

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

Section 1

Pauline McNeill

- 49 In section 1, page 1, line 14, leave out <must> and insert <may>

Liam McArthur

- 50 In section 1, page 1, line 15, after <authority> insert <or (subject to subsection (1B)) a relevant person>

Liam McArthur

- 51 In section 1, page 1, line 16, after <determination.> insert—
- <(1B) In subsection (1A)—
- (a) a “relevant person” is—
 - (i) the complainer,
 - (ii) a victim advocacy or support organisation.
 - (b) a relevant person may only provide information such as will assist the court in its consideration of public safety, including the safety of the complainer from harm, as required by section 23B(1A)(b)(i),
 - (c) information provided by a relevant person may, in particular, include information relating to—
 - (i) the complainer’s safety,
 - (ii) the safety of others,
 - (iii) particular vulnerabilities relating to the complainer that are relevant to considerations of their safety.>

Collette Stevenson

- 52 In section 1, page 1, line 16, after <determination.> insert—
- <(1B) In subsection (1A), “information relevant to that determination” must include such information as will assist the court in relation to its consideration of public safety, including the safety of the complainer from harm under section 23B(1A)(b)(i) and should, in particular, include—
- (a) information submitted by, or obtained from, the complainer in relation to their safety or safety of other persons,
 - (b) information obtained from, or submitted by, a victim advocacy or support organisation in relation to the complainer’s safety or safety of other persons,
 - (c) information around particular vulnerabilities relating to the complainer that is relevant to considerations of their safety.>

Pauline McNeill

- 53 In section 1, page 1, line 16, after <determination.> insert—
- <() Information provided under subsection (1A) must be made available within the timescales determined by the sheriff or judge.>

Collette Stevenson

- 54 In section 1, page 1, line 26, after <22A(1A)> insert <(or (1B))>

Section 2

Katy Clark

- 55 In section 2, page 2, leave out from lines 3 to 33

Jamie Greene

- 56 In section 2, page 2, line 9, leave out <and> and insert <or>

Russell Findlay

- 57 In section 2, page 2, line 15, after <justice> insert <, including the risk of an accused person absconding>

Jamie Greene

- 58 In section 2, page 2, line 15, after <justice.> insert—
- <() due to any other substantial factor which appears to the court to justify keeping the person in custody.>

Russell Findlay

- 59 In section 2, page 2, line 15, after <justice.> insert—
- <() because the court considers it likely the accused person will breach their bail conditions, having regard to any previous breaches of bail conditions committed by the accused person.>

Katy Clark

- 60 In section 2, page 2, line 15, after <justice.> insert—
- <(1B) The Scottish Ministers must set out in regulations the meaning of the term “public safety” for the purposes of subsection (1A)(b)(i).
- (1C) Before making regulations under subsection (1B), the Scottish Ministers must consult representatives from—
- (a) victims organisations,
 - (b) the legal profession,
 - (c) the judiciary.>

Jamie Greene

61 In section 2, page 2, line 16, at end insert—

<() after subsection (6) insert—

“(6A) In order to give consideration to the matters referred to in subsection (1A)(b)(i), the court must request the prosecutor or officer of the local authority to provide the information referred to in section 22A(1B).”>

Jamie Greene

62 In section 2, page 2, line 16, at end insert—

<() for subsection (7) substitute—

“(7) That party, in particular the prosecutor, or officer must give the court opinion as to any risk of something occurring (or any likelihood of something not occurring) in order that the court may undertake consideration of the matters relating to subsection (1A)(b)(i) above.”>

Katy Clark

63 In section 2, page 2, line 33, after <value.> insert—

<(11) The Scottish Ministers must consult with representatives of—

- (a) victims organisations,
- (b) the legal profession,
- (c) the judiciary,

about the impact of the public safety test in subsection (1A)(b)(i).

(12) The Scottish Ministers must publish a report setting out—

- (a) the results of the consultation under subsection (11),
- (b) any steps the Scottish Ministers propose to take as a result of that consultation.>

Katy Clark

64 In section 2, page 2, line 33, after <value.> insert—

<() Regulations under subsection (1B) above shall be made by statutory instrument and a statutory instrument containing any such regulations shall not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, the Scottish Parliament.>

Section 3

Pauline McNeill

65 Leave out section 3

Section 4

Rona Mackay

66 In section 4, page 3, line 32, at end insert—

- <() In subsection (2B)(a), for the words from “a sexual offence” to “Act)” substitute “an offence falling within subsection (2C)”.
- () After subsection (2B) insert—
 - “(2C) An offence falls within this subsection if it is—
 - (a) a sexual offence (having the meaning given by section 210A(10) and (11)),
 - (b) an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018,
 - (c) an offence that is aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016,
 - (d) an offence under section 39 of the Criminal Justice and Licensing (Scotland) Act 2010 (offence of stalking),
 - (e) an attempt, conspiracy or incitement to commit an offence mentioned in paragraph (b), (c) or (d),
 - (f) aiding, abetting, counselling or procuring the commission of an offence mentioned in paragraph (b), (c) or (d).”.>

Section 5

Collette Stevenson

67 Leave out section 5

Section 6

Russell Findlay

68 In section 6, page 5, leave out line 22

Russell Findlay

69 In section 6, page 5, leave out lines 26 to 28

After section 6

Russell Findlay

70 After section 6, insert—

<Release of short-term prisoners

- (1) The 1993 Act is amended as follows.
- (2) In section 1 (Release of short-term, long-term and life prisoners.), in subsection (1), for “the Secretary of State shall, without prejudice to any supervised release order to which

the prisoner is subject, release him unconditionally” substitute “the Scottish Ministers must release the prisoner on licence if recommended to do so by the Parole Board”.>

Russell Findlay

71 After section 6, insert—

<Publication and review of prisoner days of release

- (1) The Scottish Ministers must, for each reporting period, publish—
 - (a) the distribution of days on which all prisoners were released,
 - (b) a review of whether services are still being provided by the persons set out in section 34A(2) of the Community Justice (Scotland) Act 2016 in order to ensure the effective release of prisoners on Thursdays.
- (2) For the purposes of this section, a reporting period is—
 - (a) the period ending one year after the day of Royal Assent,
 - (b) each subsequent period of one year.>

Section 7

Katy Clark

72 In section 7, page 6, leave out lines 14 to 18

Katy Clark

73 In section 7, page 6, leave out lines 22 to 28

Katy Clark

74 In section 7, page 6, line 22, leave out from <release> to <be> in line 24 and insert <direct the release of a prisoner by virtue of subsection (3)>

Jamie Greene

75 In section 7, page 6, line 25, at end insert—

- <() protecting any specific victim or victims of the prisoner, or class of persons, to whom the prisoner may pose a risk on release in terms of the operating protocol under section 21A of this Act,>

Katy Clark

76 In section 7, page 6, line 36, leave out from beginning to <applies,> in line 37

Katy Clark

77 In section 7, page 6, leave out lines 38 to 40 and insert—

- <() Subject to subsection (6)(a), the Parole Board may extend the release period specified by virtue of subsection (6)(b).>

Katy Clark

78 In section 7, page 7, leave out lines 1 to 4 and insert—

<() For the avoidance of doubt, nothing in this section requires the Parole Board to make a decision by a particular date about whether to direct the release of a prisoner on licence under this section.>

Katy Clark

79 In section 7, page 7, leave out lines 5 to 12

Jamie Greene

80 In section 7, page 7, line 12, at end insert—

<() the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003.>

Katy Clark

81 In section 7, page 7, leave out lines 20 and 21

Katy Clark

82 In section 7, page 7, line 30, leave out from beginning to <3AB(3),> in line 1 on page 8

Katy Clark

83 In section 7, page 8, leave out lines 4 to 11

Katy Clark

84 In section 7, page 8, line 14, leave out <or 3AB(1)>

Katy Clark

85 In section 7, page 8, leave out lines 19 to 22

Katy Clark

86 In section 7, page 8, leave out lines 27 and 28

Katy Clark

87 In section 7, page 8, line 32, leave out <(1) or, as the case may be,>

Katy Clark

88 In section 7, page 8, leave out lines 36 to 40

Jamie Greene

89 Leave out section 7

After section 7

Katy Clark

- 11A As an amendment to amendment 11, leave out lines 12 to 25

Section 8

Rona Mackay

- 90 In section 8, page 9, line 34, at end insert—

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

Rona Mackay

- 91 In section 8, page 10, line 18, leave out <or>

Rona Mackay

- 92 In section 8, page 10, line 19, at end insert—

<() under section 7(1) or 17(1) of the Domestic Abuse (Protection) (Scotland) Act 2021,>

Jamie Greene

- 93 In section 8, page 11, line 16, leave out from <unless> to <3C> in line 4 on page 12

Rona Mackay

- 94 In section 8, page 11, leave out lines 19 to 21

Section 9

Russell Findlay

- 95 In section 9, page 13, line 23, at end insert—

<() victim support services.>

Russell Findlay

- 96 In section 9, page 13, line 38, after <community> insert <(this provision does not apply to relevant individuals falling under paragraph (c) of this subsection)>

Russell Findlay

- 97 In section 9, page 14, line 6, after <institution.> insert—

<(c) is a victim of someone convicted of offences and sentenced to imprisonment or detention in a penal institution.>

Russell Findlay

- 98 In section 9, page 14, line 6, after <institution.> insert—
 <“victim support services” should be construed in accordance with section 16ZA of the Criminal Justice (Scotland) Act 2003.>

Jamie Greene

- 99 In section 9, page 14, line 6, after <institution.> insert—
 <() The Scottish Ministers must, no later than three years after this section comes into force, publish guidance and standards applicable to the development of release planning in Scotland and must publicly consult on this guidance and standards.>

After section 9

Douglas Lumsden

- 100 After section 9, insert—

<9A Post-custody outreach service

- (1) The 2016 Act is amended as follows.
- (2) After section 34A, as inserted by section 9, insert—

“Post-custody outreach service

34AA Post-custody outreach service

- (1) The Scottish Ministers must establish a post-custody outreach service for relevant individuals.
- (2) In establishing the service, the Scottish Ministers must consult—
 - (a) Community Justice Scotland,
 - (b) each local authority,
 - (c) each health board.
- (3) The post-custody outreach service must provide—
 - (a) a point of contact for each relevant individual released from custody who has at some point spent time detained in hospital,
 - (b) regular contact with each relevant individual released from custody who has at some point spent time detained in hospital, including immediate contact upon their release,
 - (c) any further service which the Scottish Ministers set out in regulations.
- (4) The post-custody outreach service must provide this service to relevant individuals for one year after their release.
- (5) In this section, “relevant individual” means an individual who has been—
 - (a) remanded in custody, or
 - (b) convicted of offences and sentenced to imprisonment or detention in a penal institution.

- (6) Regulations under subsection (3)(c) are subject to the affirmative procedure.”.>

Section 10

Douglas Lumsden

- 101** In section 10, page 14, line 9, leave out <34A, as inserted by section 9> and insert <34AA, as inserted by section 9A>

Section 11

Russell Findlay

- 102** In section 11, page 16, line 8, after <Ministers> insert <, with the explicit permission of the victim,>

Russell Findlay

- 103** In section 11, page 17, line 10, after <intimates> insert <, with the explicit permission of the victim,>

Russell Findlay

- 104** In section 11, page 18, line 8, after <Ministers> insert <, with the explicit permission of the victim,>