



The Scottish Parliament
Pàrlamaid na h-Alba

JUSTICE COMMITTEE

AGENDA

20th Meeting, 2014 (Session 4)

Tuesday 24 June 2014

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

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 instruments—

Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2014 (SSI 2014/147);

Firefighters' Pension Scheme (Scotland) Amendment (No. 3) Order 2014 (SSI 2014/149);

Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment (No. 2) Regulations 2014 (SSI 2014/157).

3. **Public petitions:** The Committee will consider the following petitions—

PE1510 by Jody Curtis on the closure of police, fire, and non-emergency service centres north of Dundee;

PE1511 by Laura Ross on the decision made by the Scottish Fire and Rescue Service to close the Inverness control room.

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/S4/14/20/1

[Sexual Offences Act 2003 \(Prescribed Police Stations\)
\(Scotland\) Regulations 2014 \(SSI2014/147\)](#)

[Firefighters' Pension Scheme \(Scotland\) Amendment \(No. 3\)
Order 2014 \(SSI 2014/149\)](#)

[Adults with Incapacity \(Supervision of Welfare Guardians
etc. by Local Authorities\) \(Scotland\) Amendment \(No. 2\)
Regulations 2014 \(SSI 2014/157\)](#)

Agenda item 3

Paper by the clerk

J/S4/14/20/2

Agenda item 4

Private paper

J/S4/14/20/3 (P)

Justice Committee

20th Meeting, 2013 (Session 4), Tuesday 24 June 2014

Subordinate legislation

Note by the clerk

Purpose

1. This paper invites the Committee to consider the following negative instruments:
 - Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2014 (SSI2014/147);
 - Firefighters' Pension Scheme (Scotland) Amendment (No. 3) Order 2014 (SSI 2014/149);
 - Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment (No. 2) Regulations 2014 (SSI 2014/157);
2. Further details on the procedure for negative instruments are set out in Annexe A attached to this paper.

Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2014 (SSI2014/147)

Introduction

3. The purpose of the instrument is to remove Bucksburn Police Station, Lochmaddy Police Station, Dornoch Police Station and Girvan Police Station from the list of prescribed police stations, and to add Benbecula Police Station, Tain Police Station and Divisional HQ as prescribed police stations for sex offenders who are subject to the notification requirements in Part 2 of the 2003 Act.
4. The instrument comes into force on 28 June 2014.
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/2014/147/contents/made>

Consultation

6. The policy note on the instrument confirms that the then Association of Chief Police Officers in Scotland was first consulted about updating the 2008 Regulations in March 2013, prior to police reform. Following the move to a single force, the Scottish Government remained in contact with the Police Service of Scotland (PSOS) until an up-to-date list of prescribed police stations could be established. PSOS is clear that the revised list delivers the required geographical coverage across Scotland to allow

those offenders who are subject to the notification requirements of the Sexual Offences Act 2003 to comply with said requirements.

Delegated Powers and Law Reform Committee consideration

7. The Delegated Powers and Law Reform (DPLR) Committee considered this instrument at its meeting on 10 June 2014 and agreed 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. If the Committee agrees to report to the Parliament on this instrument, it is required to do so by 11 August 2014.

Policy Note: Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2014 (SSI2014/147)

The Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2014 ("the Regulations") are to be made in exercise of the power conferred by section 87(1)(a) of the Sexual Offences Act 2003 ("the 2003 Act"). The Regulations are subject to negative procedure.

Policy Objectives

In Scotland a sex offender becomes subject to the notification requirements of Part 2 of the 2003 Act if that person is convicted of an offence listed in Schedule 3 to the 2003 Act, or where another finding contained in section 80(1) of the 2003 Act is made against them, or if a civil preventative order (e.g. sexual offences prevention orders as provided by sections 104 to 109 of the 2003 Act) has been made against that offender which includes a requirement to comply with the notification requirements. Such offenders have to notify the police of their name, address, and certain other personal details within 3 days of their conviction, sentence, or when a sexual offences prevention order is made.

Section 87(1) of the 2003 Act provides that a sex offender gives notification under sections 83(1), 84(1), or 85(1) of the 2003 Act by attending any police station which is prescribed for those purposes by regulations. Section 87 of the 2003 Act empowers the police to take photographs, fingerprints and samples to verify the offender's identity upon notification. Notification should therefore take place at a station where the necessary facilities are available.

The Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2008 (SSI No. 128, "the 2008 Regulations") prescribed a list of police stations within each of the then eight Scottish police force areas at which a sex offender can attend to notify the police of their details. The 2008 Regulations came into force on 6 May 2008. The 2008 Regulations were subsequently amended by The Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Amendment Regulations 2012 (SSI 2012/50), which came into force on 2 April 2012 and updated some police station addresses. The Police and Fire Reform (Scotland) Act 2012 (Consequential Modifications and Savings) Order 2013 (SSI 2013/119), which came into force on 1 April 2013 when the former eight Scottish police forces were merged into the single Police Service of Scotland (PSOS), further amended the 2008 Regulations to strip out the references to "police areas".

Since the 2008 Regulations were last amended a number of changes have occurred to police station addresses, as a result of the move to the PSOS as well as general administrative changes with the passage of time. The Sexual Offences Act 2003 (Prescribed Police Stations) (Scotland) Regulations 2014 therefore revoke the 2008 Regulations and its various amendments, and establish a new list of prescribed police stations incorporating all of the various changes that have occurred.

A full list of changes to individual police station addresses from the 2008 Regulations (as amended) is set out below:

- change the address of Buckie Police Station to Moray House, East Cathcart Street, Buckie, AB56 1PJ.
- change the address of Campbeltown Police Station to Hazelburn Business Park, Millknowe Road, Campbeltown, PA28 6HA.
- change the address of Cowdenbeath Police Station to Brunton House, High Street, Cowdenbeath, Fife, KY4 9QU.
- change the name of Divisional Police Headquarters to Perth Police Station.
- change the postcode of Elgin Police Station to IV30 1JL.
- change the postcode of Ellon Police Station to AB41 9AX.
- change the name of Fife Constabulary Divisional Headquarters to Kirkcaldy Police Station.
- change the address of Glasgow West End Police Station to 609-611 Dumbarton Road, Glasgow, G11 6HY.
- change the postcode of Grangemouth Police Station to FK3 8AN.
- change the postcode of Hamilton Police Station to ML3 6AS.
- change the name of Helen Street Police Station to Govan Police Station.
- change the name of Inverness Area Command Police Station to Inverness Police Station.
- change the postcode of Inverurie Police Station to AB51 3QD.
- change the address of Livingston Police Station to West Lothian Civic Centre, Howden South Road, Livingston, EH54 6FF.
- change the postcode of Peterhead Police Station to AB42 1BU.
- change the name of Police Headquarters to Aberdeen Police Station.
- change the postcode of Rutherglen Police Station to G71 1DG.
- change the name of Stewart Street Police Station to Glasgow City Centre Police Station.
- change the name of Strathkelvin Police Station to Kirkintilloch Police Station.
- change the name of Tayside Police Headquarters to Dundee Police Station.
- change the postcode of Wick Police Station to KW1 5LB.

The following entries have been inserted:

- Benbecula Police Station, Balivanich, Isle of Benbecula, HS7 5LA.
- Divisional HQ, Old Perth Road, Inverness, IV2 3SY.
- Tain Police Station, Victoria Road, Tain, IV19 1AU.

The following entries have been removed:

- Bucksburn Police Station
- Dornoch Police Station
- Lochmaddy Police Station
- Girvan Police Station

Consultation

The then Association of Chief Police Officers in Scotland was first consulted about updating the 2008 Regulations in March 2013, prior to police reform. Following the move to a single force, the Scottish Government remained in contact with PSOS until an up-to-date list of prescribed police stations could be established. PSOS is clear that the revised list delivers the required geographical coverage across Scotland to allow those offenders who are subject to the notification requirements of the Sexual Offences Act 2003 to comply with said requirements.

Impact Assessments

The impact of the Regulations will be purely administrative for the police and individuals subject to the notification requirements of the Sexual Offences Act 2003. There will be no impact on businesses, equalities or strategic environment.

Financial effects

The Regulations have no financial effects on the Scottish Government's program expenditure.

Mathew West
 Scottish Government
 Safer Communities Division
 May 2014

Firefighters' Pension Scheme (Scotland) Amendment (No. 3) Order 2014 (SSI 2014/149)

Introduction

9. The purpose of the instrument is to rectify, with appropriate retrospective effect, errors which were contained in the Firefighters' Pension Scheme (Scotland) Amendment (No. 2) Order 2014 (SSI 2014/110), which the Committee considered on 20 May 2014. The purpose of that instrument was to provide retained firefighters with equal treatment and comparable rights as wholtime firefighters following new employment legislation in 2000. The Committee agreed to make no recommendation in relation to that instrument.

10. The instrument comes into force on 28 June 2014.

11. 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/2014/149/contents/made>

Consultation

12. The policy note on the instrument confirms that a formal consultation with representatives of firefighters and employers and relevant Scottish and UK Government Departments was undertaken from 6 September to 18 October 2013.

Delegated Powers and Law Reform Committee consideration

13. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument at its meeting on 10 June 2014 and agreed that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Justice Committee consideration

14. If the Committee agrees to report to the Parliament on the instrument, it is required to do so by 11 August 2014.

Policy Note: Firefighters' Pension Scheme (Scotland) Amendment (No. 3) Order 2014 (SSI 2014/149)

The above instrument was made in exercise of the powers conferred by the preserved section 26 (1) to (5) of the Fire Services Act 1947 and sections 34 and 60 of the Fire and Rescue Services Act 2004. Functions under these Acts as regards Scotland have been executively devolved to the Scottish Ministers. The instrument is subject to negative procedure.

Policy Objectives

The Firemen's Pension Order 1992 (SI 1992/129) ("the 1992 Order") provides a pension scheme to Scottish firefighters recruited before 1 April 2006. The Firefighters' Compensation Scheme (Scotland) Order 2006 (SSI 2006/338) provides compensation benefits for all Scottish firefighters who suffer a work related injury.

Following new employment legislation in 2000, retained firefighters, supported by the Fire Brigades Union (FBU) and Retained Firefighters Union (RFU), submitted an ultimately successful employment tribunal claim seeking equal treatment with whole-time firefighters. The tribunal determined that the FBU and officials at the Department for Communities and Local Government (DCLG) should negotiate and deliver an outcome that provided the necessary comparable rights.

The main terms of the modified scheme are based on those provided under the 1992 Order.

Those individuals that would be eligible to purchase pension rights under the terms of the new pension arrangements are those individuals who were employed as retained firefighters between 1 July 2000 and 5 April 2006. An individual who was employed on retained duties and as a wholetime regular firefighter by the same employer is not eligible to benefit from these proposed pension arrangements. Membership will be open to all eligible persons – they do not need to have made an employment tribunal claim.

An exercise is being undertaken to identify all eligible members and to alert them to the new provisions.

Consultation

A formal consultation was undertaken from 6 September to 18 October 2013. The consultation was issued to representatives of firefighters and employers and relevant Scottish and UK Government Departments.

Financial Effects

The actual financial impact will not be known until after 31 March 2015 when take up of the offer to join the new terms will be known.

No Business and Regulatory Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen.

Scottish Public Pensions Agency
An Agency of the Scottish Government
April 2014

Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment (No. 2) Regulations 2014 (SSI 2014/157)

Introduction

15. The purpose of the instrument is to correct an erroneous cross reference in the Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment Regulations 2014 (SSI 2014/123), which the Committee considered on 3 June 2014. The purpose of that instrument was to allow more flexibility in the frequency of visits, in response to the circumstances of individual adults, so that local authority resources may be targeted to safeguard the most vulnerable. The Committee agreed to make no recommendation in relation to that instrument.

16. The instrument comes into force on 12 August 2014.

17. 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/2014/157/contents/made>

Delegated Powers and Law Reform Committee consideration

18. The Delegated Powers and Law Reform (DPLR) Committee considered this instrument at its meeting on 17 June 2014 and agreed that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Justice Committee consideration

19. If the Committee agrees to report to the Parliament on this instrument, it is required to do so by 18 August 2014.

Policy Note: Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment (No. 2) Regulations 2014 (SSI 2014/157)

The above instrument was made in exercise of the powers conferred by sections 10(3)(a) and 86(2) of the Adults with Incapacity (Scotland) Act 2000 (“the 2000 Act”). The instrument is subject to negative resolution procedure.

Policy Objectives

This instrument corrects an erroneous cross reference in the Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Amendment Regulations 2014 (S.S.I. 2014/123; “the amending Regulations”). The amending Regulations in turn amended the Adults with Incapacity (Supervision of Welfare Guardians etc. by Local Authorities) (Scotland) Regulations 2002 (SSI 2002/95; “the principal Regulations”).

The Scottish Government gave an undertaking to the Delegated Powers and Law Reform Committee of the Scottish Parliament to bring forward this instrument.

The amendment relates to regulation 2A of the principal Regulations, as inserted by the amending Regulations. That regulation provides, amongst other things, for a local authority, having previously varied the arrangements for visits to an adult or guardian, to vary the arrangements again to revert back to the interval between visits prescribed in regulation 2(1) of the principal Regulations. The text, in regulation 2A(5)(a) cross refers to the interval prescribed for a visits to a guardian in regulation 2(1)(b) of the principal Regulations, and should refer instead to the interval for visits to an adult or guardian prescribed in regulation 2(1) generally. There is therefore a risk that regulation 2A(5)(a) would have the effect of only allowing a variation of visits back to intervals of not more than twelve months for visits to the adult when the intention was to allow this for visits to the adult and the guardian.

The amending Regulations come into force on 9th June 2014. This instrument comes into force on 12th August 2014. As the relevant provision only applies where a local authority has previously decided to vary the visits to an adult or guardian and is then considering varying those arrangements again, this situation is highly unlikely to arise in the period between 9th June and 12th August. As a result, no adult, guardian or local authority will be disadvantaged or otherwise adversely affected by the period between the two instruments.

Financial Effects

No additional costs will fall on the Scottish Government or local government as a result of this instrument. The amending Regulations made provision for a more flexible and risk based approach to supervisory visits to enable local authorities to better target their available resources.

Equality Impact Assessment

An equality impact assessment has not been produced in connection with this instrument.

Scottish Government Civil Law and Legal System Division
June 2014

ANNEXE A**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

20th Meeting, 2014 (Session 4), Tuesday 24 June 2014

Petitions PE1510 and PE1511

Note by the clerk

Introduction

1. This paper invites the Committee to consider petitions PE1510 and PE1511.
2. The terms of each petition are:

PE1510: Petition by Jody Curtis on behalf of Emergency Service and Non-Emergency Service Call Centres calling on the Scottish Parliament to undertake a committee inquiry into the closure of Police, Fire, and Non-Emergency Service Centres north of Dundee. In particular, the major concerns raised have been the loss of public knowledge; public safety; officers being off the street and overwhelmed in managing the increased workload this would create.

PE1511: Petition by Laura Ross calling on the Scottish Parliament to urge the Scottish Government to review the decision made by the Scottish Fire and Rescue Service to close the Inverness Control Room.

Public Petitions Committee consideration

3. On 3 June, the Public Petitions Committee (PPC) agreed to refer both petitions to the Justice Committee as part of its remit with the request that the issues in the petitions are raised at the planned evidence session with the chief inspectors of fire and constabulary on 19 August.
4. The PPC previously wrote to the Justice Committee about these petitions. The PPC letter and the Convener's response are attached in the annexe to this paper.

Recommendation

5. **The Committee is invited to consider the terms of these petitions during its session with the chief inspectors of fire and constabulary on 19 August.**
6. **The Committee may also wish to draw the attention of the Justice Sub-Committee on Policing to petition PE1510.**

ANNEXE

**LETTER FROM PPC CONVENER TO JUSTICE COMMITTEE CONVENER –
22 APRIL 2014**

The Public Petitions Committee is currently considering the two petitions, noted above, regarding the closure of fire control rooms and police area control rooms and service centres.

The Public Petitions Committee does not wish to duplicate the work that has been or will be undertaken by the Justice Committee or the Justice Sub-Committee on Policing on this issue. I would be grateful if you would outline the scrutiny undertaken by the Justice Committee and the Justice Sub-Committee on control room closures, the extent to which the points raised by the petitioners have been examined and what plans either committee has for further scrutiny of the decisions taken to close control rooms.

**RESPONSE FROM JUSTICE COMMITTEE CONVENER TO PPC CONVENER –
8 MAY 2014**

Thank you for your letter of 22 April seeking further information on the scrutiny undertaken by the Justice Committee and the Justice Sub-Committee on control room closures, the extent to which the points raised by the petitioners have been examined and what plans either committee has for further scrutiny of the decisions taken to close control rooms. The Justice Committee considered your letter during a discussion on its work programme on 29 April.

Neither the Committee nor the Sub-Committee has any current plans to examine the specific issue of control room closures. However, the petitioners may be interested to note that, in August, the Justice Committee plans to conduct a one-off evidence session with the chief inspectors of fire and constabulary on their inspection and thematic work in relation to the first year of the single services. There is a strong likelihood that the issue of control rooms will arise during that session.