

Protection of Workers (Scotland) Bill

Evidence to the Economy, Energy & Tourism Committee

September 2010

Introduction

The Federation of Small Businesses is Scotland's largest direct-member business organisation, representing around 20,000 members in every sector of the economy and every area of the country. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper.

Given that our members play an integral role in their communities by delivering important services, we welcome the opportunity to submit our comments to the consultation on the Protection of Workers (Scotland) Bill.

Background

The Emergency Workers (Scotland) Act 2005 introduced tougher criminal penalties for those who assault, hinder or obstruct specified emergency service workers in the course of their work. Others who also provide a service to the public, such as shop workers and bus and taxi drivers, were not covered and so this Bill aims to extend a similar protection to them.

This, we believe, is a most laudable objective. A range of workers provide essential services – from transport to retail – without which communities would not remain viable. Thus, we welcome moves to send a strong message that violence against people delivering those services is completely unacceptable and to extend to them the same protection enjoyed by emergency workers.

The FSB responded to the consultation on the Workers (Aggravated Offences) (Scotland) Bill in September 2009. In that response, we raised a question about whether the self-employed / owner-managers

would be covered by the legislation. It is on this issue that we would again seek clarification.

Definition of ‘worker’ and ‘employment’

Section 1(3) defines the individuals to whom the provisions of the Bill will apply. Essentially, “worker” is defined as a, “person whose employment involves dealing with members of the public”. “Employment” is then defined as, “any paid or unpaid work whether under a contract, apprenticeship, or otherwise.”

Thus, the section will cover employees, contractors, agency workers, volunteers and apprentices. However, we are unclear whether the term “or otherwise” will include the self-employed or business owners.

Looking to the policy memorandum for evidence of intention, examples of the sort of occupations which are key to communities include taxi drivers, who in many cases will be self-employed.

The FSB, therefore, would like to see the self-employed and business owners explicitly included on the face of the Bill. This would give our members, such as shop owner/managers, an assurance that they enjoyed the same protection as other individuals within the business who happen to be employees.

Conclusion

Small businesses provide vital services (and, of course, the consequent jobs) in communities across Scotland. Indeed, the local pub, shop or Post Office can often be the glue which binds vulnerable rural and urban communities together. The FSB therefore backs any move to recognise the importance of these businesses and their staff and to protect them from violence and intimidation at work.

To be equitable and truly effective, however, this Bill must apply to those who are delivering services while self-employed. The FSB therefore calls for the inclusion, on the face of the bill, of confirmation that the protection will extend to the self-employed and other business owners.

We would of course be happy to enter into further discussions on this issue if required.

Should you require any further information, please contact: Martyn McIntyre, Policy Officer on (0141) 221 0775 or martyn.mcintyre@fsb.org.uk