrated against health workers. According to figures provided by UNISON, in 2007/08 the number of

¹ Unison Scotland, (2008)

² British Retail Crime Survey (2008)

³ Usdaws's Voices From The Frontline:Revisited

assaults of health workers fell by more than 1000 from the previous year. Many health workers are covered by the Emergency Workers Act and as such it could be suggested that this decline can be attributed to the threat of tougher penalties contained in the Emergency Workers Act.

Concurrent with a reduction in the number of assaults against those covered by the terms of the Emergency Workers Act, there has been a parallel increase in the number of convictions under the Act. Between 2005/06 and 2006/07 the number of convictions rose from 54 to 200.⁴

The tougher penalties contained within the Emergency Workers Act appear to have acted as a deterrent and contributed to a reduction in the number of assaults.

PROPOSAL

It is the intention of this proposed bill to extend those tougher criminal protections within the Emergency Workers Act to those workers who provide a service to the public and in so doing come into face to face contact with the public.

The proposed bill would create a new offence of assaulting, obstructing or hindering someone who is acting in their capacity as a worker while providing a face to face service to the public.

This new summary offence will carry a maximum sentence of 12 months imprisonment or a fine of £5000. More serious offences may still be tried under solemn procedure.

CONCLUSIONS AND HOW TO RESPOND

Thank you for reading this consultation paper. I hope you have been persuaded that there is a powerful and clear argument for extending the tougher penalties contained in the Emergency Workers Act to workers providing a face to face service to the public.

You are now invited to respond to this consultation paper by answering the questions which are repeated below and making any other comments that you consider appropriate.

Please make it clear whether you are responding as an individual or on behalf of an organisation.

If you wish your response to be confidential, please say so. Otherwise it will be available for public inspection, in accordance with the principles of transparency and freedom of information. Confidential responses will be

⁴ S3W-20209 - Margaret Mitchell (Central Scotland) (Con) (Date Lodged Tuesday, January 27, 2009)

included in any summary or statistical analysis but this will not reveal the identity of any respondent who has requested confidentiality. Additional copies of the paper or alternative formats can be requested using the contact details below and calls via Typetalk are welcome.

An on-line copy is available on the Scottish Parliament website [The Scottish Parliament: Bills - Proposals for Members' Bills](#).

Responses should be submitted by **25 September 2009** and should be sent to:

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Questions

- Q1. My proposal is to apply the proposed bill to workers who provide a face to face service to the public? Are there any other groups of worker that you think should be captured in the Bill?
- Q2. How effective have you found the Emergency Workers Act 2005?
- Q3. Do you think there will be additional costs associated with this bill and in what areas will they arise?
- Q4. Are the penalties proposed in this document sufficient, and if not, what penalties would you propose?
- Q5. Do you have any other comments or views on extending the tougher penalties contained in the Emergency Workers Act 2005, to workers providing a face to face service to the public?
- Q6. In what ways will the proposed Bill extend equal opportunity provisions and should it go further?
- Q7. Should hindrance and/or obstruction of the workers specified in this proposal be included in this proposed bill in the same way as is in the Emergency Workers Act?