

Bail and Release from Custody (Scotland) Bill — Stage 2

Section 4

Angela Constance

- 7 In section 4, page 3, line 32, leave out <those grounds and reasons> and insert <the grounds mentioned in paragraph (a)(i)>

After section 5

Angela Constance

- 8 After section 5, insert—

<Report on bail and remand

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of the reporting period, prepare and publish a report on bail and remand.
- (2) The report must include the following information for each year of the reporting period—
 - (a) the average daily remand population,
 - (b) the total number of individuals within the remand population,
 - (c) the number of individuals who entered the remand population by reference to each of the following characteristics—
 - (i) the offence (or type of offence) in respect of which the individual was remanded in custody,
 - (ii) the individual’s gender,
 - (iii) the local authority area in which the individual lived immediately before being remanded in custody,
 - (d) an analysis of the length of time that individuals spent within the remand population,
 - (e) the number of bail orders made by reference to the offence (or type of offence) in respect of which the individual was granted bail,
 - (f) the number of convictions for—
 - (i) bail-related offences, and
 - (ii) other offences (“subsequent offences”) committed while on bail by reference to the subsequent offence (or type of subsequent offence) in respect of which the individual was convicted.
- (3) The report may—
 - (a) include any other information that the Scottish Ministers consider appropriate, and
 - (b) be in any form that they consider appropriate and, in particular, may be part of another document.
- (4) In this section—

“bail-related offence” means an offence under section 27(1)(a) or (b) or (7) of the 1995 Act,

“remand population” means the Scottish prison population comprising—

- (a) every individual who was accused of, or charged with, an offence and remanded in custody while awaiting trial, and
- (b) every individual who was convicted of an offence and remanded in custody while awaiting sentence,

“reporting period” means the period of 3 years beginning with the day on which section 2 comes into force.>

Section 7

Angela Constance

- 9** In section 7, page 6, line 10, at end insert—
<() subsection (7) is repealed,>

Angela Constance

- 10** In section 7, page 6, line 23, leave out <(2)> and insert <(3)>

After section 7

Angela Constance

- 11** After section 7, insert—

<Review of recommendations and directions by Parole Board

- (1) The 1993 Act is amended as follows.
- (2) In section 17 (revocation of licence), after subsection (2) insert—
 - “(2A) Subsection (2B) applies where the Scottish Ministers, having released a long-term prisoner on licence under section 3AB(3), revoke the licence and recall the prisoner to prison under subsection (1) or revoke the licence under subsection (1A).
 - (2B) The Parole Board may, whether when considering the prisoner’s case on a referral under subsection (3) or otherwise, review its recommendation that the prisoner be released on licence on having served one half of the prisoner’s sentence.”.
- (3) In section 17A (recall of prisoners released under section 3AA or 3AB(1))—
 - (a) after subsection (2A) insert—
 - “(2B) Subsection (2C) applies where—
 - (a) the Scottish Ministers release a long-term prisoner on licence under section 3AB(1),
 - (b) the Parole Board subsequently recommends that the prisoner be released on licence on having served one half of the prisoner’s sentence, and
 - (c) the Scottish Ministers revoke the licence under section 3AB(1) and recall the prisoner to prison under subsection (1).

- (2C) The Parole Board may, whether or not the case is referred to it under subsection (3), review its recommendation that the prisoner be released on licence on having served one half of the prisoner’s sentence.”,
- (b) in subsection (3), for “such representations” substitute “representations under subsection (2)”.
- (4) After section 17A insert—
- “17B Review by Parole Board of decision to recommend or direct release on licence**
- (1) This section applies where—
- (a) the Parole Board recommends or directs that a prisoner be released on licence under this Part, and
- (b) the prisoner has not yet been released on licence as a result of the Board’s recommendation or, as the case may be, direction.
- (2) The Parole Board may, if subsection (3) applies, review its recommendation or, as the case may be, direction that the prisoner be released on licence.
- (3) This subsection applies if information comes to the Parole Board’s attention—
- (a) that was not available to the Board when it made its recommendation or, as the case may be, direction, and
- (b) which, in the opinion of Board, has a significant bearing on the prisoner’s suitability for release on licence.”.>

Section 8

Angela Constance

- 12 In section 8, page 9, line 39, after “harm” insert <—
(i)>

Angela Constance

- 13 In section 8, page 9, line 40, at end insert <, or
(ii) to an identified group of people.>

Section 10

Angela Constance

- 14 In section 10, page 14, line 27, at end insert—
<() the Risk Management Authority,>

Angela Constance

- 15 In section 10, page 14, line 27, at end insert—
<() Social Care and Social Work Improvement Scotland,>

Angela Constance

- 16 In section 10, page 14, line 30, after “bodies” insert <—
(i)>

Angela Constance

- 17 In section 10, page 14, line 31, at end insert—
<(ii) involved in or carrying out work related to the provision of support to children and families affected by imprisonment,>

Angela Constance

- 18 In section 10, page 14, line 31, at end insert—
<(ga) a person—
(i) of a description prescribed by the Scottish Ministers by regulations, and
(ii) who is providing support services to victims in relation to offences perpetrated against or in respect of those victims,>

Angela Constance

- 19 In section 10, page 14, line 38, at end insert—
<“support services”—
(a) means any type of service or treatment which is intended to benefit the physical or mental health or wellbeing of the victim, and
(b) includes—
(i) providing the victim with information (including information provided under section 16ZA(3) of the Criminal Justice (Scotland) Act 2003),
(ii) assisting the victim with safety planning,
(iii) assisting the victim with the making of representations under Part 2 of the Criminal Justice (Scotland) Act 2003,>

Angela Constance

- 20 In section 10, page 15, line 18, at end insert—
<(8) The Scottish Ministers may by regulations modify the definition of “support services” in subsection (6).
(9) Regulations under subsection (4)(ga)(i) and (8)—
(a) may include incidental, supplementary, consequential, transitional, transitory or saving provision,
(b) may modify enactments (including this Act).
(10) Regulations—
(a) under subsection (4)(ga)(i)—
(i) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,

- (ii) are otherwise subject to the negative procedure,
- (b) under subsection (8) are subject to the affirmative procedure.>

Section 11

Angela Constance

- 21 In section 11, page 16, line 9, leave out from <supporter> to end of line 10 and insert <victim consents to the supporter being given the information.>

Angela Constance

- 22 In section 11, page 16, line 28, leave out <section 17(1)> and insert <this Part>

Angela Constance

- 23 In section 11, page 16, line 40, at end insert—

<() After section 16C (information to be given under section 16A) insert—

“16D Provision of information concerning offender subject to compulsion order to person supporting victim

- (1) This section applies where—
 - (a) a person entitled to ask to be given information under section 16A (the “victim”) intimates to the Scottish Ministers that a person to whom subsection (2) applies (the “supporter”) is to be given, as well as or instead of the victim, the information described in section 16C about the person referred to in section 16A as O, or
 - (b) a supporter intimates to the Scottish Ministers that they wish to be given that information and Ministers are satisfied that the victim consents to the supporter being given the information.
- (2) This subsection applies to a person—
 - (a) of a description prescribed by the Scottish Ministers by regulations, and
 - (b) who is providing support services to the victim in relation to the offence in respect of which O has been made subject to a compulsion order and a restriction order.
- (3) The Scottish Ministers must give the information about O described in section 16C to the supporter.
- (4) But the Scottish Ministers—
 - (a) need not give the supporter information under this section if they consider there to be exceptional circumstances which make it inappropriate to do so,
 - (b) are not to give the supporter information about the terms of a condition in accordance with section 16C(2)(h) unless the condition is relevant to the victim as described in section 18A(3).
- (5) Subsection (3) does not apply where O has not attained the age of 16 years.

- (6) If the compulsion order or restriction order to which O has been made subject is revoked, subsection (3) ceases to apply when the Scottish Ministers give the victim or, as the case may be, the supporter the information that—
 - (a) the order has been revoked, and
 - (b) the decision to revoke it is final.
- (7) In this section, “support services” has the same meaning as in section 16ZA(5).
- (8) Regulations under subsection (2)(a)—
 - (a) may—
 - (i) include incidental, supplementary, consequential, transitional, transitory or saving provision,
 - (ii) modify enactments (including this Act),
 - (b) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
 - (c) are otherwise subject to the negative procedure.”.>

Angela Constance

- 24** In section 11, page 17, line 10, after <informed> insert <and the Scottish Ministers are satisfied that the victim consents to the supporter being so informed>

Angela Constance

- 25** In section 11, page 17, line 37, at end insert—

<() After section 17D (right to information after section 17B decision) insert—

“17DA Section 17B decision: provision of information to person supporting victim

- (1) This section applies where—
 - (a) a person entitled to receive information under section 17D (the “victim”) intimates to the Scottish Ministers that a person to whom subsection (2) applies (the “supporter”) is to receive, as well as or instead of the victim, the information, or
 - (b) a supporter intimates to the Scottish Ministers that they wish to receive that information and Ministers are satisfied that the victim consents to the supporter receiving the information.
- (2) This subsection applies to a person—
 - (a) of a description prescribed by the Scottish Ministers by regulations, and
 - (b) who is providing support services to the victim in relation to the offence in respect of which the person referred to in section 17B as O has been made subject to—
 - (i) a hospital direction,
 - (ii) a transfer for treatment direction, or, as the case may be,
 - (iii) a compulsion order and a restriction order.

- (3) The Scottish Ministers must, unless they consider that there are exceptional circumstances which make it inappropriate to do so, inform the supporter that the decision under section 17B has been taken.
- (4) Subsection (5) applies where—
 - (a) in accordance with subsection (3), the Scottish Ministers have informed the supporter that the Tribunal has decided to make an order revoking a compulsion order or restriction order, and
 - (b) by virtue of section 196 of the Mental Health Act, the Tribunal's order does not have effect because the Court of Session has made an order under section 323(1) of that Act.
- (5) The Scottish Ministers must—
 - (a) inform the supporter that the Court of Session has made an order under section 323(1) of the Mental Health Act, and
 - (b) give the supporter the information that they would have had to give the supporter by virtue of section 16C(4) had the Court not made that order.
- (6) In this section, “support services” has the same meaning as in section 16ZA(5).
- (7) Regulations under subsection (2)(a)—
 - (a) may—
 - (i) include incidental, supplementary, consequential, transitional, transitory or saving provision,
 - (ii) modify enactments (including this Act),
 - (b) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
 - (c) are otherwise subject to the negative procedure.”.>

Angela Constance

26 In section 11, page 17, line 37, at end insert—

- <() In section 17E (information sharing in respect of mentally-disordered offenders)—
 - (a) in subsection (1)—
 - (i) for “or 16A” substitute “, 16ZA, 16A or 16D”,
 - (ii) after “(“V”)” insert “or, as the case may be, a supporter”,
 - (b) in subsection (3), after “17D” insert “or to a supporter under section 16ZA, 16D or 17DA”,
 - (c) in subsection (5), for “or 16A” substitute “16ZA, 16A or, as the case may be, 16D”,
 - (d) after subsection (5) insert—
 - “(6) In this section, “supporter” is to be construed in accordance with section 16ZA, 16D or, as the case may be, 17DA.”.
- () In section 18A (interpretation)—
 - (a) in subsection (3)—
 - (i) after “16A(3)(b)” insert “, 16D(4)(b)”,

- (ii) in paragraph (b), after “V” insert “or, as the case may be, a supporter”,
- (b) after subsection (4) insert—
 - “(5) In this section, “supporter” is to be construed in accordance with section 16D or, as the case may be, 17DA.”.
- () In section 18B (power to modify Part)—
 - (a) in subsection (1)(a), for “16A and 16B,” substitute “16ZA, 16A, 16B, 16D(5) and 17ZA(4),”,
 - (b) in subsection (2)(a), for “section 16A” substitute “sections 16A and 16D”,
 - (c) in subsection (3), after “16A” in both places insert “, 16D”.>

Angela Constance

- 27 In section 11, page 17, line 39, after <16ZA(2)(a)> insert <, 16D(2)(a), 17DA(2)(a)>