

Scottish Commissioner for Human Rights Bill

Fiona Killen charts the progress of the Scottish Commissioner for Human Rights Bill which has now completed Stages 1 and 2. If the Bill is passed at Stage 3 this month it will then receive Royal Assent.

The Scottish Commissioner for Human Rights Bill was introduced into the Scottish Parliament on 7 October 2005 by the Scottish Executive and assigned to the Justice 1 Committee as lead committee, for parliamentary consideration at Stages 1 and 2.

The Bill will establish an independent Commissioner for Human Rights, with the aim of promoting awareness, understanding and respect for human rights in Scotland.

The key provisions of the Bill as introduced in Parliament are:

- the creation of a Scottish Commissioner for Human Rights, to be appointed by the Queen on the nomination of the Scottish Parliament, with up to two deputy Commissioners subject to the same nomination and appointment mechanism; with the Commissioner and deputies to be accountable to Parliament, including the requirement for an annual report;
- the Commissioner will have the power to review and recommend changes to the law of Scotland;
- the Commissioner will have a power to conduct inquiries into the policies or practices of Scottish public bodies in terms of respect for human rights and compliance with human rights instruments, including the European Convention on Human Rights, with reports on such inquiries to be laid before the Scottish Parliament and published;
- the Commissioner will also be able to intervene in civil proceedings before a court (with the court's leave or at the court's invitation) to make a submission to the court on an issue arising in the proceedings; and
- the Commissioner will have duties to promote, educate and raise awareness of human rights issues, provide guidance to public authorities and undertake general monitoring and reporting in relation to human rights law and practice.

The Bill has now completed its Stage 1 and Stage 2, with some significant amendments being accepted at Stage 2, and some other amendments being proposed but rejected by the Committee at that stage.

The Stage 2 amendments accepted by the Committee included a requirement for the Commissioner, before undertaking a review of a particular area of the law in Scotland, to consult the Scottish Law Commission.

A further amendment in terms of operational matters is the insertion in Schedule 1 of provisions to make the Commissioner's determination of the location of the Commissioner's office premises subject to the approval of the Scottish Parliamentary Corporate Body. In determining that location, the Commissioner must consider the



desirability of sharing premises with another public body, to ensure the most economic, efficient and effective use of the Commissioner's resources. Other operational amendments accepted at Stage 2 will bring the Commissioner within the scope of both the Freedom of Information (Scotland) Act 2002 and the Scottish Public Services Ombudsman Act 2002.

One significant Stage 2 amendment rejected by the Committee was a Scottish Executive amendment to change the Commissioner to a Commission, in what the Executive understood to be a move that would be supported by members of the Justice 1 Committee, following the Committee's Stage 1 Report. However, the Committee, perhaps unexpectedly, rejected this amendment, retaining a Commissioner and rejecting a Commission.

The Bill is scheduled to be debated at Stage 3 on 2 November 2006, its final parliamentary stage. If it is passed at Stage 3, it will proceed to Royal Assent.

For further information on the Scottish Commissioner for Human Rights Bill, please contact Fiona Killen fiona.killen@andersonstrathern.co.uk or by telephone: 0131 625 7296.