1st Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 10

Long Title

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

Section 1

Robert Brown

1 In section 1, page 2, line 12, leave out <sent> and insert <made>

Robert Brown

2 In section 1, page 2, line 25, leave out <subsections (8) and> and insert <subsection>

Robert Brown

3 In section 1, page 2, leave out lines 26 to 28

Robert Brown

4 In section 1, page 2, line 26, leave out from <by> to <includes,> in line 27 and insert <in person (at the police station or other premises or place where the suspect is being detained or is attending), except where the suspect requests that alternative means be used (including,>}

Robert Brown

5 In section 1, page 2, page 35, leave out <sent> and insert <made>

Robert Brown

6 In section 1, page 2, line 36, leave out <sent> and insert <made>

Robert Brown

7 In section 1, page 3, leave out lines 1 to 5
Section 3

Robert Brown

8 In section 3, page 3, line 28, leave out from <section> to end of line 20 on page 4 and insert <sections 14ZA and 14A, detention”.

(2) After section 14 of the 1995 Act, insert—

“14ZA Extension by constable of period of detention under section 14

(1) This section applies in relation to a person who is being detained under section 14 of this Act (“the detained person”).

(2) Before the expiry of the period of 6 hours mentioned in section 14(2), a custody review officer may, subject to subsection (4), authorise that period to be extended in relation to the detained person by a further period of 6 hours.

(3) The further period of 6 hours starts from the time when the period of detention would have expired but for the authorisation.

(4) A custody review officer may authorise the extension under subsection (2) in relation to the detained person only if the officer is satisfied that the detained person wishes to exercise the right mentioned in section 15A(3) but has been unable to do so due to a difficulty in securing the attendance of a solicitor.

(5) Where subsection (4) or (5) of section 14 applies in relation to the detained person, the references in subsection (2) of this section to the period of 6 hours mentioned in section 14(2) are to be read as references to that period as reduced in accordance with subsection (4) or, as the case may be, (5) of section 14.

(6) Where a custody review officer authorises the extension under subsection (2), section 14 has effect in relation to the detained person as if the references in it to the period of 6 hours were references to that period as extended by virtue of the authorisation.

(7) In this section and sections 14A and 14B, “custody review officer” means a constable—

(a) of the rank of inspector or above, and

(b) who has not been involved in the investigation in connection with which the person is detained.

14A Extension by sheriff of period of detention under section 14

(1) This section applies in relation to a person who is being detained under section 14 of this Act (“the detained person”) where the period for which that person may be detained has been extended under section 14ZA.

(2) The sheriff may, on the application of a custody review officer and subject to subsections (3) and (5), by order authorise the period of 12 hours mentioned in section 14(2) (by virtue of section 14ZA(6)) to be extended in relation to the detained person by a further period not exceeding 12 hours.

(3) An—

(a) application,

(b) order,
under subsection (2) may only be made before the expiry of the period of 12 hours mentioned in section 14(2) (by virtue of section 14ZA(6)).

(4) Where the sheriff authorises the extension under subsection (2), the further period not exceeding 12 hours starts from the time when the period of detention would have expired but for that authorisation.

(5) The sheriff may authorise the extension under subsection (2) in relation to the detained person only if satisfied that—

(a) the continued detention of the detained person is necessary to secure, obtain or preserve evidence (whether by questioning the person or otherwise) relating to an offence in connection with which the person is being detained,

(b) an offence in connection with which the detained person is being detained is one that is an indictable offence, and

(c) the investigation is being conducted diligently and expeditiously.

(6) Where subsection (4) or (5) of section 14 applies in relation to the detained person, the references in subsection (2) of this section to the period of 12 hours mentioned in section 14(2) (by virtue of section 14ZA(6)) are to be read as references to that period as reduced by virtue of section 14ZA(5).

(6) Where the sheriff authorises the extension under subsection (2), section 14 has effect in relation to the detained person as if the references in it to the period of 12 hours (by virtue section 14ZA(6)) were references to that period as extended by virtue of the authorisation.

Robert Brown

9 In section 3, page 3, line 32, leave out from beginning to end of line 19 on page 5 and insert—

<(1) Subject to subsection (2), the Scottish Minister may by regulations made by statutory instrument specify—

(a) circumstances in which the period of 12 hours mentioned in section 14(2) may be extended,

(b) the procedure to be followed in relation to any such extension.

(2) The period of 12 hours mentioned in section 14(2) may not be extended by more than 12 hours.

(3) Regulations under subsection (1) may make such supplementary or consequential provision in connection with the matters mentioned in paragraphs (a) and (b) of that subsection as the Scottish Ministers consider appropriate.

(4) Regulations are not to be made under subsection (1) unless a draft of the statutory instrument containing the regulations has been laid before and approved by resolution of the Scottish Parliament.>

Robert Brown

10 In section 3, page 3, line 34, leave out subsection (2) and insert—
The sheriff may, on the application of a custody review officer and subject to subsections (2A) and (4), by order authorise the period of 12 hours mentioned in section 14(2) to be extended in relation to the detained person by a further period not exceeding 12 hours.

(2A) An—
(a) application,
(b) order,
under subsection (2) may only be made before the expiry of the period of 12 hours mentioned in section 14(2).

**Robert Brown**

11 In section 3, page 3, line 37, leave out <The further period of> and insert <Where the sheriff authorises the extension under subsection (2), the further period not exceeding>

**Robert Brown**

12 In section 3, page 3, line 39, leave out from beginning to <is> in line 40 and insert <The sheriff may authorise the extension under subsection (2) in relation to the detained person only if>

**Robert Brown**

13 In section 3, page 4, line 13, leave out <a custody review officer> and insert <the sheriff>

**Robert Brown**

14 In section 3, page 4, line 22, leave out <a custody review officer> and insert <the sheriff>

**Robert Brown**

15 In section 3, page 4, line 25, leave out <custody review officer> and insert <sheriff>

**Robert Brown**

16 In section 3, page 4, line 30, leave out <officer> and insert <sheriff>

**Robert Brown**

17 In section 3, page 4, line 32, leave out <custody review officer> and insert <sheriff>

**Robert Brown**

18 In section 3, page 4, line 33, leave out <officer> and insert <sheriff>

**Robert Brown**

19 In section 3, page 4, line 35, leave out <custody review officer> and insert <sheriff>
Robert Brown
20 In section 3, page 4, line 36, leave out <officer> and insert <sheriff>

Robert Brown
21 In section 3, page 4, line 40, at end insert—
\(<( \ )\) the custody review officer who applied for the extension.>

Robert Brown
22 In section 3, page 4, line 42, leave out <custody review officer> and insert <sheriff>

Robert Brown
23 In section 3, page 5, line 10, leave out <officer’s> and insert <sheriff’s>

Section 7

Bill Aitken
Supported by: John Lamont
24 In section 7, page 7, line 38, leave out <may> and insert <must>

Bill Aitken
Supported by: John Lamont
25 In section 7, page 8, line 4, leave out <may> and insert <must>

Christine Grahame
Supported by: Margo MacDonald
26 Leave out section 7

After section 9

Robert Brown
27 After section 9, insert—
\(<\textbf{Duration of amendments}\>

The amendments made by section 3 to section 14 of the 1995 Act expire on—
(a) 31 December 2012, or
(b) such earlier date as may be agreed as the commencement date for a Bill making provisions relating to the rights of suspects under detention introduced after this Act receives Royal Assent.>

Robert Brown
28 In the long title, page 1, line 5, leave out from <extend> to <further> in line 6 and insert <enable the period during which a person may be detained under section 14 of the Criminal Procedure (Scotland) Act 1995 to be>