



Rt Hon the Lord Patten
House of Lords
London
SW1A 0PW

31 January 2010

Dear John,

Parliamentary Question - The number of unimplemented criminal justice provisions contained in legislation enacted since 1997

In June last year you asked the Government, via a Parliamentary Question, how many provisions of the 65 criminal justice Acts enacted since 1997 are not yet in force; and what those provisions are.

As I indicated in my response of 22 June 2009 it has been necessary to conduct a detailed exercise in order to obtain the information to answer this question. I had anticipated that I would be in a position to provide this information by the end of last year and I apologise for the delay in responding. However this exercise has now been completed and I am pleased to be able to respond to your request. Provisions contained within the Coroners and Justice Act 2009, which received Royal Assent on the final day of the 4th Session, have not been considered as part of this exercise.

Other than the Coroners and Justice Act 2009, 19 Acts containing criminal justice provisions have been enacted since 1997 for which my department has responsibility, either in full or in part. Of these 19 Acts of Parliament, 68 of the sections for which my department has policy responsibility currently remain unimplemented, either in full or in part and 25 of the schedules to these Acts are yet to be commenced in full or in part. A full list of provisions is contained within the table below.

Of the unimplemented provisions, many are minor, consequential or transitional provisions, for example all of the unimplemented paragraphs in schedule 7 to the Criminal Justice and Courts Services Act 2000. Of the remaining unimplemented

provisions there are valid reasons for the delay as is illustrated by the examples set out below:

The majority of unimplemented provisions are contained within the Criminal Justice Act 2003 and relate to sentencing policy including the legal framework for custody plus (sections 181 and 188 and linked provisions in sections 280-283 and schedules 10, 11, 26 and 27) - a sentence which allows an offender to serve both a short custodial sentence and then be supervised in the community afterwards. Resource constraints have meant that we have been unable thus far to implement custody plus and there is no prospect of doing so in the near future. However we are keen to explore options to support offenders released from short term custody. There is already provision for resettlement for offenders released after short custodial sentences, notably through the Home Office's Drugs Interventions Programme partnership with prison teams, and other locally supported schemes.

The majority of the unimplemented provisions contained within the Domestic Violence, Crime and Victims Act 2004 relate to the appointment of a Commissioner for Victims and Witnesses. A recruitment campaign conducted in 2006 failed to identify a suitable candidate for this role. Changes were made in the Coroners and Justice Act 2009 to re-shape the role of the Commissioner, reflecting developments in the provision of support and services to victims and witnesses since the 2004 legislation. The Coroners and Justice Act recently received Royal Assent on 12 November and we have now launched the recruitment for a Victims' Commissioner for which the 2004 Act provisions as amended will be commenced. We intend to commence the provisions in early February and aim to make an appointment soon after.

Section 10 of the Corporate Manslaughter and Corporate Homicide Act 2007 provides for courts to impose a publicity order, requiring the organisation to publicise details of its conviction and fine. As publicity orders are an entirely new disposal, commencement has been delayed until supporting guidelines are available for the courts. The Sentencing Guidelines Council published a consultation guideline on 27 October 2009 and a definitive guideline is likely to be ready early this year.

The majority of the provisions in the Criminal Justice and Immigration Act 2008 have been commenced but a few have not. For example, commencement of the offences of stirring up hatred on grounds of sexual orientation, contained within section 74 of and schedule 16 to this Act, has been delayed to ensure compliance with the E-Commerce Directive. This directive requires us to apply the offence to domestically established

electronic service providers when they provide their services in other European Economic Area states. The necessary legislative changes to give us the powers we need in this respect were made by section 143 of the Coroners and Justice Act 2009. That section came into force on Royal Assent. We will therefore proceed to implement the offence as soon as regulations are made to ensure that we meet the requirements of the directive.

A further example relates to section 39 of, and schedule 7 to, the 2008 Act which introduce youth default orders which will enable a court to impose an unpaid work requirement on a young offender (of the age of 16 or 17), a curfew requirement or an attendance centre requirement in lieu of an unpaid fine. These provisions are yet to be implemented due to resource constraints.

As agreed in subsequent correspondence, this information will also be published in the Official Report by way of a written ministerial statement.

*Yours Gov,
Wills.*

WILLY BACH

Act	Unimplemented Provision
Crime and Disorder Act 1998	Schedule 8 (Paragraphs 86 and 90)
Youth Justice and Criminal Evidence Act 1999	Schedules 2 (Paragraphs 1-2, 3(10)(b), 5 and 15) and 4 (Paragraphs 1-3, 4(1) and (3), 21 and 24)
Criminal Justice and Court Services Act 2000	Sections 59 and 61
	Schedule 7 (Paragraphs 5, 7-11, 15(1)(a)-(d), (f), (g), 16, 17, 18(1), (2), (3)(a), (b), (c)(ii), 20, 22(1)(a)-(d), (f), (g), 23, 24, 25(1), (2), (3)(a), (b), (c)(ii), (4), 27, 29(1)(a)-(d), (f), (g), 30, 31, 32(1), (2), (3)(a), (b), (c)(ii), 33-36, 39, 54-56, 59, 60, 62-70, 73, 76, 98, 108, 109, 112-115, 119, 134, 149, 178, 180-188, 190-194, 197(a), (d), (e), 201(2)(b), (3), 202(2)(b), 203(5), 204 and 211)
Criminal Justice Act 2003	Sections 29(4), 33(3), 34, 35, 43, 53, 62-65, 137-138, 151, 154-155, 161, 181, 182(2), 188, 196(1)(b), 204(4),

	213(3)(b), 216(2)(a), 244(3)(b), 266, 280-283, 298, 300-301 and 303(b)(iii)
	Schedule 3 (Paragraphs 1-5, 7-12, 14-21, 23-26, 29-32, 34(2)(b), (d), (f), (3), (4), 41, 42(b), 43, 44(3), 45-47, 48(2)(a)(ii), (b), (3)(b)(ii)-(iv), 49(a), 50, 51(3), (4), (6), (7), (9)-(14), 52, 53, 54(2), (3)(d), (e), (5)(a)(i)(a), (a)(ii), (b), 55(2), 56(2)(a), (3)-(5), 57(3)(a), (b)(ii), (c), 58, 60(2)-(6), (7)(a), (8), 61, 62, 64(2)(a), (3)(a), (4)(a), 66(2)(a), (3)(a), (b), (4), (5), (6)(b), (8), 67, 70-72, 73(2), (3)(a), (4)(a), 74(6), 75(2), (4); Schedules 4; 10; 11; 25 (Paragraphs 1-28, 30-35, 52-53 and 55-105); Schedules 26; 27; 31; 32 (Paragraphs 17, 27, 28, 33, 51, 53, 63, 68(2), 102(2)(b), (c), (3) and 123(3)) and Schedule 36 (Paragraphs 2, 4, 7-9, 11-14, 16 and 98)
Domestic Violence, Crime and Victims Act 2004	Sections 15, 48-53, 54(2)(c), (3)(c)-(d) and 57
	Schedules 8; 9 and 10 (Paragraphs 13, 15, 28 and 64)
Police and Justice Act 2006	Schedule 14 (Paragraphs 7, 15, 36, 38 and 41)
Corporate Manslaughter and Corporate Homicide Act 2007	Sections 2(1)(d) and 10
Serious Crime Act 2007	Schedule 13 (Paragraph 7)
Criminal Justice and Immigration Act 2008	Sections 9, 11(2)-(8), 19, 33(2), (4), (7), (8), 34(2), (4)(b), (10), 39, 46(2), 74 (in respect of the provisions of Schedule 16 listed below) and 78
	Schedule 4 (Paragraphs 3(3), (5), 25, 59(c), 92(a) and (c)); Schedules 7; 9 (Paragraph 2); Schedule 16 (Paragraphs 1-5, 6 (other than 6(3)), 7-11 and 17); Schedule 26 (Paragraphs 1, 2(3), 50, 63, 70 and 83) and Schedule 27 (Paragraphs 13(1), 28 and 36)