



**JUSTICE 2 COMMITTEE**

**AGENDA**

**22nd Meeting, 2006 (Session 2)**

**Tuesday 19 September 2006**

The Committee will meet at 2.00 pm in Committee Room 6.

1. **Subordinate legislation:** Hugh Henry MSP (Deputy Minister for Justice) to move the following motion—

S2M-4652 That the Justice 2 Committee recommends that the draft Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006 be approved.

2. **Christmas Day and New Year's Day Trading (Scotland) Bill:** The Committee will take evidence on the Bill from—

Hugh Henry MSP, Deputy Minister for Justice and Andrew Dickson, Access to Justice Division, Justice Department, Scottish Executive;

and then from—

Karen Whitefield MSP, member in charge of the Bill, and Rodger Evans, Non-Executive Bills Unit.

3. **Forthcoming Custodial Sentences and Weapons (Scotland) Bill – appointment of adviser:** The Committee will consider a draft remit and person specification for the post of adviser.
4. **Christmas Day and New Year's Day Trading (Scotland) Bill (in private):** The Committee will consider the main themes arising from the evidence session, to inform the drafting of its Stage 1 report.

Tracey Hawe/Alison Walker  
Clerks to the Committee

**Papers for the meeting—**

Agenda Item 1

Note by Clerk (including [SSI](#) and [Executive Note](#))

[J2/S2/06/22/1](#)

Agenda Item 2

Line of questioning (PRIVATE PAPER)

[J2/S2/06/22/2](#)

Agenda Item 3

Note by Clerk

[J2/S2/06/22/3](#)

**Documents circulated for information only—**

Reappointment of Colin Tyre QC as member of the Scottish Law Commission,  
Scottish Executive news release, 14 September 2006

Correspondence on the Legal Profession and Legal Aid (Scotland) Bill

**Forthcoming meetings—**

- Tuesday 26 September 2006, Committee Room 1
- Tuesday 3 October 2006, Committee Room 4

**JUSTICE 2 COMMITTEE**

**22<sup>nd</sup> Meeting 2006 (Session 2)**

**Tuesday 19 September 2006**

**SSI title and number:** The Fire (Scotland) Act 2005 (Consequential Modifications and Savings) Order 2006, (SSI 2006/draft)

**Type of Instrument:** Affirmative

**Meeting:** 19 September 2006

**Date circulated to members:** 14 September 2006

**Justice 2 Committee deadline to consider SSI:** 19 June 2006

**Deputy Minister for Justice to attend Justice 2 Committee meeting?** Yes

**SSI drawn to Parliament's attention by Sub Leg Committee:** Yes

1. The original version of this instrument was laid on 16 June 2006. Due to points raised by the Subordinate Legislation Committee this amended version of the instrument was relaid on 7 July 2006. The Subordinate Legislation Committee considered the amended Order at its meeting on 5 September 2006 and was content with its terms.
2. The Deputy Minister for Justice will attend this Committee meeting. The discussion will begin with an opportunity for members to ask any factual questions or ask for clarification whilst officials are seated at the table with the Minister. The Minister will then be asked to move the motion to open the debate. The Committee will then formally debate the motion. Officials cannot take part in that debate. The debate is limited to a maximum of 90 minutes (Rule 10.6.3), but may be much shorter. At the end of the debate, the Committee must decide whether or not to agree the motion and report to the Parliament accordingly.
3. If members have any queries or points of clarification on the instrument which they wish to raise with the Scottish Executive in advance of the meeting, please could these be passed to the Clerk to the Committee as soon as possible.

Clerk to the Committee  
12 September 2006

## JUSTICE 2 COMMITTEE

### Committee Adviser for forthcoming Custodial Sentences and Weapons (Scotland) Bill

Note by the Clerk

#### Background

1. It is expected that the Custodial Sentences and Weapons (Scotland) Bill will be introduced in September 2006. It is anticipated that the Justice 2 Committee may be designated as the lead Committee on the Bill once it is introduced.
2. The Bill, when introduced, is likely provide a new regime for the release of prisoners, replacing the current provisions for automatic early release with 'combined' sentences, comprising a custody part and a community part. These sentences will apply to anyone sentenced to a term of 15 days or more.
3. The Bill is also likely to contain provisions for the control of knives, swords and other weapons.
4. As these are likely to be complex and technical provisions it is suggested that the appointment of an adviser would assist the Committee in its scrutiny of the Bill. Following on from the Committee's scrutiny of the Police, Public Order and Criminal Justice Bill, the Committee already has a degree of expertise in the issues of knife crime. As the custodial sentences element of the Bill is by far the largest part of the proposed legislation, it is proposed that the Committee seeks an adviser with expertise in this area.
5. The proposed adviser role and specification is attached at Annexe A.

#### Next steps

6. If the Committee agrees to appoint an adviser, approval from the Bureau is required before specific candidates can be considered.
7. It is envisaged that the Committee would then consider possible candidates for appointment at a future meeting, in October.

#### Recommendation

8. The Committee is invited to consider the following issues:
  - Does the Committee agree to appoint an adviser to assist in the scrutiny of the Custodial Sentences and Weapons (Scotland) Bill?
  - Does the Committee agree the role and specification of the adviser?

## **JUSTICE 2 COMMITTEE**

### **Committee Adviser for Custodial Sentences and Weapons (Scotland) Bill**

#### **Specification for Appointment**

##### **Background and remit**

The Custodial Sentences and Weapons (Scotland) Bill is expected to be introduced in September 2006. It is anticipated that the Justice 2 Committee may be designated as the lead Committee on the Bill.

The majority of the Bill, when introduced, is likely to be concerned with the provision of a new regime for the release of prisoners which will replace the current provisions for automatic early release with 'combined' sentences, comprising a custody part and a community part. These sentences will apply to anyone sentenced to a term of 15 days or more. The custody part must be between half and three quarters of their sentence and is the minimum period to be spent in custody. Following release from custody, the prisoner will serve the rest of the sentence on licence in the community. Whilst the custody part will be specified by the court at the point of sentence, the prisoner may be detained beyond its expiry, up to a maximum of three quarters of the sentence, if the Parole Board determines that the prisoner is likely, if released from custody, to pose a risk of serious harm to the public.

The Bill will make changes to the Parole Board for Scotland and its composition and functions as a consequence of the revised arrangements. It will also contain provisions on related matters such as the issuing of licences, release on compassionate grounds, and the application of the regime to children, young offenders, and those detained under mental health legislation.

The Bill is also likely to contain provisions for the control of knives, swords and other weapons. It is anticipated that the Bill will provide for the introduction of a new mandatory licensing scheme under the Civic Government (Scotland) Act 1982 for commercial activities involving non-domestic knives and swords etc. The scheme will be administered by local authorities. Scottish Ministers' powers to prohibit the sale etc. of swords (subject to specified exceptions) will also be extended.

The Bill is likely to include some complex and technical provisions, and the Committee would benefit from expert advice in relation to these provisions. In addition, the provisions are expected to be relatively high profile.

##### **Adviser duties**

The role of the adviser will be to assist the Committee in all aspects of the scrutiny process and, in particular, to provide expert advice on lines of questioning for committee witnesses, to summarise written evidence received by the Committee, and to contribute to draft and final reports in conjunction with the Committee as required.

The adviser will be expected to attend evidence-taking sessions, and, in particular, those meetings held to discuss draft reports. The adviser would report to the Committee through the Clerk and may be asked to submit papers to the Committee.

Specifically, the adviser's role will be to assist the Committee in:

- |  |          |
|--|----------|
| • Overview of relevant documentation                     | 1.5 days |
| • Preparation of lines of questioning                    | 2.5 days |
| • Attending meetings                                     | 4 days   |
| • Summarising written evidence received                  | 3 days   |
| • Providing additional briefings as required             | 1 day    |
| • Assisting the Committee in drafting its Stage 1 report | 3 days   |

### **Time Commitment**

The adviser must be able to demonstrate that he or she has sufficient time to undertake the work over the period of the scrutiny of the Bill. It is anticipated that a maximum equivalent of 15 days will be required. As a rough guide, it is anticipated that the adviser would be appointed in October, with oral evidence sessions on the Bill taking place in November and consideration of a draft report in December 2006.

Specifically, the Committee meets weekly on a Tuesday afternoon at the Scottish Parliament, Edinburgh and the adviser will be expected to be available at these times. Meeting times vary, but are generally scheduled from 2.00 pm to 5.00 pm.

### **Person specification**

The adviser would be expected to have a detailed understanding of the current sentencing arrangements which apply in Scotland, together with knowledge of the issues surrounding supervision and rehabilitation of offenders. A knowledge of the current law regarding the sale and possession of weapons would also be advantage, although this is not essential. The adviser would be expected to have proven analytical and interpretative skills and the ability to analyse evidence from a wide range of sources. The adviser should also have good communication skills, the ability to present information in an accessible style and, crucially, the ability to work to short deadlines.

The adviser must be able to advise the Committee dispassionately on the basis of available evidence without seeking to persuade it of any particular outcome or approach that he or she may favour, and should not be involved in any capacity that would compromise his or her ability so to act.

The adviser's duties may involve handling confidential and sensitive material. The adviser will be required to maintain absolute confidentiality about the matters under consideration or which come before him or her. The successful candidate will be required to declare any interests relevant to the subject matter of the Bill, pecuniary or otherwise, in advance of the award of any contract.