



The Scottish Parliament  
Pàrlamaid na h-Alba

## JUSTICE COMMITTEE

### AGENDA

4th Meeting, 2014 (Session 4)

Tuesday 28 January 2014

The Committee will meet at 10.00 am in Committee Room 6.

1. **Decision on taking business in private:** The Committee will decide whether to take item 4 in private.
2. **Subordinate legislation:** The Committee will consider the following negative instrument—  
  
Police Service of Scotland (Amendment) Regulations 2014 (SSI 2014/1).
3. **Criminal Justice (Scotland) Bill (in private):** The Committee will continue considering a draft Stage 1 report.
4. **Work programme:** The Committee will consider its work programme.

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The papers for this meeting are as follows—

**Agenda item 2**

Paper by the clerk

J/S4/14/4/1

[Police Service of Scotland \(Amendment\) Regulations 2014 \(SSI 2014/1\)](#)

**Agenda item 3**

Private paper

J/S4/14/4/2 (P)

Private paper

J/S4/14/4/3 (P)

[Copy of the Bill, accompanying documents and SPICe briefing](#)

[Written submissions received on the Bill](#)

**Agenda item 4**

Private paper

J/S4/14/4/4 (P)

**Papers for information**

Response from the Cabinet Secretary for Justice to the Committee's report on the Scottish Government's Draft Budget 2014-15

J/S4/14/4/5

**Justice Committee**

**4<sup>th</sup> Meeting, 2014 (Session 4), Tuesday, 28 January 2014**

**Subordinate legislation**

**Note by the clerk**

**Purpose**

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

- Police Service of Scotland (Amendment) Regulations 2014 (SSI 2014/1)

2. Further details on the procedure for negative instruments are set out in the Annexe attached to this paper.

**Police Service of Scotland (Amendment) Regulations 2014 (SSI 2014/1)**

**Background**

3. The purpose of the instrument is to remove six public holidays from regulation 18 of the Police Service of Scotland Regulations 2013 and to remove the entitlement to additional days of public holiday when Christmas Day or New Year's day fall on a weekend, leaving Christmas Day and New Year's Day as the public holidays available to all police constables.

4. Following a meeting of the Police Negotiating Board Scotland Standing Committee on 16 January 2014, the Scottish Police Federation's General Secretary has published a letter, written to all the Federation's members, confirming the agreement reached by the Official and Staff Side on the proposed exchange of public holidays for annual leave.<sup>1</sup> In the letter, Mr Steele notes the pressure on the budget of Police Scotland and points out the priority to preserve pensionable and take home pay.

5. Further details on the purpose of the instrument can be found in the policy note (see below). An electronic copy of the instrument is available at:

<http://www.legislation.gov.uk/ssi/2014/1/contents/made>

**Consultation**

6. The policy note confirms that members of the Police Negotiating Board for the United Kingdom were consulted on a draft of the Regulations and Scottish Ministers have considered any representations made.

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<sup>1</sup> JCC Circular 1 of 2014. Exchange of Public Holidays for Annual Leave – Information. Available at: <http://www.spf.org.uk/wordpress/wp-content/uploads/2013/06/JCC-Circular-1-of-2014-Exchange-of-Public-Holidays-for-Annual-leave—Information.pdf>

### **Delegated Powers and Law Reform Committee consideration**

7. The Delegated Powers and Law Reform (DPLR) Committee considered this instrument at its meeting on 21 January and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

### **Justice Committee consideration**

8. Members are invited to consider the instrument and make any comment or recommendation on it. If the Committee agrees to report to the Parliament on this instrument, it is required to do so by 24 February 2014.

### **Policy Note: Police Service of Scotland (Amendment) Regulations 2014 (SSI 2014/1)**

1. The above instrument was made in exercise of the powers conferred by section 48 and 125(1) the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”).

### **Policy Objectives**

2. An agreement has been made through the Police Negotiating Board (PNB) to remove 6 public holidays from regulation 18 of the Police Service of Scotland Regulations 2013. It was also agreed that the entitlement to additional days of public holiday when Christmas Day or New Year’s day falls on a weekend should also be removed. This will leave Christmas Day and New Year’s Day as the public holidays available to all police constables.

3. The regulations include a transitional provision that will allow constables to take any remaining days in lieu, relating to the public holidays that will be removed under these regulations, on or after the date the regulations come into force.

4. The policy should bring financial savings for Police Scotland as constables and sergeants currently receive a double time payment for working public holidays. This policy change has also been agreed so that officers can have greater flexibility in taking annual leave, removing the restrictions of set public holidays that many officers can’t take due to their shift patterns.

5. The PNB agreement also includes an increase in the annual leave allowance for constables with more than two years of service, up to the rank of Chief Superintendent, of 9 days. Those within the first two years of service will receive an increase of 6 days annual leave. A separate set of amended determinations, setting out the new annual leave entitlements, will be sent out for consultation to PNB members in due course. Senior Officers have a minimum annual leave allowance and the PNB agreement does not therefore increase their allowance.

## **Consultation**

7. In accordance with section 54(1) of the 2012 Act, a draft of the Regulations was consulted with the members of the Police Negotiating Board for the United Kingdom and Scottish Ministers have considered any representations made.

## **Impacts**

8. No financial or equality issues were raised during the consultation with PNB and therefore no impact assessment has been prepared for these regulations.

Scottish Government  
Safer Communities Directorate  
January 2014

**ANNEXE****Negative instruments: procedure**

Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. 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).

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.

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.

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. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

**Guidance on subordinate legislation**

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/64215.aspx>

**Justice Committee**

**4<sup>th</sup> Meeting, 2014 (Session 4), Tuesday 28 January 2014**

**Scottish Government's Draft Budget 2014-15**

**Response from the Cabinet Secretary for Justice to the Committee's Report on the Draft Budget 2014-15**

I write to you in relation to the Justice Committee's report on the Scottish Government's Draft Budget 2014-15. I am grateful to the Justice Committee for its carefully considered analysis and scrutiny of the Scottish Government's spending plans on the budgets for police; prisons and alternatives to custody, including services for women offenders.

I enclose, at Annex A, the Scottish Government's written response to the report from the Justice Committee to the Finance Committee.

A copy of this letter goes to the Cabinet Secretary for Finance and Sustainable Growth for his Ministerial interests and Kenneth Gibson MSP, Convener of the Finance Committee.

I hope this information is helpful.

Kenny MacAskill  
Cabinet Secretary for Justice  
22 January 2014

**ANNEX A**

**The Committee notes the challenges faced by Police Scotland and the Scottish Police Authority in achieving significant savings from police reform within the commitments on delivering additional police officers and no compulsory redundancies. Some Members of the Committee welcome the commitment to maintain 1,000 extra police officers and believe that this visible policing approach has reduced crime significantly in recent years. Other Members take the view that the Scottish Government commitment constrains the Chief Constable's decisions on the shape of his workforce and on where savings can be made and therefore would like to see the Chief Constable be given more flexibility in relation to police officer numbers**

**SG response:** We note the Committee's views and concur with the view that the 1,000 extra officers and the commitment to a visible policing approach has contributed to the reduction in crime. It should be noted, however, that savings are not only being made through the reduction in staff numbers but also through overtime reductions, police officer layering (chief officers and other ranks), management of the ill health retirement process, rationalisation and management of the estate, and reductions in administration, transport and supply expenditure in relation to procurement.

**The Committee welcomes the work being carried out by Police Scotland, the Scottish Court Service and COPFS to establish the feasibility and costs arising from any extension of court hours, which may or may not include weekend courts as recommended in Lord Carloway's Report into Criminal Law and Practice. Given the potential for significant savings, particularly for the police, and reduced periods in custody for the accused, the Committee asks that this work be completed at the earliest opportunity and we would welcome regular updates on progress**

**SG response:** Criminal justice organisations recognise the importance of this work and work to look at the practical and financial implications of extending court hours, for all relevant interests, including the police, has now commenced. We expect the outcome of this work to report to the Justice Board later this year.

**The Committee notes the substantial difference of opinion between Police Scotland and Unison in relation to the level of backfilling of police staff posts with police officers. While we note the Chief Constable's assurances that Police Scotland has no policy or strategy on backfilling of police staff redundancies, and we would welcome further information from both Police Scotland and Unison regarding this matter.**

**The Committee notes that the Sub-Committee on Policing is currently monitoring the proposals arising from the police counter review, as part of its investigation into the impact of police reform on local policing, and we would welcome an update on this work in due course.**

**The Committee notes that there was agreement amongst witnesses that a review into the optimum workforce balance for the police service is needed,**



although there were differences in opinion as to the most appropriate time at which this should be undertaken. While noting what the Chief Constable said regarding the timeframe, in the interests of best value, the efficiency of the police service, and police staff, we would ask that this review be carried out as early as practicably possible.

**SG response:** We note the Committee's comments on these important issues. While the Committee recognises that there may be difficulties in establishing whether the 300 local authority funded police officers are included within the figure of 1,000 additional officers, we believe that, in the interests of transparency and to assist forward planning, this issue should be resolved. We acknowledge the letter from the Cabinet Secretary for Justice of 12 November which details the numbers of police officers funded by each local authority; however, this letter does not address the substantive question of whether these officers are included in the figure of 1,000 additional officers.

**SG response:** Based on the Quarterly Strength Returns and guidance issued to legacy forces at the time, we are of the view that locally funded officers were included in the baseline of 16,234 officers on 31 March 2007. The Scottish Government provided funding for 1,000 additional officers to that baseline. Locally funded officers are, therefore, included within the latest quarterly strength statistics which show that there were 17,313 police officers (full time equivalent) on September 30, 2013, but do not make up part of the additional 1,000 officers since 2007.

The Committee believes that devolving budgets for finances down to local or even ward level would allow funding to be better aligned to local and ward policing plans. However, we acknowledge that, due to the scale of the savings required centrally, this may not be possible immediately. We will therefore continue to monitor progress on this matter.

**SG response:** We note the Committee's comment on this matter.

The Committee notes that the Victims and Witnesses (Scotland) Bill and Criminal Justice (Scotland) Bill place additional duties on the police and that estimated costs for the police in exercising these duties are provided for in the Financial Memorandums to each Bill. Given the level of savings that the police service is already faced with, the Committee would urge the Scottish Government to continue to monitor any potential rising costs to the police as a result of current and proposed legislation.

The Committee notes that Crown Office and Procurator Fiscal Service (COPFS) has prepared for the potential impact should the requirement for corroboration be abolished as proposed in the Criminal Justice (Scotland) Bill, but we accept that it is not possible to be certain about the level of possible increases in cases going to court. Should these proposals in the Bill be passed, we would urge the Scottish Government to monitor the impact for COPFS and others to ensure that sufficient funds are in place to support any unexpected increase in the prosecution of cases

**SG response:** The process of developing financial estimates for the impact of the Criminal Justice (Scotland) Bill was rigorous and extensive. It involved close consultation and discussion with key delivery partners, making use of research activity, statistical analysis, and the professional judgement and experience of stakeholders.

We have already committed to monitor the actual impact of the Bill as part of our ongoing management of its implementation. We are in the process of developing detailed implementation plans with key partners, and will maintain close communication with these bodies up to and beyond the Bill's provisions coming into effect.

**The Committee is encouraged by the excellent work being carried out through the public social partnership model in relation to the mentoring of offenders funded by the Reducing Reoffending Change Fund (RRCF). We also welcome the Cabinet Secretary's assurances that he is "open to discussion" regarding an extension of the RRCF. We recommend that the Scottish Government provides funding for an additional year to allow the projects to run for the full three-year period, as originally planned, thereby enabling the public social partnerships involved to properly measure and demonstrate the success and cost-effectiveness of the projects to future mainstream funders.**

**SG response:** The RRCF was established to grant funding to newly created Public Social Partnerships (PSPs) between Third and Public sector organisations which would co-design and deliver mentoring services to offenders. The RRCF was structured to run from 2012-15, with the first year funding (2012-13) primarily to support the development of the PSPs and design of services, followed by a two year delivery period (2013-15). The RRCF did issue some limited funding in Year 1 (2012-13) to sustain pre-existing third sector mentoring projects until the Fund could decide the allocation of funding for the two-year delivery period.

The RRCF's provision of dedicated PSP development funding in Year 1 enabled third sector organisations to participate fully in the co-design of new mentoring services that would best reflect the needs of offenders, working in partnership with public sector stakeholders. The RRCF recognised the need for sufficient time and resources to be available for this development work to be done, and as a result the delivery period was always planned to be limited to the latter two years of the RRCF's three year span.

As a result, the RRCF's delivery grants were clearly limited to two years, with the specific expectation that the public sector members of the various PSPs (ie Community Justice Authorities, Scottish Prison Service etc) should be planning from the outset to ensure that they could provide sustainable funding for successful projects at the end of the 2 year delivery period.

As noted in para 67 of the Finance Committee's report, the Scottish Government has indicated to PSP organisations that they are aware of their concerns that their projects will not be able to demonstrate effectiveness and secure sustainable funding before the end of the RRCF in March 2015. A sub-group of the Funding project in

the Reducing Reoffending Programme has been established which will assist the PSP partnerships in their efforts to securing future funding.

**The Committee is concerned that budgetary pressures may have caused some slippage in the project to build a new national prison for women offenders at HMP Inverclyde, as recommended by the Commission on Women Offenders in its report of 2012. However, we note that the Commission recommended closure of Cornton Vale because the design and conditions of the building were inadequate, of poor quality, and not fit for purpose, and any improvements that have been made to the prison, while welcome, cannot become a substitute for a new dedicated facility for women offenders. We would therefore urge the Scottish Government and Scottish Prison Service to make every effort to ensure that there is no further slippage in the project to build HMP Inverclyde.**

**SG response:** The Scottish Government has committed, over this Spending Review period and the next, to make the necessary resources available to SPS to implement the modernisation of the prison estate for women prisoners. This will include delivering the new dedicated facility at HMP Inverclyde and the regional unit at HMP Edinburgh, by 2017.

The exact schedule for the development and opening of HMP Inverclyde will be for the SPS. As Colin McConnell advised the Committee during his evidence on 5 November 2013, the SPS are fully engaged in a detailed process of planning and development of the facilities and regime for a new national prison for women at HMP Inverclyde, alongside the development of facilities for women at HMP Edinburgh, as well as the ongoing redevelopment of HMP Cornton Vale.

Notwithstanding the potential for extreme weather or other unforeseen circumstances to disrupt a major construction project such as this, Mr McConnell noted the SPS' aim of opening the new HMP Inverclyde in summer 2017.

**The Committee shares the concerns of witnesses that there appears to be some discrepancy in relation to the aspiration to reduce the prison population and the shrinking budget for criminal justice social work. While we recognise the complexities in this area, we believe that community penalties provide a real opportunity to prevent re-offending and thereby save money from the public purse in the long term. We would therefore welcome confirmation that the Scottish Government has a joined-up strategy to reduce the prison population which links into improving the use of community penalties and that this approach is appropriately financed. We would further ask the Cabinet Secretary to consider whether there is an opportunity to reconfigure the budget to further support criminal justice social work.**

**SG response:** We fully recognise the importance of criminal justice social work which is why we have worked hard to protect the community justice budget, and support community sentences, despite the difficult economic circumstances.

But we remain happy to discuss ways to improve the allocation of funding. Indeed, we have recently provided additional flexibility to Community Justice Authorities

(CJAs) in response to recommendations from Audit Scotland and a cross-agency funding group. This flexibility allows CJAs to determine how best to meet local needs.

In addition, phase 2 of the Reducing Reoffending Programme (RRP2) has established a specific funding project with a remit to examine the funding of community justice. CJAs, CoSLA and other stakeholders including those from the third sector, are fully engaged with this project and it will provide a forum to consider a possible reconfiguration of funding.

We are also about to undertake an exercise that will aim to establish the costs of delivering criminal justice services in local authorities. The current lack of information was also highlighted by Audit Scotland and the results from this exercise will help inform the work of the RRP2 funding project.

**The Committee shares the concerns of witnesses regarding the size of the remand population and associated costs. We would therefore urge the Scottish Government to give consideration to costed increased use of approaches to provide supported alternatives to remand, such as bail supervision, where appropriate.**

**SG response:** Funding for bail supervision schemes has been made available across the country on an annual basis since 2000/01. This funding is designed to cover both bail supervision schemes and bail information schemes (i.e. the provision of verified information such as bail addresses) and discretion has always been given to local authorities to divide their allocation according to local need. Since 2009/10 approximately £1.77m per annum has been allocated across Scotland for these purposes.

Research undertaken by the Scottish Government and published in 2012 identified three key conditions for the optimal use of bail supervision, and these findings were disseminated to local authorities in the summer of 2012. That notwithstanding the research confirmed the position that bail supervision is a costly and intensive process that should not be used as an alternative to regular bail and should be used only as a direct alternative to custody for individuals who, subject to safeguards in respect of public safety, can be released into the community pending their further court hearing

**We also note that the Commission on Women Offenders recommended that most women prisoners on remand, subject to our views noted in the previous paragraph, should be held in local prisons to improve liaison with local communities and re-integration on release. The Committee would welcome an update on progress in meeting this recommendation.**

**SG response:** The ongoing development of the prison estate for women will provide a balanced approach combining the Commission's aim of holding women offenders on remand or in custody in facilities which are appropriate to their needs and circumstances, and the aim of holding them in locations close to their local communities. The planned development of new facilities at a new HMP Inverclyde, HMP Grampian and HMP Edinburgh will provide a geographical presence in West,

North and East of Scotland – whilst ensuring that women are held in modern, fit-for-purpose facilities.

**The Committee supports the collective approach of Police Scotland and the Crown Office and Procurator Fiscal Service (COPFS) in prioritising the issue of domestic abuse and we recognise that their efforts may have led to an increase in the reporting and prosecution of domestic abuse cases. We note that there is a backlog of cases in the Glasgow Domestic Abuse Court, which witnesses have suggested is due to lack of court capacity. We would therefore ask that Police Scotland, the Scottish Court Service and COPFS give consideration to this matter as part of their work on extending court hours.**

**SG response:** We note the Committee's comments on this matter. We support the actions of Police Scotland, COPFS and the Courts in ensuring appropriate priority is given to responding to the issue of domestic abuse.

**The Committee notes the collaborative approach to providing offender services within custody and in the community, which we welcome. We also welcome the Cabinet Secretary's commitment to discuss with COSLA how to achieve the best outcomes for offenders.**

**SG response:** We note the Committee's comments and reaffirm the Scottish Government's commitment to work with local government and other relevant stakeholders to modernise and improve offender services in prison and the community.

**The Committee asks the Scottish Government to ensure that any new structures arising from the review into community justice authorities provide an effective service and represent value for money.**

**SG response:** The Scottish Government response to the consultation on redesigning the community justice system was announced on 16 December 2013. The new model is one of local delivery, on a community planning partnership basis, set against a national strategy for community justice and reducing reoffending. A new body will provide assurance and recommendations to Scottish Ministers and local government elected members as well as professional strategic leadership for the sector.

The development of a national performance framework for community justice will aid transparency in demonstrating progress on delivering improved outcomes, thereby ensuring scrutiny over both the effectiveness of services and that they represent value for money.

The change management programme associated with the project will help ensure the right environment exists under the new structures to deliver against this framework. The redesign project, as one of the six projects under RRP2, is closely linked with and will absorb outputs from the funding project as described at paragraph 91.

It is important to note that other portfolio budgets make an important contribution to the successful delivery of community justice outcomes beyond any dedicated

amounts for criminal justice social work, including specific budgets for addiction services, housing, etc. The performance management framework will, therefore, consider all partners' contributions to the delivery of outcomes for community justice.

**The Committee asks the Scottish Government to continue to provide updates in relation to progress with projects under the Making Justice Work programme, such as the initiative aimed at tackling inefficiencies across the criminal justice system**

**SG response:** We will commit to providing the Committee with updates on progress under the MJW programme. The new Summary Justice System Model pilots and Getting People to Court initiative will have matured sufficiently by the end of March to allow for an initial assessment of how this work is progressing. We will update the Committee on the outcome of this assessment, once available.