

Justice Committee

Criminal Justice (Scotland) Bill

Letter from the Scottish Government to the Convener

Thank you for your letter of 30 April on behalf of the Justice Committee seeking an update in light of the announcement on the new timing for Stage 2 of the Criminal Justice (Scotland) Bill.

I can confirm that the Scottish Government's intention is that nearly all of the provisions currently in the Bill will still be taken forward by this legislation.

We do, however, intend to lift the people trafficking provisions from the Criminal Justice Bill and to take them forward instead in the planned Human Trafficking Bill. We therefore intend to remove these provisions from the Criminal Justice Bill at Stage 2.

With regard to your specific question on the Police Negotiating Board for Scotland (PNBS), transitional arrangements were already in place to allow for different commencement dates for the abolition of the Police Negotiating Board (PNB), through the Anti-social Behaviour, Crime and Policing Act 2014, and the formation of the PNBS, through the Criminal Justice Bill. We are working with the Home Office to ensure that the commencement provisions, set out in the Anti-social Behaviour, Crime and Policing Act 2014, will enable the PNB to function appropriately with only its Scottish members, until the PNBS is set up.

Letter of Rights

The Bill was also originally going to transpose provisions relating to the Letter of Rights provided to suspects in police custody, which is a requirement of the EU Directive on the Right to Information in Criminal Proceedings. These provisions were discussed at the Justice Committee Meeting on 7 January 2014. Following the rescheduling of Stage 2 of the Bill, I now intend to transpose these provisions by a SSI until the Bill comes into force. The SSI will also transpose Articles 7(1) and 7(5) of the Directive, with which Scotland is already operationally compliant. I wanted to highlight this particular issue, as regulations will be laid imminently, in order to transpose these obligations as quickly as possible.

The Letter of Rights was also a recommendation of the Carloway Review. It conveys information about the right of access to a lawyer, and is provided to every suspect who is in a police station. In July 2013, a non-statutory Letter of Rights was introduced, available in 34 languages. This will be placed on a statutory basis by the regulations.

At the January meeting, I undertook to update the Committee on progress in improving and developing the Letter of Rights. In March two stakeholder meetings were held to discuss enhancing the Letters of Rights to ensure that it meets the needs of children and people with learning disabilities. The groups provided input on content and presentation of the Letters to best meet the needs of the relevant

groups. A separate operational delivery meeting was held with the Law Society, Police and SLAB, to get a view on how the Letter is working in practice. Officials are now considering whether amendments should be made to further improve the Letter of Rights, in light of comments from all these groups. This may require developing alternative versions of the Letter. The text of the Letter will also be updated to reflect the EU Directive on the Right to Information in Criminal Proceedings.

I will keep the Justice Committee updated on further progress, and will provide you with updated copies of the Letter of Rights.

Stage 2 Amendments

As you are aware, the Scottish Government had been planning to propose amendments to the Bill at Stage 2 in relation to automatic early release. I have written to you separately to explain our plans to end automatic early release for certain prisoners.

It had also been the Government's intention to bring forward Stage 2 amendments to the Criminal Justice Bill designed to ensure transposition of the following two EU Framework Decisions by 1 December 2014:

- a) Council Framework Decision on the Mutual Recognition of Decisions on Supervision Measures 2009/829/JHA (generally referred to as the 'European Supervision Order' Framework Decision); and
- b) Council Framework Decision 2009/299/JHA of 26 February 2009 on the procedural rights of persons / the principles of mutual recognition in relation to decisions rendered in the absence of persons concerned at the trial (generally referred to as the 'Trials in Absentia' Framework Decision) to the extent to which it amends Council Framework Decision 2005/214/JHA of 24 February 2005 on the mutual recognition of financial penalties.

Alternative implementation routes for both of these measures are being considered and I will further update the Committee on this.

Kenny MacAskill
Cabinet Secretary for Justice
4 June 2014