

# Coronavirus (Recovery and Reform) (Scotland) Bill

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## Marshalled List of Amendments for Stage 3

The Bill will be considered in the following order—

Sections 1 to 47  
Long Title

Schedule

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 1

**Alex Rowley**

- 1 In section 1, page 6, leave out line 14

**John Swinney**

- 8 In section 1, page 7, line 21, leave out <and intervals specified by virtue of subsection (2)> and insert <specified by virtue of subsection (2)(b) and the intervals specified by virtue of subsection (3)>

**Stuart McMillan**

*(on behalf of the Delegated Powers and Law Reform Committee)*

- 29 In section 1, page 8, line 3, at end insert—  
<( ) the Scottish Ministers must provide an assessment of the impact of the regulations on those persons affected by them, and>

**Murdo Fraser**

- 2 Leave out section 1

### Section 5

**Oliver Mundell**

- 30 Leave out section 5

### Section 6

**Oliver Mundell**

- 31 In section 6, page 11, line 39, at end insert—

- <(1A) In having regard to advice under subsection (1), a relevant authority must balance that advice against the wider interests and rights of any child or young person.
- (1B) In assessing the balance under subsection (1A), a relevant authority must seek and take into account the views of—
- (a) affected children or young people,
  - (b) the parents, guardians or carers of an affected child or young person, and
  - (c) any professional person the relevant authority considers appropriate.
- (1C) Where a relevant authority is not satisfied that any proposed action is in the best interest of any child or young person, they may delay the implementation of any proposed action for up to 28 days.>

**Oliver Mundell**

- 32 In section 6, page 12, line 1, leave out <subsection (1)> and insert <this section>

**Oliver Mundell**

- 33 Leave out section 6

**Section 7**

**Oliver Mundell**

- 34 In section 7, page 12, line 9, at end insert—
- <(1A) In having regard to guidance under subsection (1), a relevant authority must balance that guidance against the wider interest and rights of any child or young person.
- (1B) In assessing the balance under subsection (1A), a relevant authority must seek and take into account the views of—
- (a) affected children or young people,
  - (b) the parents, guardians or carers of an affected child or young person, and
  - (c) any professional person the relevant authority considers appropriate.
- (1C) Where a relevant authority is not satisfied that any proposed action is in the best interest of any child or young person, they may delay the implementation of any proposed action for up to 28 days.>

**Oliver Mundell**

- 35 Leave out section 7

**Section 8**

**Oliver Mundell**

- 36 In section 8, page 12, line 27, at end insert—
- <( ) Where regulations under subsection (1) restrict access to a public educational establishment but it remains open, any parent may request that their child, who would but for the regulations, attend the educational establishment continues to attend in person.>

**Oliver Mundell**

37 In section 8, page 12, line 27, at end insert—

<( ) Where regulations under subsection (1) close all schools in—

(a) Scotland, or

(b) a specified region,

the regulations may not come into force before a period of 48 hours beginning with the day on which they are made.

( ) The Scottish Ministers must notify each school affected at the point at which the regulations are made.>

**Oliver Mundell**

38 In section 8, page 12, line 27, at end insert—

<( ) When making regulations under subsection (1) which would close a public school, the Scottish Ministers, where possible, must obtain consent of the local authority in which the public school is located before laying the regulations.>

**Oliver Mundell**

39 In section 8, page 13, line 33, at end insert—

<( ) This section is subject to the discretion of the relevant operator to open a school for any young person who in their professional judgment would be best supported in school.>

**Oliver Mundell**

40 In section 8, page 13, line 33, at end insert—

<( ) Draft regulations or, as the case may be, regulations laid before the Scottish Parliament under this section must be accompanied by a statement setting out the Scottish Ministers' proposals for ensuring continuation of appropriate educational provision.>

**Oliver Mundell**

41\* In section 8, page 13, line 33, at end insert—

<( ) Having made regulations under subsection (1) which close an educational establishment, the Scottish Ministers must make available provision to ensure every child or young person can as quickly as is practical be provided with an appropriate electronic device and access to an internet connection in order to support remote learning.>

**Oliver Mundell**

42 In section 8, page 13, line 33, at end insert—

<( ) Where regulations under subsection (1) would close an educational establishment, the Scottish Ministers must issue guidance stating that regular contact should be maintained between —

(a) children and young people, and

(b) where a child is under 16 years old, their parent, guardian or carer,

and the educational establishment which they would attend but for those regulations.>

**Oliver Mundell**

43 Leave out section 8

### After section 8

**Oliver Mundell**

44 After section 8, insert—

#### <Alterations to educational assessment

- (1) This section applies where the Scottish Ministers or relevant operator are considering or introducing temporary alterations to the examination or assessment of young persons (“a temporary assessment model”) in an educational establishment as a consequence of this Act.
- (2) When considering or introducing a temporary assessment model, the Scottish Ministers or relevant operator, as the case may be, must act fairly and not arbitrarily.
- (3) For the avoidance of doubt, a temporary assessment model may not rely on historical educational data.
- (4) A young person subject to a temporary assessment model is entitled to an appeal following the assessment which considers the young person’s wider educational and personal circumstances.
- (5) When measures under, or introduced in consequence of, this Act cease to have effect, the Scottish Ministers must make arrangements for a full examination diet as soon as practicable.
- (6) The Scottish Ministers must give 90 days notice before a full examination diet commences.
- (7) A young person subject to a temporary assessment model must be given the opportunity to retake or take (as the case may be) any examinations that the young person was unable to take as a consequence of measures under, or in consequence of, this Act.>

### Section 9

**John Swinney**

9 In section 9, page 14, line 6, after <pupils> insert <for a specified period>

**Oliver Mundell**

45 Leave out section 9

### Section 10

**John Swinney**

10 In section 10, page 15, line 14, after <students> insert <for a specified period>

**Oliver Mundell**

46 In section 10, page 15, line 32, at end insert—

<(3A) Before implementing regulations under subsection (1) which prohibit access to the whole or specified part of student accommodation premises, the relevant manager must be satisfied that a relevant student has suitable alternative accommodation that meets the student's needs.

(3B) For the purposes of subsection (3A), a relevant student is a student who may not remain in the student accommodation premises as a consequence of the prohibition and—

(a) has no parent, carer or guardian in the United Kingdom, or

(b) does not have additional support at the home of the student's parent, carer or guardian (as the case may be).>

**Oliver Mundell**

47 Leave out section 10

**After section 10**

**Oliver Mundell**

48 After section 10, insert—

**<Financial impact**

Where regulations under this Chapter make provision for measures that will, or are likely to, have a detrimental financial impact on students, the Scottish Ministers must lay a plan before the Scottish Parliament within 14 days of the regulations being made setting out the Scottish Ministers' plans to provide additional financial support to students.>

**Oliver Mundell**

49 After section 10, insert—

**<Office of the Children and Young People's Commissioner: report**

Having made regulations under section 8(1), 9(1) or 10(1), the Scottish Ministers must—

(a) seek within 7 days of laying regulations,

(b) have regard to, in so far as is practical, and

(c) publish within 24 hours of receipt,

a report from the Office of the Children and Young People's Commissioner on whether any proposed use of powers is proportionate and necessary.>

**Oliver Mundell**

50 After section 10, insert—

### **<Duty to seek agreement**

- (1) Before making regulations under section 8(1), 9(1) or 10(1) the Scottish Ministers, where possible and practical, must consult the relevant authority to whom the regulations would apply to and seek to agree a voluntary arrangement to achieve the Scottish Ministers' desired outcome.
- (2) Regulations can only be made under section 8(1), 9(1) or 10(1) if the Scottish Ministers are satisfied that agreement under subsection (1) cannot be reached or would not be possible, practical or timely in the circumstances.
- (3) In this section—
  - “a relevant authority” has the meaning given in section 6(1),
  - “voluntary arrangements” means actions which are agreed without being specified in regulations.>

## **Section 11**

### **Oliver Mundell**

**51** In section 11, page 16, line 19, at end insert—

- <( ) No enforcement of any measures imposed by virtue of regulations under this Chapter may be carried out before a period of 7 days beginning with the day on which the relevant regulations come into force.>

### **Oliver Mundell**

**52** Leave out section 11

## **After section 11**

### **Oliver Mundell**

**53** After section 11, insert—

#### **<Educational impact**

- (1) A young person who considers that their educational experience has been adversely affected by measures under or introduced as a consequence of this Act, is entitled to repeat a school year if they choose to do so.
- (2) The Scottish Ministers must ensure that a young person who chooses to repeat a school year under subsection (1) is fully financially supported.>

## **Section 12**

### **Stuart McMillan**

*(on behalf of the Delegated Powers and Law Reform Committee)*

**54** In section 12, page 17, line 11, at end insert—

- <( ) Where subsection (2) applies to regulations made under this Chapter, the Scottish Ministers must provide an assessment of the impact of the regulations on those persons affected by them. >

**Oliver Mundell**

55 Leave out section 12

### **After section 12**

**Oliver Mundell**

56 After section 12, insert—

**<Regulations: expiry**

- (1) Where regulations under section 86A(1) of the Public Health etc. (Scotland) Act 2008 cease to have effect, all regulations under this Chapter cease to have effect on the relevant day unless extension of the regulations under this Chapter are approved by resolution of the Parliament.
- (2) For the purposes of subsection (1), the relevant day is at the end of the period of 28 days beginning with the day on which regulations under section 86A(1) cease to have effect.>

### **Section 12A**

**Oliver Mundell**

57 Leave out section 12A

### **Section 12B**

**Oliver Mundell**

58 Leave out section 12B

### **Section 13**

**Oliver Mundell**

59 In section 13, page 19, line 17, at beginning insert <Subject to subsection (2)>

**Oliver Mundell**

60 In section 13, page 19, line 21, at end insert—

- <(2) Where the member of the Scottish Government or junior minister in charge of the regulations at the point of making the regulations leaves that post, the regulations must be reviewed by the new member of the Scottish Government or junior minister with responsibility for the subject matter of the regulations within 7 days of that member or minister's appointment.
- (3) A review under subsection (2) must consider whether the regulations are still necessary.>

**Oliver Mundell**

61 Leave out section 13

## After section 13

### John Swinney

11 After section 13, insert—

#### <Duty to seek views about regulations

- (1) So long as regulations under section 8(1) remain in effect, the Scottish Ministers must seek views from the persons listed in subsection (2) about those regulations, and about any regulations under section 9(1) and 10(1) which are also in effect—
  - (a) before the end of the period of 28 days beginning with the day on which the regulations under section 8(1) came into force, and
  - (b) before the end of each subsequent period of 28 days.
- (2) The persons are—
  - (a) such persons as the Scottish Ministers consider representative of—
    - (i) relevant operators of educational establishments to which the regulations apply,
    - (ii) relevant managers of school boarding accommodation and student accommodation to which the regulations apply,
    - (iii) users of such establishments and accommodation (including children and young people),
    - (iv) staff of such establishments and accommodation (including any trade union which appears representative of such staff), and
  - (b) such other persons as the Scottish Ministers consider appropriate.
- (3) In subsection (2)(a)(ii)—

“relevant manager”, in relation to school boarding accommodation or student accommodation, means a person having responsibility for the management of the accommodation,

“school boarding accommodation” has the meaning given by section 9(6),

“student accommodation” has the meaning given by section 10(6).>

### Oliver Mundell

12 After section 13, insert—

#### <Report on public schools’ readiness for remote learning

- (1) The Scottish Ministers must report on—
  - (a) how ready education authorities are for the provision of education in public schools by remote learning, and
  - (b) any specific steps that have been taken by education authorities and the Scottish Ministers to improve readiness for the provision of education in public schools by remote learning.
- (2) The Scottish Ministers must publish the report —
  - (a) in the case of the first report, as soon as practicable after 31 July 2023,
  - (b) in each other case, from time to time as the Scottish Ministers consider appropriate.



- (3) For the purposes of subsection (1), the provision of education does not include the provision of early learning and childcare.>

**Oliver Mundell**

62 After section 13, insert—

**<Exercise of professional judgement**

- (1) No relevant authority will be found in breach of their duties under this Part where they do not act in accordance with guidance from the Scottish Ministers, or advice from the Chief Medical Officer, so long as in the exercise of their professional judgement, the relevant authority believes that taking any action specified in that guidance or advice would put the welfare of others at risk.
- (2) This Part is subject to the right of a relevant authority to continue any activity they consider—
  - (a) reasonably necessary to facilitate those functions they consider to be business critical,
  - (b) to be in the best interests for those attending, residing, or working for their establishment.
- (3) In exercising their functions or powers under this part, the Scottish Ministers must act in accordance with the following principles—
  - (a) leaving the day to day implementation and interpretation of any requests to the relevant authority, and
  - (b) respecting the professional judgement of the relevant authority, unless the Scottish Ministers believe the relevant authority to be acting in bad faith. >

**Oliver Mundell**

63 After section 13, insert—

**<Duty to explore alternatives and mitigations**

- (1) Before making regulations under section 8(1), 9(1) or 10(1) the Scottish Ministers must consider—
  - (a) alternative options to making the regulations,
  - (b) what mitigations could be implemented to reduce the impact of the regulations.
- (2) Draft regulations or, as the case may be, regulations laid before the Scottish Parliament under section 8(1), 9(1) or 10(1) should be accompanied by a statement setting out—
  - (a) any alternative options considered to making the regulations,
  - (b) the cost of any alternative options,
  - (c) the rationale for not adopting alternative options, and
  - (d) any mitigations the Scottish Ministers propose to implement to reduce the impact of the regulations.>

**Oliver Mundell**

64 After section 13, insert—

### <Education catch-up plan

Any person impacted by regulations under section 8(1), 9(1) or 10(1) has the right to request an education catch up plan within 90 days beginning with the day on which those regulations cease to have effect.>

### Section 14

#### Oliver Mundell

- 65 Leave out section 14

### Section 28

#### Murdo Fraser

- 3 In section 28, page 35, line 26, at end insert—

<( ) in paragraph (a), after the second “nomination” insert “and declared they understand the role, duties, rights and responsibilities in being a named person”,>

#### Murdo Fraser

- 4 In section 28, page 35, line 28, at end insert—

<( ) After section 250 (nomination of named person), insert—

#### “250A Guidance: named person

- (1) The Scottish Ministers must issue guidance in relation to the role, duties, rights and responsibilities of being a named person under section 250.
- (2) Before issuing guidance under subsection (1), the Scottish Ministers must consult the Commission.
- (3) The Scottish Ministers must publish the guidance in such manner as they consider appropriate.
- (4) The Scottish Ministers must ensure that the guidance is brought to the attention of—
  - (a) those with an interest in nominating a named person, and
  - (b) those who have been nominated as a named person.
- (5) The Scottish Ministers may vary or revoke guidance issued under subsection (1).”>

### Section 33

#### Edward Mountain

- 66 Leave out section 33

### After section 33

#### **Murdo Fraser**

5\* After section 33, insert—

#### **<Private residential tenancies: mandatory eviction grounds**

- (1) The Private Housing (Tenancies) (Scotland) Act 2016 is modified as follows.
- (2) In schedule 3 (eviction grounds), after paragraph 7 (property required for religious purpose), insert—
  - “7A(1) It is an eviction ground if the landlord intends to let the property to an employee, of whom the landlord is the employer, of an agriculture, forestry or other rural land-based business.
  - (2) The First-tier Tribunal must find that the ground named in sub-paragraph (1) applies if the employee intends to occupy the let property as that person’s only or principal home for at least 3 months.
  - (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (1) includes a contract of employment between the landlord and the employee.
  - (4) For the purposes of this paragraph—

“agriculture” means any growing of plants or keeping of animals for the production of food or drink,

“forestry” means the growing of a utilisable crop of timber,

“rural land-based business” includes any land kept or preserved mainly or exclusively for sporting purposes.”.>

### Section 34

#### **Edward Mountain**

67 Leave out section 34

### Section 35

#### **Edward Mountain**

68 Leave out section 35

### After section 37B

#### **Edward Mountain**

69 After section 37B, insert—

#### **<Requirement to reform private tenancies law**

The Scottish Ministers must, no later than 1 October 2024, introduce a Bill for an Act of the Scottish Parliament to reform the law in relation to private tenancies.>

## **Edward Mountain**

70 After section 37B, insert—

### **<Sunset provision**

The provisions in this Part (other than section (*Requirement to reform private tenancies law*)) expire on 30 June 2024.>

## **Edward Mountain**

71 After section 37B, insert—

### **<Sunset provision**

The provisions in this Part expire on 30 June 2024.>

## **Mercedes Villalba**

72 After section 37B, insert—

*<Rent freeze for assured tenancies and private residential tenancies*

### **Rent freeze for assured tenancies**

- (1) The Housing (Scotland) Act 1988 is amended by subsections (2) to (4).
- (2) In section 24 (increase of rent under assured tenancies)—
  - (a) in subsection (1) at beginning insert “Subject to subsection (1A),”,
  - (b) after subsection (1) insert—
    - “(1A) The landlord may not serve on the tenant a notice proposing a new rent to take effect for a period starting on the day of Royal Assent of the Coronavirus (Recovery and Reform) (Scotland) Act 2022 and ending on 31 December 2024.
    - (1B) Subsection (1A) is subject to any exceptions the Scottish Ministers set out in regulations.
    - (1C) Subsection (1A) does not apply if, on referral by the landlord, the First-tier Tribunal determines that it would result in severe financial hardship for the landlord.
    - (1D) Regulations under subsection (1B) are subject to the affirmative procedure.”.
- (3) In section 25 (determination of rent by the First-tier Tribunal)—
  - (a) in subsection (1)—
    - (i) after “subsection” insert “(1C) or”,
    - (ii) after “tenant” insert “or landlord”,
  - (b) in subsection (2)—
    - (i) in paragraph (b) the word “and” is repealed,
    - (ii) after paragraph (c) insert “, and
    - (d) any proposed rent increase under section 24(1) unless it would result in severe financial hardship for the landlord.”.

- (4) In section 53 (orders and regulations), in subsection (2), after “above” insert “or regulations under section 24(1B)”.
- (5) The Scottish Ministers may, by regulations, make such further provision as is necessary to give effect to this section.
- (6) Regulations under subsection (5) are subject to the affirmative procedure.>

**Mercedes Villalba**

**73** After section 37B, insert—

**<Rent freeze for private residential tenancies**

- (1) The Private Housing (Tenancies) (Scotland) Act 2016 is amended by subsections (2) to (5).
- (2) In section 22 (landlord’s power to increase rent)—
  - (a) in subsection (1) at beginning insert “Subject to subsection (1A),”,
  - (b) after subsection (1) insert—
    - “(1A) The landlord under a private residential tenancy may not increase the rent payable under the tenancy for a period starting on the day of Royal Assent of the Coronavirus (Recovery and Reform) (Scotland) Act 2022 and ending on 31 December 2024.
    - (1B) Subsection (1A) is subject to any exceptions the Scottish Ministers set out in regulations.
    - (1C) Subsection (1A) does not apply if, on referral by the landlord, the rent officer for the area in which the let property is situated determines that it would result in severe financial hardship for the landlord.”.
- (3) In section 25 (rent officer’s power to set rent) in subsection (1) after “section” insert “22(1C) or”.
- (4) In section 32 (determination of open market rent) after subsection (2)(b) insert—
  - “(c) any proposed rent increase under section 22(1) unless it would result in severe financial hardship for the landlord.”.
- (5) In section 77 (regulation-making powers)—
  - (a) in subsection (3) after “12,” insert “22(1B),”,
  - (b) in subsection (4) after “22” insert “(2)(b)”,
- (6) The Scottish Ministers may, by regulations, make such further provision as is necessary to give effect to this section.
- (7) Regulations under subsection (6) are subject to the affirmative procedure.>

**Section 40**

**Katy Clark**

**74** In section 40, page 46, line 2, at beginning insert <Subject to subsection (1A),>

**Katy Clark**

75 In section 40, page 46, line 3, at end insert—

<(1A) Paragraph 21 in the schedule expires one year after Royal Assent.>

**Jamie Greene**

13 In section 40, page 46, line 9, at end insert—

<(4) Ahead of any provision in the schedule expiring by virtue of subsection (1), the Scottish Ministers must carry out a review of its operation in order to decide whether the date of its expiry should be put back by virtue of subsection (3).

(5) Subsection (4) does not apply if the date specified in subsection (1) is 30 November 2025.

(6) In carrying out a review under subsection (4), the Scottish Ministers must consult any person they consider appropriate.

(7) At the same time as laying a draft Scottish statutory instrument containing regulations under subsection (3) before the Scottish Parliament in accordance with section 29(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (instruments subject to the affirmative procedure), the Scottish Ministers must lay before the Parliament a statement summarising—

(a) their reasons for proposing that the regulations be made,

(b) the findings of the latest review carried out under subsection (4),

(c) what consultation they undertook in carrying out that review.>

**Section 42**

**Jamie Greene**

14 In section 42, page 46, line 20, leave out subsection (4)

**After section 42**

**Pauline McNeill**

76 After section 42, insert—

**<Criminal procedure time limits: reasons for extension of time limits**

(1) The Criminal Procedure (Scotland) Act 1995 is modified as follows.

(2) In section 65 (prevention of delays in trials), after subsection (5B), insert—

“(5C) Where an application is granted under subsection (3) or (5) above, the judge or, as the case may be, the court shall note—

(a) the reason for the application, and

(b) whether the application was made by the prosecution or the defence.”>

**Pauline McNeill**

77 After section 42, insert—

**<Report on criminal procedure time limits: reasons for extension of time limits**

- (1) The Scottish Ministers must, for each reporting period, prepare and lay before the Scottish Parliament a report setting out, in relation to any applications granted under subsections (3) or (5) of section 65 of the Criminal Procedure (Scotland) Act 1995—
  - (a) the reason that the application was made, and
  - (b) whether the application was made by the prosecution or the defence.
- (2) The reporting periods are—
  - (a) the period beginning with the day of Royal Assent and ending with 31 January 2023, and
  - (b) each subsequent period of 6 months.>

**After section 44**

**Katy Clark**

**78** After section 44, insert—

**<Reporting on virtual courts**

- (1) The Scottish Ministers must, as soon as practicable at the end of each reporting period, prepare and lay before the Scottish Parliament a report setting out the progress that is being made in the implementation of virtual courts.
- (2) The reporting periods are—
  - (a) the period beginning with the day of Royal Assent and ending with 31 January 2023,
  - (b) each subsequent period of 6 months.>

**Section 46**

**Murdo Fraser**

**6** In section 46, page 51, line 9, at end insert—

- <( ) Before bringing section 1 of this Act into force, the Scottish Ministers must—
- (a) conduct an assessment of the impact the exercise of the power to make regulations under section 1 will have on affected persons or organisations, in particular—
    - (i) retail groups,
    - (ii) industry organisations,
    - (iii) trade bodies,
    - (iv) such persons or organisations as appear to them to be affected by the regulations,
  - (b) consult, insofar as is practical, with such persons or organisations mentioned under paragraph (a),
  - (c) prepare and publish a report of the assessment, and
  - (d) lay a copy of the report before the Scottish Parliament.>

**Murdo Fraser**

7 In section 46, page 51, line 9, at end insert—

- <( ) The Scottish Ministers must not bring into force section 1, or any section in Parts 2 and 4 until any public inquiry into the coronavirus pandemic has published its results and recommendations.
- ( ) In this Act, “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).>

**Schedule**

**Keith Brown**

15\* In the schedule, page 54, line 27, at end insert—

- <( ) This paragraph applies—
  - (a) in relation to proceedings that are not criminal proceedings, and
  - (b) in the context of criminal proceedings, only in relation to—
    - (i) a hearing in which a person is to give evidence,
    - (ii) proceedings in which the only party is a public official as defined in paragraph 8(3).>

**Keith Brown**

16 In the schedule, page 54, leave out lines 32 and 33

**Pauline McNeill**

79 In the schedule, page 54, line 33, at end insert—

- <( ) an appearance from custody.>

**Keith Brown**

17 In the schedule, page 55, line 1, leave out <issue a direction> and insert <direct a person to physically attend>

**Keith Brown**

18 In the schedule, page 55, line 5, leave out <issue a direction> and insert <disapply a requirement for a person’s physical attendance>

**Keith Brown**

19 In the schedule, page 55, line 15, after <representations> insert <(subject to sub-paragraph (8A))>

**Keith Brown**

20 In the schedule, page 55, line 18, at end insert—



- <(8A) The first direction in relation to a hearing under sub-paragraph (1) or (3) may be issued by the court or (as the case may be) tribunal of its own accord without having given the parties an opportunity to make representations.
- (8B) Where a direction under sub-paragraph (1) or (3) is issued in relation to a hearing as described in sub-paragraph (8A), the court or (as the case may be) tribunal must—
- (a) take steps to ensure that the parties are aware of their right to make a motion for the revocation of the direction, and
  - (b) deal with any motion for the direction’s revocation,
- before dealing with any other matter at the hearing, other than a decision to adjourn or a matter that an enactment requires that the court deal with before another hearing could practicably be arranged.>

**Keith Brown**

21 In the schedule, page 55, line 23, at end insert—

*<Suspension of requirement for physical attendance in criminal proceedings, excluding trials and certain processes*

- 6A(1) This paragraph—
- (a) applies only in relation to criminal proceedings, but
  - (b) does not apply in relation to—
    - (i) a hearing in which a person is to give evidence, or
    - (ii) proceedings in which the only party is a public official as defined in paragraph 8(3).
- (2) Any requirement (however expressed) that a person physically attend a court does not apply if—
- (a) a determination made by the Lord Justice General states that it does not, and
  - (b) the court has not directed the person to physically attend.
- (3) A determination under sub-paragraph (2)(a)—
- (a) may, in particular, disapply a requirement for physical attendance—
    - (i) in relation to persons or hearings described in the determination,
    - (ii) by enabling a court to disapply it in circumstances specified in the determination,
  - (b) may make different provision for different purposes and areas,
  - (c) may vary or revoke an earlier determination made under the sub-paragraph,
  - (d) must be made publicly available for so long as it has effect.
- (4) The Lord Justice General may make a determination under sub-paragraph (2)(a) disapplying a requirement for physical attendance only if (taking into account the discretion conferred by sub-paragraph (2)(b)), the Lord Justice General is satisfied that it would not—
- (a) prejudice the fairness of proceedings, or
  - (b) otherwise be contrary to the interests of justice.

- (5) A direction under sub-paragraph (2)(b)—
- (a) may be made by a court on the motion of a party or of its own accord,
  - (b) may revoke an earlier direction made under the sub-paragraph.
- (6) Where, by reason of a determination under sub-paragraph (2)(a), a person is to attend a court hearing by electronic means in accordance with paragraph 7, the court must—
- (a) take steps to ensure that the parties are aware of their right to make a motion for a direction under sub-paragraph (2)(b), and
  - (b) deal with any motion for a direction under that sub-paragraph,
- before dealing with any other matter at the hearing, other than a decision to adjourn or a matter that an enactment requires that the court deal with before another hearing could practicably be arranged.
- (7) References in this paragraph to physically attending a court are to be construed in accordance with paragraph 6(9).>

**Keith Brown**

- 22 In the schedule, page 55, line 26, after <(3)> insert <or 6A(2)(a)>

**Keith Brown**

- 23 In the schedule, page 56, line 2, after <representations> insert <(subject to sub-paragraph (6A))>

**Keith Brown**

- 24 In the schedule, page 56, line 5, at end insert—
- <(6A) The first direction in relation to a hearing under sub-paragraph (1) may be issued by the court or (as the case may be) tribunal of its own accord without having given the parties an opportunity to make representations.
  - (6B) Where a direction in relation to a hearing is issued as described in sub-paragraph (6A), the court or (as the case may be) tribunal must—
    - (a) take steps to ensure that the parties are aware of their right to make a motion for the variation or revocation of the direction, and
    - (b) deal with any motion for the variation or revocation of the direction,before taking a decision about any other matter at the hearing, other than a decision to adjourn, a decision in respect of a motion for a direction under paragraph 6 or 6A or a matter that an enactment requires that the court deal with before another hearing could practicably be arranged.>

**Russell Findlay**

- 80 In the schedule, page 58, line 7, leave out paragraph 12

**Russell Findlay**

- 81 In the schedule, page 58, line 12, leave out paragraph 13

**Katy Clark**

82 In the schedule, page 62, line 9, leave out <17> and insert <13>

**Katy Clark**

83 In the schedule, page 62, line 10, leave out <17> and insert <13>

**Katy Clark**

84 In the schedule, page 62, line 11, leave out <18> and insert <12>

**Katy Clark**

85 In the schedule, page 62, line 16, leave out <12> and insert <9>

**Pauline McNeill**

86 In the schedule, page 62, line 21, leave out <260> and insert <170>

**Katy Clark**

87 In the schedule, page 62, line 22, leave out <290> and insert <200>

**Katy Clark**

88 In the schedule, page 62, line 23, leave out <320> and insert <230>

**Katy Clark**

89 In the schedule, page 62, line 24, leave out <290> and insert <200>

**Katy Clark**

90 In the schedule, page 62, line 25, leave out <320> and insert <230>

**Katy Clark**

91 In the schedule, page 62, line 27, leave out <130> and insert <85>

**Keith Brown**

25 In the schedule, page 63, leave out lines 15 to 18

**Russell Findlay**

92 In the schedule, page 64, line 4, leave out paragraphs 24 and 25

**Jamie Greene**

93 In the schedule, page 64, line 10, after <they> insert <have notified relevant victims of the release of prisoners and>

**Keith Brown**

26 In the schedule, page 64, line 16, at end insert—

<( ) A person is not to be released from prison by virtue of regulations under this paragraph more than 180 days earlier than the Scottish Ministers would otherwise be required to release the person.>

**Keith Brown**

27 In the schedule, page 64, line 36, at end insert—

<( ) serving a sentence of imprisonment or detention for—

- (i) an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018,
- (ii) an offence under section 7(1) or 17(1) of the Domestic Abuse (Protection) (Scotland) Act 2021,
- (iii) an offence that is aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.>

**Russell Findlay**

94 In the schedule, page 64, line 36, at end insert—

<( ) otherwise serving a custodial sentence exceeding 12 months.>

**Jamie Greene**

95 In the schedule, page 65, line 23, at end insert—

<“relevant victim” means any victim who has indicated that they would like to be informed of an offender’s release as specified in section 16 of the Criminal Justice (Scotland) Act 2003 or section 27A of the Victims and Witnesses (Scotland) Act 2014. >

**Keith Brown**

28 In the schedule, page 65, leave out lines 35 and 36

**Stuart McMillan**

*(on behalf of the Delegated Powers and Law Reform Committee)*

96 In the schedule, page 66, line 20, at end insert—

<( ) Where sub-paragraph (2) applies to regulations, the Scottish Ministers must provide an assessment of the impact of the regulations on those persons affected by them. >

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