



The Scottish Parliament  
Pàrlamaid na h-Alba

**JUSTICE COMMITTEE**

**AGENDA**

**16th Meeting, 2019 (Session 5)**

**Tuesday 4 June 2019**

The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Presumption Against Short Periods of Imprisonment (Scotland) Order 2019 [draft]:** The Committee will take evidence from—

Laura Hoskins, Head of Policy, Community Justice Scotland;

Colin McConnell, Chief Executive, Scottish Prison Service;

James Maybee, The Highland Council, representing Social Work Scotland;

Kate Wallace, Chief Executive, Victim Support Scotland;

and then from—

Dr Katrina Morrison, Board Member, Howard League Scotland;

Dr Sarah Armstrong, Scottish Centre for Crime and Justice Research, University of Glasgow;

Professor Cyrus Tata, Director of the Centre for Law, Crime and Justice, University of Strathclyde;

and then from—

Rt Hon Lord Turnbull, Senator of the College of Justice, and Graham Ackerman, Secretary, Scottish Sentencing Council.

2. **Subordinate legislation:** The Committee will consider the following negative instrument—

Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Amendment Order 2019 (SSI 2019/172).

3. **Justice Sub-Committee on Policing:** The Committee will consider a report back from the Sub-Committee meeting held on 30 May 2019.

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Clerk to the Justice Committee  
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Edinburgh  
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The papers for this meeting are as follows—

**Agenda item 1**

Paper by the clerk - Draft SSI J/S5/19/16/1

Private paper - Draft SSI J/S5/19/16/2 (P)

**Agenda item 2**

Paper by the clerk - SSI 2019 172 J/S5/19/16/3

**Agenda item 3**

Paper by the clerk - Justice Sub-Committee on Policing J/S5/19/16/4

## Justice Committee

16<sup>th</sup> Meeting, 2019 (Session 5), Tuesday 4 June 2019

### Subordinate legislation

#### Note by the clerk

#### Purpose

1. This paper invites the Committee to consider the following affirmative instrument:

- [Presumption Against Short Periods of Imprisonment \(Scotland\) Order 2019 \[draft\]](#)

#### Introduction

2. The instrument is made under section 204(3C) of the Criminal Procedure (Scotland) Act 1995<sup>(1)</sup>, section 204(1) of the Criminal Justice and Licensing (Scotland) Act 2010<sup>(2)</sup>.

3. **The Order substitutes for the period of three months specified in section 204(3A) of the Criminal Procedure (Scotland) Act 1995 a period of twelve months and makes supplementary provision to clarify how that substitution should take effect.**

4. Further details on the purpose of the Order can be found in the policy note attached at **Annexe A**.

#### DELEGATED POWERS AND LAW REFORM COMMITTEE CONSIDERATION

5. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 28 May 2019 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

#### JUSTICE COMMITTEE CONSIDERATION

6. The Justice Committee is required to report to the Parliament on the instrument by 24 June 2019. The Cabinet Secretary for Justice has lodged motion S5M-17438 proposing that the Committee recommends approval of the instrument. The Committee will take evidence from Dr Sarah Armstrong, Professor Cyrus Tata, Community Justice Scotland, Howard League Scotland, the Scottish Prison Service, the Scottish Sentencing Council, Social Work Scotland and Victim Support Scotland on 4 June. The Cabinet Secretary for Justice is due to attend the Committee meeting on 11 June to answer any questions on the instrument and to move the motion for approval.

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<sup>(1)</sup> 1995 c.46. Subsections (3A) to (3D) were inserted by section 17 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).

<sup>(2)</sup> 2010 asp 13.

7. In advance of this instrument being laid, the Committee sent out a targeted call for written evidence. [Written submissions](#) have been received from a number of organisations and individuals.

8. It is for the Committee to decide whether or not to agree to the motion, and then to report to the Parliament by 24 June 2019. Thereafter, the Parliament will be invited to approve the instrument.

**9. The Committee is asked to delegate to the Convener authority to approve a short, factual report on the instrument for publication.**

## Policy Note

### Presumption Against Short Periods of Imprisonment (Scotland) Order 2019 [draft]

The above instrument was made in exercise of the powers conferred by section 204(3C) of the Criminal Procedure (Scotland) Act 1995<sup>3</sup>. The instrument is subject to affirmative procedure.

The presumption against short sentences is designed to encourage a reduction in the use of short-term custodial sentences and a related increase in the use of community sentences that are more effective at reducing reoffending.

The purpose of this instrument is to extend the presumption against short sentences from sentences of 3 months or less to sentences of 12 months or less.

### Policy Objectives

1. This order provides for the minimum period specified for the presumption against short periods of imprisonment, as set out in section 204(3A) of the Criminal Procedure (Scotland) Act 1995, to be extended from 3 months or less to 12 (twelve) months or less.
2. While prison remains the right place for those who pose a significant risk to public safety, there is compelling evidence that short sentences do little to rehabilitate or to reduce the likelihood of reoffending; further, they can disrupt housing, employment and family stability<sup>4</sup>. Extending the presumption against short sentences is intended to improve the chances of individuals paying back for offending, being effectively rehabilitated and preventing reoffending. The presumption is not a ban. The court when sentencing retains the discretion to pass the most appropriate sentence based on the facts and circumstances of the case.
3. The Scottish Government also believes that the current rate of imprisonment in Scotland is too high, in particular when viewed against the rates in other comparable European countries<sup>5</sup>. Extending the presumption is intended to reduce churn in the prison system, which will help to improve the quality of interventions with individuals who need to be in prison. Longer term, extending the presumption is expected to have some impact on prison population though this is primarily related to an indirect contribution to reducing reoffending.

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<sup>3</sup> Section 17 of the Criminal Justice and Licensing (Scotland) Act 2010 inserted sub-sections (3A)-(3D) into section 204 of the Criminal Procedure (Scotland) Act 1995, with effect from 1<sup>st</sup> February 2011

<sup>4</sup> <https://www.gov.scot/publications/works-reduce-reoffending-summary-evidence/>

<sup>5</sup> International Centre for Prison Studies - World Prison Brief, <http://www.prisonstudies.org/>

4. Extending the presumption is alongside additional protections for victims, including the implementation of the Domestic Abuse (Scotland) Act 2018. The Scottish Government committed to extend the presumption once these additional safeguards for victims of domestic abuse are in force, as concerns were raised about the potential impact on victims if offenders are not in custody. The policy objective is to support measures which reduce reoffending, which is beneficial to victims and society.

### **Background**

5. Section 204(3A) of the Criminal Procedure (Scotland) Act 1995 provides that *'a court must not pass a sentence of imprisonment for a term of 3 months or less on a person unless the court considers that no other method of dealing with the person is appropriate'*.

6. Section 204(3C) of the Criminal Procedure (Scotland) Act 1995 provides Scottish Ministers with an order making power to *'substitute for the number of months for the time being specified in subsection (3A) another number of months'*. In short, this means that Scottish Ministers have the power to amend the minimum period specified for the purposes of the presumption against short periods of imprisonment. This is the first time the power to amend the number of months specified has been used.

7. This Government seeks to extend the presumption against short periods of imprisonment in light of the evidence that short-term prison sentences are not effective at rehabilitating individuals or reducing reoffending, especially when compared to community alternatives to custody (predominantly Community Payback Orders)<sup>6</sup>.

8. The impact of short-term custodial sentences within the prison estate makes it difficult for the Scottish Prison Service to invest time in the intensive rehabilitation of more serious offenders. Whilst extending the presumption against short periods of imprisonment will not have a substantial direct impact on prison numbers, it will reduce the churn in the prison system by reducing the numbers of short-term prison sentences imposed, thus reducing the number of prison receptions.

9. The Scottish Government's Programme for Government for 2018/19 commits to extend the current presumption against short sentences from 3 months to 12 months in the year ahead, once relevant measures within the Domestic Abuse (Scotland) Act 2018 are implemented.

10. The Domestic Abuse (Scotland) Act came into force on 1 April 2019 and creates a new statutory offence of abuse of a partner or ex-partner for which the maximum penalty on conviction on indictment in the High Court is 14 years. It includes the following additional safeguards for victims of domestic abuse:

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<sup>6</sup> Reconviction Rates in Scotland: 2015-16 Offender Cohort, <https://www2.gov.scot/stats/bulletins/01315>

- Court required to have particular regard to the safety of the victim when sentencing for a domestic abuse offence (either the new offence or any offence with a domestic abuse aggravation); and
- Courts in all cases involving the domestic abuse offence or the recently created domestic abuse aggravation, to consider whether to impose a non-harassment order in order to protect the victim with a presumption in favour of doing so unless they consider it is not necessary in a particular case.

11. There remains a strong policy commitment to reducing the prison population and promoting use of effective alternatives to custody for men and women. The Scottish Prisons Commission report<sup>7</sup> and the Commission on Women Offenders<sup>8</sup> continue to inform the approach to policy in Scotland. Justice in Scotland: Vision and Priorities<sup>9</sup> sets out the Government's vision for a just, safe and resilient Scotland. Extending the presumption against short sentences supports the outcomes of the Justice Vision and Priorities and the Community Justice Strategy<sup>10</sup>.

12. A process evaluation into the impact of the presumption against short sentences of 3 months or less (along with introduction of Community Payback Orders and the revised template for Criminal Justice Social Work reports)<sup>11</sup> published in 2015 found that the presumption was not featuring prominently in judicial decision making on the basis that: sentences of three months or less were used relatively rarely; custody was always treated as a last resort; and that they would continue to impose short sentences where they felt them to be the only appropriate sanction.

13. Extending the presumption to 12 months is intended to have a greater impact on court decision making with regards to short-term custodial sentences, as well as supporting wider use of robust community alternatives to custody. This includes greater use of Community Payback Orders and electronic monitoring, both through existing legislation and proposed measures in the Management of Offenders (Scotland) Bill. As noted, this measure remains a presumption rather than a ban and extending the presumption does not impact on judicial independence or ability to impose the most appropriate sentence in each individual case.

## Consultation

14. A Scottish Government consultation was undertaken between 25 September 2015 and 16 December 2015 to ascertain views on proposals to strengthen the

<sup>7</sup> Scotland's Choice: Report Of The Scottish Prisons Commission, <http://www.gov.scot/Resource/Doc/230180/0062359.pdf>

<sup>8</sup> Commission on Women Offenders, <https://www2.gov.scot/Topics/archive/reviews/commissiononwomenoffenders/finalreport-2012>

<sup>9</sup> Justice in Scotland: Vision and Priorities, <https://www.gov.scot/publications/justice-scotland-vision-priorities>

<sup>10</sup> National Strategy for Community Justice, <https://www.gov.scot/publications/national-strategy-community-justice/>

<sup>11</sup> Evaluation of Community Payback Orders, Criminal Justice Social Work Reports and the Presumption Against Short Sentences, <http://www.gov.scot/Publications/2015/03/3800>

presumption against short sentences. An analysis of the consultation responses revealed that 85% of respondents (53 of 62) were in favour of an extension to the minimum period and, of those who expressed a view, 84% (37 of 44) indicated that the new minimum period should be set at 12 months.

15. Consultation respondents were, in general, critical of the current levels of imprisonment in Scotland and in particular highlighted what they saw as:

- the inappropriate use of imprisonment in cases not involving serious offences or risk to public safety;
- the detrimental impact of imprisonment on the lives of offenders and their families;
- the relative merits of community and custodial sentences in addressing offender needs, supporting rehabilitation, reducing reoffending and protecting public safety; and
- the cost to the public purse.

16. The majority of respondents indicated that they thought extending the presumption would help achieve a reduction in the use of custodial sentences and would be in line with a generally more progressive approach to criminal justice policy.

17. A full list of the organisations who responded to the consultation is attached to the consultation analysis published on the Scottish Government website<sup>12</sup>. It includes local authorities and partnership bodies; third sector agencies; professional bodies and national public bodies.

18. In preparation for extending the presumption, the Scottish Government has continued to engage with a range of stakeholders including local authorities, third sector organisations, the Judicial Institute of Scotland, Social Work Scotland, victims groups, Scottish Women's Aid and public bodies including Community Justice Scotland and the Care Inspectorate. This engagement has informed measures to support implementation, which should not be seen in isolation but as part of a broader approach to implementing the new model of community justice. Engagement was informed by the earlier consultation which highlighted the importance of the availability of adequate and effective services and support in the community; the need to ensure the safety of victims of crime including victims of domestic abuse and the role of the judiciary.

### **Impact Assessments**

19. The Equality Impact Assessment (EQIA) is a tool to assist in how policy may impact, either positively or negatively, on different sectors of the population in different ways. An EQIA was conducted in relation to this instrument, however on the basis that any extension to the legislative presumption would be an amendment to an

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<sup>12</sup> Consultation on Proposals to Strengthen The Presumption Against Short Periods of Imprisonment: An Analysis of Responses, <http://www.gov.scot/Publications/2016/03/8624>

existing policy, it was considered that an extensive EQIA was not required. A copy of the EQIA results document is available on the Scottish Government website.<sup>13</sup>

20. We have also considered the Fairer Scotland Duty in Part 1 of the Equality Act 2010, which came into force from April 2018. It places a legal responsibility on particular public bodies in Scotland to actively consider how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. As extending the presumption against short sentences is intended to reduce reoffending and avoid the disruption to housing, employment and relationships which can be associated with short custodial sentences, it is expected to have a positive or neutral impact on social-inequality.

21. A Child Rights and Wellbeing Assessment (CRWIA) screening exercise was carried out to determine if a full CRWIA was required for this instrument. On the basis that an extension to the presumption against short periods of imprisonment does not constitute a substantive change in policy direction, and no direct impact on children or young people was identified, the decision was made that a full CWRIA was not required. The screening document is available [here](#).

22. The Islands (Scotland) Act 2018 places a duty on Scottish Ministers to consult island communities before making a material change to any policy which, in their opinion, is likely to have an effect on an island community which is significantly different from its effect on other communities. On the basis that the extension would be an amendment to an existing policy, and that the extension would not have a significantly different impact on island communities, a decision was made that it was not necessary to consult island communities on the extension.

23. A Data Protection Impact Assessment (DPIA) contains an assessment to identify and mitigate risks to privacy and identify the ways the project can effectively comply with data protection regulations. Given that extending the presumption is an amendment to an existing policy is not expected that it will have any further impact on data protection and as such a DPIA was not required.

24. A final Business and Regulatory Impact Assessment (BRIA) has been completed and is provided alongside the order and supporting documents. It is intended to ensure consideration is given to whether the legislation is necessary, to apply the five principles of better regulation (proportionate, consistent, accountable, transparent and targeted) and to help ensure that relevant factors such as business impacts and interests are taken account of. The impact of this policy on businesses is expected to be minimal, but there will be some impact upon the public and third sectors. The costs, benefits and impact of the extension have been assessed and included within the [BRIA](#). The BRIA also includes a scenario plan which contains

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<sup>13</sup> EQIA results:

[http://www.legislation.gov.uk/sdsi/2019/9780111042281/pdfs/sdsieqia\\_9780111042281\\_en.pdf](http://www.legislation.gov.uk/sdsi/2019/9780111042281/pdfs/sdsieqia_9780111042281_en.pdf)

information on the potential impact of the extension, with particular regard to the impact on prison places.

### **Financial Effects**

25. The effects of increasing the length of the presumption will be in part dependent on the impact on sentencing behaviour. Analysis conducted by the Scottish Government's Analytical Services Division suggests that a 20% reduction in the use of custodial sentences of 12 months or less would be likely to result in the imposition of an additional 1,300 community sentences a year. Estimates suggest the additional resource requirement created by this increase will be in the region of £2.5 million p.a. Savings to Scottish Prison Service are not expected to be releasable but are expected to enhance support in prisons as officers spend less time dealing with receptions.

26. Ring-fenced funding for Criminal Justice Social Work of just over £100 million is being protected in the 2019-20 Budget to deliver community sentences, support rehabilitation and reduce re-offending. An additional £4 million has been allocated in each of the past two years to support community sentences and this was increased to £5.5 million in the 2018-19 budget specifically to support preparations for extending the presumption against short sentences. This additional support is being continued in 2019-20. The uptake of community sentences will continue to be monitored closely, alongside the number and length of custodial sentences imposed.

### **Effect on sentencing**

27. In determining what sentence to pass, a court is entitled to take into account the stage in the proceedings where the offender indicated their intention to plead guilty, which may result in a discount being applied to the sentence which would otherwise have been imposed. The level of discount is generally at the discretion of the sheriff, but a discount of one third is generally the maximum, so in practice the maximum discount would be applied only where a plea was tendered at the earliest opportunity. As with the current presumption against short sentences of 3 months or less, the extended presumption will only take effect once the sheriff is at the point of imposing the sentence, having taken all other factors into account. This means that if a sheriff considers, after discount, that a sentence of 12 months (or less) would be appropriate, only then would they consider applying the presumption.

28. The order makes no changes to existing law on consecutive and concurrent sentences. For example, section 167 of the Criminal Procedure (Scotland) Act 1995 makes provision for forms of finding and sentence in summary procedure. Where consecutive sentences are imposed, their aggregate must not exceed the limit of the court's jurisdiction in respect of the most serious offence on the libel. A Sheriff in summary procedure cannot impose an aggregate of sentences for a period in excess of 12 months. Therefore, there will always be a presumption against custodial sentences under summary procedure. Where there are a number of custodial sentences of less than 12 months, the court may want to take account of that in

considering whether no other method of dealing with a person is appropriate when considering the presumption.

### **Commencement of Order**

29. When the presumption against short sentences of 3 months or less was first introduced in 2011, it applied only to offences committed on or after the date on which the presumption was brought into force. This transitional provision was made possible by the powers in section 201 of the 2010 Act. However, these powers apply only to orders made under the 2010 Act – the commencement order bringing section 17 of the 2010 Act into force being one such Order. The powers in section 201 do not apply in the present case as the Order is being made under the 1995 Act.

30. Section 204(3C) of the Criminal Procedure (Scotland) Act 1995 contains a power simply to substitute another number of months for the number currently stated in section 204(3A) (currently 3 months) but there is no power in the 1995 Act to make transitional provision where such a substitution is made. Accordingly, Article 3 of the Order makes supplementary provision, using the powers in section 204 of the 1995 Act, to ensure that there can be a smooth transition between the existing presumption of 3 months and the new presumption of 12 months. This supplementary provision ensures that any modification of the presumption made under section 204(3C) (including the modification contained in the present Order) will apply only to offences committed on or after the date on which the modification comes into force.

31. The commencement date, and the supplementary provision, take account of advice from operational partners including the Crown Office and Procurator Fiscal Service and the Scottish Courts and Tribunal Service.

Scottish Government  
Justice Directorate  
16 May 2019

**Justice Committee**

**16<sup>th</sup> Meeting, 2018 (Session 5), Tuesday 4 June 2019**

**Subordinate legislation**

**Note by the clerk**

**Purpose**

1. This paper invites the Committee to consider the following negative instrument:
  - [Title Conditions \(Scotland\) Act 2003 \(Rural Housing Bodies\) Amendment Order 2019 \(SSI 2019/172\)](#) [see page 3];
2. If the Committee agrees to report to the Parliament on the instrument it is required to do so by 24 June 2019.

**Procedure for negative instruments**

3. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
4. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
5. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
6. Each negative instrument appears on the Justice Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to give evidence on the instrument. Members should however note that, for scheduling reasons, it is not *a/ways* possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.
7. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

**Guidance on subordinate legislation**

8. Further guidance on subordinate legislation is available on the Delegated Powers and Law Reform Committee's web page at:

<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/delegated-powers-committee.aspx>

**Recommendation**

9. **The Committee is invited to consider the instrument.**

## **TITLE CONDITIONS (SCOTLAND) ACT 2003 (RURAL HOUSING BODIES) AMENDMENT ORDER 2019 (SSI 2019/172)**

### **Introduction**

10. The instrument is made under section 43(5) of the Title Conditions (Scotland) Act 2003. The Order amends the Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Order 2004 (SSI 2004/477) by adding one body, Arran Development Trust, to the schedule of prescribed rural housing bodies.

11. Further details on the purpose of the instrument can be found in the policy note (see below).

12. The instrument comes into force on 30 June 2019.

### **DELEGATED POWERS AND LAW REFORM COMMITTEE CONSIDERATION**

13. The Delegated Powers and Law Reform (DPLR) Committee considered this instrument at its meeting on 28 May 2019 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

### **JUSTICE COMMITTEE CONSIDERATION**

14. If the Committee agrees to report to the Parliament on this instrument, it is required to do so by 24 June 2019.

### **Policy Note: Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Amendment Order 2019 (SSI 2019/172)**

#### **Policy Objective**

Section 43(5) of the 2003 Act provides that Scottish Ministers may prescribe such body as they think fit to be a rural housing body. Section 43(6) of the Act provides that the power conferred by subsection (5) may be exercised in relation to a body only if the object, or function, of the body (or, as the case may be one of its principal objects or functions) is to provide housing or land for housing.

Section 43(1) of the 2003 Act allows for the creation of a real burden over rural land which comprises a right of pre-emption in favour of a rural housing body. This is known as a rural housing burden. The imposition of such a burden means that when such land is being sold, the rural housing body has the right to purchase it, or repurchase it, as the case may be. In essence, it enables the rural housing body to control future sales. Ministers also have the power, under section 43(8) of the 2003 Act, to determine that a body shall cease to be a rural housing body.

The right to repurchase may only be used over rural land. Rural land means land other than excluded land. Excluded land has the same meaning as in Part 2 of

the Land Reform (Scotland) Act 2003, which, following amendments made by the Community Empowerment (Scotland) Act 2015, now means “land consisting of a separate tenement (i.e. interest in land) which is owned separately from the land in respect of which it is exigible”. This definition is subject to exceptions for land consisting of salmon fishings and certain mineral rights.

This Order amends the Title Conditions (Scotland) Act 2003 (Rural Housing Bodies) Order 2004 (S.S.I. 2004/477) by adding one body, Arran Development Trust, to the schedule of prescribed rural housing bodies.

Arran Development Trust complies with the requirements of section 43(6) of the 2003 Act.

Previous amending Orders designating rural housing bodies were made in 2004, 2006, 2007, 2008, 2013, 2014 and 2017. Annex A provides a list of all currently prescribed rural housing bodies to date.

The Scottish Government is continuing with an exercise aimed at consolidating the list of rural housing bodies. It has attempted to contact all rural housing bodies and conservation bodies (prescribed under section 38 of the 2003 Act) and has asked them, among other things, if they wish to remain prescribed as a rural housing or conservation body. A number of responses have been received and further letters have been issued although there are some outstanding responses. The Scottish Government is now considering the responses received and also the way forward where no response has been received.

### **Consultation**

A consultation is not required as applicants either meet the terms of the legislation or they do not.

### **Impact Assessments**

An equality impact assessment has not been undertaken on the basis that this policy does not have any impact on equality issues.

### **Financial effects**

A [Business and Regulatory Impact Assessment](#) (BRIA) has been completed. The impact of this policy on business is that overall this is a positive impact on existing businesses in the area. By providing affordable housing this will work towards retaining local people. It may also support the attraction and retention of suitably qualified essential workers on the island to support business growth. This will contribute to sustaining existing businesses and possibly have the potential to attract new businesses.

**ANNEX A: LIST OF PRESCRIBED RURAL HOUSING BODIES**

Albyn Housing Society Limited	Kilfinan Community Forest Company
Argyll Community Housing Association	Lochaber Housing Association Limited
Barra and Vatersay Housing Association Limited	Muirneag Housing Association Limited
Berneray Housing Association Limited	Mull and Iona Community Trust
Buidheann Taigheadais na Meadhanan Limited	North West Mull Community Woodland Company Limited
Buidheann Tigheadas Loch Aillse Agus An Eilein Sgitheanaich Limited	Orkney Islands Council
Cairn Housing Association Limited	Pentland Housing Association Limited
Colonsay Community Development Company	Rural Stirling Housing Association Limited
Comhairle nan Eilean Siar	Taighean Ceann a Tuath na'Heardh Limited
Community Self-Build Scotland Limited	The Highland Housing Alliance
Craignish Community Company Limited	The Highlands Small Communities' Housing Trust
Dormont Passive Homes (Scotland) Ltd	The Isle of Eigg Heritage Trust
Down to Earth Solutions Community Interest Company	The Isle of Gigha Heritage Trust
Dumfries and Galloway Small Communities Housing Trust	The North Harris Trust
Dunbritton Housing Association Limited	Tighean Innse Gall Limited
Ekopia Resource Exchange Limited	West Harris Trust
Fyne Homes Limited	West Highland Housing Association Limited
Fyne Initiatives Limited	West Highland Rural Solutions Limited
HIFAR Limited	Yuill Community Trust C.I.C.
Isle of Jura Development Trust	

**Justice Committee**

**16th Meeting, 2019 (Session 5), Tuesday 4 June 2019**

**Feedback from the Justice Sub-Committee on Policing**

**Note by the clerk**

1. On 30 May 2019, the Justice Sub-Committee on Policing met to take oral evidence on the capital resources for Police Scotland as part of its pre-budget scrutiny of the Scottish Government's 2020/21 budget.
2. At the meeting the Sub-Committee took evidence from Chief Superintendent Ivor Marshall, President of the Association of Scottish Police Superintendents (ASPS), Calum Steele, General Secretary of the Scottish Police Federation, and David Malcolm, Police Staff Scotland Deputy Branch Secretary at Unison Scotland.
3. The Sub-Committee also considered written submissions from Police Scotland, the Scottish Police Federation and Unison Scotland. These submissions are available online.<sup>1</sup>
4. The Sub-Committee heard that the capital budget allocation for Police Scotland was inadequate and that the lack of resources was impacting on the ability of police officers and staff to provide an efficient service.
5. The Association of Scottish Police Superintendents (ASPS) indicated that sub-optimal conditions and equipment were impacting on efficiency. They suggested that a longer-term capital investment programme would assist in allocating the necessary capital investment required.
6. The Scottish Police Federation (SPF) referred to the cost of maintaining capital assets which were beyond their best and indicated that the police estate requires considerable investment.
7. Unison Scotland told the Sub-Committee that the capital budget allocation was low when compared with police services across the UK, describing the 2019-20 capital settlement as a “sticking plaster”.
8. The witnesses told the Sub-Committee that they had not been engaged in pre-budget discussions with Police Scotland and the SPA in any meaningful way. As a result, they were unable to inform or influence the decisions made and the priorities identified. They were made aware of budget discussions via briefings but were not involved in the decision-making process.
9. The SPF indicated that, although the unions and staff associations had been consulted on the Policing 2026 strategy, this was not a substitute for engagement on the implementation of the ten-year plan.

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<sup>1</sup> Scottish Government's Draft Budget 2020-21:  
<https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/111891.aspx>

10. The ASPS referred to the inability of local divisional commanders to make improvements to the estate in their areas, because of budget pressures and centralised decision making.

11. The SPF referred to the 6-monthly health and safety inspection regime and the recent findings of the SPF's inspection of Oban police station. The SPF indicated that the Scottish Police Authority must have known about issues at Oban and other stations in Scotland and questioned why they were not highlighting these issues publicly and making the case to the Scottish Government for more funding. The SPF criticised the SPA Board's level of scrutiny of the 2019-20 budget and the Chair's lack of challenge of the Scottish Government on funding.

12. The ASPS told the Sub-Committee that Police Scotland is leading on collating information from area commanders on the policing estate and that the findings are to be collated into a report. The Sub-Committee agreed to request a copy of the report, and to request that a copy also be provided to the police unions and staff associations.

13. Unison Scotland indicated that they would like to see wider discussions on the capital budget, to help the service spend its budget more effectively.

14. The witnesses thought that the 10-year digital, data and ICT strategy required to be funded adequately, but indicated that the time period risked technology being out of date by the time the strategy was fully implemented.

15. The Sub-Committee also considered its forward work programme and agreed to request written updates from Police Scotland and the Scottish Police Authority on a number of topics.

Committee clerk  
30 May 2019