

Age of Criminal Responsibility (Scotland) Bill

1st Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the first day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Further increase in the age of criminal responsibility (and of prosecution): age and timescale for increase

2, 1, 65, 68, 66, 71, 70, 72, 4, 3, 69, 67, 5, 7, 6, 9, 8, 11, 10, 13, 12, 15, 14, 17, 16, 19, 18, 21, 20, 23, 22, 25, 24, 27, 26, 29, 28, 31, 30, 33, 32, 35, 34, 37, 36, 39, 38, 41, 40, 43, 42, 45, 44, 47, 46, 49, 48, 51, 50, 53, 52, 55, 54, 57, 56, 74, 73, 121, 76, 75, 78, 77, 79, 81, 80, 59, 58

Notes on amendments in this group

Each of the following pairs of amendments are direct alternatives: 2 and 1; 7 and 6; 9 and 8; 11 and 10; 13 and 12; 15 and 14; 17 and 16; 19 and 18; 21 and 20; 23 and 22; 25 and 24; 27 and 26; 29 and 28; 31 and 30; 33 and 32; 35 and 34; 37 and 36; 39 and 38; 41 and 40; 43 and 42; 45 and 44; 47 and 46; 49 and 48; 51 and 50; 53 and 52; 55 and 54; 57 and 56; 59 and 58

Powers of Lord Advocate where pre-12 behaviour gives rise to public safety or confidence concerns

101

Disclosure of information about pre-12 behaviour

82, 83, 84, 85, 86, 87, 88, 89, 96, 97, 98

Independent reviewer: period of appointment

90, 91, 92, 93, 94

Independent reviewer: effect of appeal decision on later determination

102

Independent reviewer: matters which guidance may not cover

95

Victim information: cases in which request for information may be made

103, 104, 105, 106, 107, 108, 109, 112, 113, 114, 116

Victim information: Principal Reporter decision following request for information

110, 111, 115

Duty on Principal Reporter to make a report in cases of loss of life

117

Duty on Principal Reporter to prepare an annual report

118

Places of safety: use of police stations and cells etc.

60, 61, 62, 63, 100

Children's right to silence during interviews

64

Children's hearings: consideration of diminished responsibility

119

Review of Scottish Children's Reporter Administration

120

Power to make ancillary provision

99

THIS IS NOT THE MARSHALLED LIST

Amendments in debating order

Further increase in the age of criminal responsibility (and of prosecution): age and timescale for increase

Alex Cole-Hamilton

- 2 In section 1, page 1, line 13, leave out <12> and insert <14>

Alex Cole-Hamilton

- 1 In section 1, page 1, line 13, leave out <12> and insert <16>

Alex Cole-Hamilton

- 65 In section 1, page 1, line 13, at end insert—

- <(2) This section ceases to have effect 18 months after the day that the Bill for this Act receives Royal Assent.
- (3) The Scottish Ministers may by regulations repeal this section once it ceases to have effect.>

Alex Cole-Hamilton

- 68 After section 1, insert—

<Raising the age of criminal responsibility to 14

- (1) For section 41 of the Criminal Procedure (Scotland) Act 1995 substitute—

“41 Raising the age of criminal responsibility

A child under the age of 14 years cannot commit an offence.”.

- (2) In bringing this section into force all references to “12 years” in this Act should be read as references to “14 years”.>

THIS IS NOT THE MARSHALLED LIST

Alex Cole-Hamilton

66 After section 1, insert—

<Raising the age of criminal responsibility to 16

(1) For section 41 of the Criminal Procedure (Scotland) Act 1995 substitute—

“41 Raising the age of criminal responsibility

A child under the age of 16 years cannot commit an offence.”.

(2) In bringing this section into force all references to “12 years” in this Act should be read as references to “16 years”.>

Alex Cole-Hamilton

71 After section 1, insert—

<Raising the age of criminal responsibility to 14

(1) The Scottish Ministers must lay regulations before the Parliament to provide that a child under 14 years cannot commit an offence.

(2) A motion recommending approval of regulations under subsection (1) must be debated by the Parliament by no later than 31 January 2021.

(3) Regulations under subsection (1)—

(a) may modify any enactment (including this Act),

(b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.>

Alex Cole-Hamilton

70 After section 1, insert—

<Raising the age of criminal responsibility to 16

(1) The Scottish Ministers must lay regulations before the Parliament to provide that a child under 16 years cannot commit an offence.

(2) A motion recommending approval of regulations under subsection (1) must be debated by the Parliament by no later than 31 January 2021.

(3) Regulations under subsection (1)—

(a) may modify any enactment (including this Act),

(b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.>

Alex Cole-Hamilton

72* After section 1, insert—

<Raising the age of criminal responsibility: further increase

(1) The Scottish Ministers must as soon as practicable after the day that the Bill for this Act receives Royal Assent confer on such person as they determine responsibility for the consideration of the matter referred to in subsection (2).

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- (2) The matter is whether to increase the age at which a child cannot commit an offence to an age higher than 12 years.
- (3) The person on whom this responsibility is conferred must—
 - (a) make a report to the Scottish Ministers,
 - (b) make a recommendation within that report as to whether the age at which a child cannot commit an offence should be increased and if so, to what age,
 - (c) make that report to the Scottish Ministers by no later than 31 October 2020.
- (4) The Scottish Ministers must—
 - (a) lay the report before the Scottish Parliament as soon as practicable after they have received it,
 - (b) publish the report in such manner as they consider appropriate.
- (5) Where the recommendation is to increase the age at which a child cannot commit an offence, the Scottish Ministers must lay regulations before the Parliament in accordance with that recommendation.
- (6) A motion recommending approval of regulations under subsection (5) must be debated by the Parliament by no later than 31 January 2021.
- (7) Regulations under subsection (5)—
 - (a) may modify any enactment (including this Act),
 - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (8) The regulation-making power conferred by this section ceases to be exercisable after 31 January 2021.
- (9) When, by virtue of subsection (8), the regulation-making power conferred by this section ceases to be exercisable, the Scottish Ministers may by regulations repeal this section.>

Alex Cole-Hamilton

4 After section 1, insert—

<1A Raising the age of criminal prosecution

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 41A for “12” in each place it occurs substitute “14”.
- (3) The section title of section 41A becomes “**Prosecution of children under 14**”.
- (4) In section 42 (prosecution of children), in subsection (1), for “12” substitute “14”.>

Alex Cole-Hamilton

3 After section 1, insert—

<1A Raising the age of criminal prosecution

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 41A for “12” in each place it occurs substitute “16”.
- (3) The section title of section 41A becomes “**Prosecution of children under 16**”.

THIS IS NOT THE MARSHALLED LIST

- (4) In section 42 (prosecution of children), in subsection (1), the words “12 years or more but” are repealed.>

Alex Cole-Hamilton

69 After section 1, insert—

<Prosecution of children under 14

- (1) In section 41A of the Criminal Procedure (Scotland) Act 1995, for “12” substitute “14” wherever it occurs.
- (2) This section ceases to have effect 18 months after the day that the Bill for this Act receives Royal Assent.
- (3) The Scottish Ministers may by regulations repeal this section once it ceases to have effect.>

Alex Cole-Hamilton

67 After section 1, insert—

<Prosecution of children under 16

- (1) In section 41A of the Criminal Procedure (Scotland) Act 1995, for “12” substitute “16” wherever it occurs.
- (2) This section ceases to have effect 18 months after the day that the Bill for this Act receives Royal Assent.
- (3) The Scottish Ministers may by regulations repeal this section once it ceases to have effect.>

Alex Cole-Hamilton

5 Leave out section 2

Alex Cole-Hamilton

7 In section 3, page 1, line 24, leave out <12> and insert <14>

Alex Cole-Hamilton

6 In section 3, page 1, line 24, leave out <12> and insert <16>

Alex Cole-Hamilton

9 In section 4, page 2, line 11, leave out <12> and insert <14>

Alex Cole-Hamilton

8 In section 4, page 2, line 11, leave out <12> and insert <16>

Alex Cole-Hamilton

11 In section 4, page 2, line 16, leave out <12> and insert <14>

Alex Cole-Hamilton

10 In section 4, page 2, line 16, leave out <12> and insert <16>

THIS IS NOT THE MARSHALLED LIST

Alex Cole-Hamilton

13 In section 5, page 2, line 25, leave out <12> and insert <14>

Alex Cole-Hamilton

12 In section 5, page 2, line 25, leave out <12> and insert <16>

Alex Cole-Hamilton

15 In section 5, page 3, line 6, leave out <12> and insert <14>

Alex Cole-Hamilton

14 In section 5, page 3, line 6, leave out <12> and insert <16>

Alex Cole-Hamilton

17 In section 6, page 3, line 23, leave out <12> and insert <14>

Alex Cole-Hamilton

16 In section 6, page 3, line 23, leave out <12> and insert <16>

Alex Cole-Hamilton

19 In section 9, page 4, line 18, leave out <12> and insert <14>

Alex Cole-Hamilton

18 In section 9, page 4, line 18, leave out <12> and insert <16>

Alex Cole-Hamilton

21 In section 9, page 4, line 23, leave out <12> and insert <14>

Alex Cole-Hamilton

20 In section 9, page 4, line 23, leave out <12> and insert <16>

Alex Cole-Hamilton

23 In section 22, page 9, line 33, leave out <12> and insert <14>

Alex Cole-Hamilton

22 In section 22, page 9, line 33, leave out <12> and insert <16>

Alex Cole-Hamilton

25 In section 23, page 12, line 6, leave out <12> and insert <14>

Alex Cole-Hamilton

24 In section 23, page 12, line 6, leave out <12> and insert <16>

Alex Cole-Hamilton

27 In section 25, page 13, line 10, leave out first <12> and insert <14>

THIS IS NOT THE MARSHALLED LIST

Alex Cole-Hamilton

26 In section 25, page 13, line 10, leave out first <12> and insert <16>

Alex Cole-Hamilton

29 In section 25, page 13, line 10, leave out second <12> and insert <14>

Alex Cole-Hamilton

28 In section 25, page 13, line 10, leave out second <12> and insert <16>

Alex Cole-Hamilton

31 In section 25, page 13, line 12, leave out <12> and insert <14>

Alex Cole-Hamilton

30 In section 25, page 13, line 12, leave out <12> and insert <16>

Alex Cole-Hamilton

33 In section 28, page 13, line 28, leave out <12> and insert <14>

Alex Cole-Hamilton

32 In section 26, page 13, line 28, leave out <12> and insert <16>

Alex Cole-Hamilton

35 In section 31, page 15, line 34, leave out <12> and insert <14>

Alex Cole-Hamilton

34 In section 31, page 15, line 34, leave out <12> and insert <16>

Alex Cole-Hamilton

37 In section 34, page 17, line 18, leave out <12> and insert <14>

Alex Cole-Hamilton

36 In section 34, page 17, line 18, leave out <12> and insert <16>

Alex Cole-Hamilton

39 In section 44, page 22, line 20, leave out <12> and insert <14>

Alex Cole-Hamilton

38 In section 44, page 22, line 20, leave out <12> and insert <16>

Alex Cole-Hamilton

41 In section 44, page 22, line 28, leave out <12> and insert <14>

Alex Cole-Hamilton

40 In section 44, page 22, line 28, leave out <12> and insert <16>

THIS IS NOT THE MARSHALLED LIST

Alex Cole-Hamilton

43 In section 47, page 24, line 18, leave out <12> and insert <14>

Alex Cole-Hamilton

42 In section 47, page 24, line 18, leave out <12> and insert <16>

Alex Cole-Hamilton

45 In section 47, page 24, line 25, leave out <12> and insert <14>

Alex Cole-Hamilton

44 In section 47, page 24, line 25, leave out <12> and insert <16>

Alex Cole-Hamilton

47 In section 48, page 24, line 35, leave out <12> and insert <14>

Alex Cole-Hamilton

46 In section 48, page 24, line 35, leave out <12> and insert <16>

Alex Cole-Hamilton

49 In section 48, page 25, line 6, leave out <12> and insert <14>

Alex Cole-Hamilton

48 In section 48, page 25, line 6, leave out <12> and insert <16>

Alex Cole-Hamilton

51 In section 61, page 33, line 4, leave out <12> and insert <14>

Alex Cole-Hamilton

50 In section 61, page 33, line 4, leave out <12> and insert <16>

Alex Cole-Hamilton

53 In section 61, page 33, line 6, leave out <12> and insert <14>

Alex Cole-Hamilton

52 In section 61, page 33, line 6, leave out <12> and insert <16>

Alex Cole-Hamilton

55 In section 61, page 33, line 8, leave out <12> and insert <14>

Alex Cole-Hamilton

54 In section 61, page 33, line 8, leave out <12> and insert <16>

Alex Cole-Hamilton

57 In section 62, page 33, line 17, leave out <12> and insert <14>

THIS IS NOT THE MARSHALLED LIST

Alex Cole-Hamilton

- 56 In section 62, page 33, line 17, leave out <12> and insert <16>

Alex Cole-Hamilton

- 74 In section 66, page 34, line 33, at end insert—
<() section (*raising the age of criminal responsibility to 14*)(1),>

Alex Cole-Hamilton

- 73 In section 66, page 34, line 33, at end insert—
<() section (*raising the age of criminal responsibility to 16*)(1),>

Alex Cole-Hamilton

- 121 In section 66, page 34, line 33, at end insert—
<() section (*raising the age of criminal responsibility: further increase*)(5),>

Alex Cole-Hamilton

- 76 In section 66, page 35, line 5, after second <section> insert <1(3), (*prosecution of children under 14*)(3) and>

Alex Cole-Hamilton

- 75 In section 66, page 35, line 5, after second <section> insert <1(3), (*prosecution of children under 16*)(3) and>

Alex Cole-Hamilton

- 78 In section 68, page 35, line 12, at beginning insert <Sections 1, (*prosecution of children under 14*), 3,>

Alex Cole-Hamilton

- 77 In section 68, page 35, line 12, at beginning insert <Sections 1, (*prosecution of children under 16*), 3,>

Alex Cole-Hamilton

- 79 In section 68, page 35, line 12, at beginning insert <Part 1,>

Alex Cole-Hamilton

- 81 In section 68, page 35, line 12, at end insert—
<() Sections (*raising the age of criminal responsibility to 14*) and 2 come into force 18 months after the day that the Bill for this Act receives Royal Assent.>

Alex Cole-Hamilton

- 80 In section 68, page 35, line 12, at end insert—
<() Sections (*raising the age of criminal responsibility to 16*) and 2 come into force 18 months after the day that the Bill for this Act receives Royal Assent.>

THIS IS NOT THE MARSHALLED LIST

Alex Cole-Hamilton

59 In the long title, page 1, line 1, leave out <12> and insert <14>

Alex Cole-Hamilton

58 In the long title, page 1, line 1, leave out <12> and insert <16>

Powers of Lord Advocate where pre-12 behaviour gives rise to public safety or confidence concerns

Oliver Mundell

101 After section 3, insert—

<Discretion of the Lord Advocate in exceptional cases

- (1) Notwithstanding the effect of section 1, the Lord Advocate may, in exceptional cases where there is a deemed or perceived risk to wider public safety or confidence, consider action or behaviour of a kind mentioned in section 179A(1)(a)(ii) by a child who has attained the age of 8 years, but is under the age of 12 years.
- (2) The Lord Advocate may in such exceptional cases make a recommendation to the principal reporter about the disposal of a case relating to a child who has attained the age of 8 years, but is under the age of 12 years.
- (3) Wherever possible, such cases should be considered through the children’s hearing system.
- (4) Where a case cannot in the view of the Lord Advocate be considered through the children’s hearings system, the Lord Advocate may refer the matter to the High Court for an opinion.
- (5) The High Court may by Act of Adjournal under section 305 of the Criminal Procedure (Scotland) Act 1995 determine the process and procedure to be applied to the consideration of a referral under subsection (4).>

Disclosure of information about pre-12 behaviour

Maree Todd

82 Leave out section 4

Maree Todd

83 After section 4, insert—

<CHAPTER

DISCLOSURE OF CONVICTIONS

Pre-12 convictions etc. not be treated as convictions

Amendment of the Rehabilitation of Offenders Act 1974

- (1) The Rehabilitation of Offenders Act 1974 (the “1974 Act”) is amended as follows.

THIS IS NOT THE MARSHALLED LIST

- (2) In section 1 (rehabilitated persons and spent convictions)—
 - (a) in subsection (1), for “, (5) and (6)” substitute “and (5) to (8)”,
 - (b) after subsection (6) insert—
 - “(7) This Act does not apply to any conviction of an offence committed when the individual was under 12 years of age.
 - (8) Accordingly, references in this Act to a conviction do not include references to any such conviction.”.
- (3) In section 3 (certain disposals of children’s hearing treated as conviction), after subsection (2) insert—
 - “(3) This section does not apply where the acts or omissions constituting the ground mentioned in subsection (1) occurred when the child was under 12 years of age.”.
- (4) In section 8B (protection afforded to spent alternatives to prosecution: Scotland), after subsection (2) insert—
 - “(2A) This section does not apply where the acts or omissions constituting the offence mentioned in subsection (1) occurred when the person was under 12 years of age.”.
- (5) In section 9B (unauthorised disclosure of spent alternatives to prosecution: Scotland), after subsection (9) insert—
 - “(10) This section does not apply where the acts or omissions constituting the offence mentioned in subsection (1)(b) occurred when the person was under 12 years of age.”.>

Maree Todd

- 84 After section 4, insert—

<Disclosure of information about relevant behaviour

Disclosure of information about convictions etc. relating to time when person under 12

- (1) Sections (*disclosure of information about relevant behaviour: judicial proceedings*) to (*disapplication of sections (disclosure of information about relevant behaviour: judicial proceedings) and (disclosure of information about relevant behaviour: non-judicial proceedings)*) apply to behaviour (“relevant behaviour”) of a person which occurred when the person was under 12 years of age and—
 - (a) which resulted in the person being—
 - (i) convicted of an offence, or
 - (ii) given an alternative to prosecution (within the meaning of section 8B(1) of the 1974 Act), or
 - (b) in relation to which—
 - (i) the person was taken to a place of safety by virtue of section 23,
 - (ii) an order under section 28 authorising a search in relation to the person was applied for,
 - (iii) a child interview order was applied for in respect of the person,

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- (iv) the person was questioned by virtue of section 44,
 - (v) an order under section 52 authorising the taking of relevant physical data or a relevant sample from the person was applied for,
 - (vi) relevant physical data or a relevant sample was taken from the person by virtue of section 48(1)(b) or 57.
- (2) For the purposes of sections (*disclosure of information about relevant behaviour: judicial proceedings*) to (*disapplication of sections (disclosure of information about relevant behaviour: judicial proceedings) and (disclosure of information about relevant behaviour: non-judicial proceedings)*), circumstances ancillary to relevant behaviour includes—
- (a) where the behaviour resulted in the person being convicted of an offence, any circumstances of—
 - (i) the offence which was the subject of the conviction,
 - (ii) the conduct constituting the offence,
 - (iii) any process or proceedings preliminary to the conviction,
 - (iv) any sentence imposed in respect of the conviction,
 - (v) any proceedings (whether by way of appeal or otherwise) for reviewing the conviction or sentence,
 - (vi) anything done in pursuance of, or undergone in compliance with, any such sentence,
 - (b) where the behaviour resulted in the person being given an alternative to prosecution, any circumstances of—
 - (i) the offence in respect of which the alternative to prosecution is given or the conduct constituting the offence,
 - (ii) any process preliminary to the alternative to prosecution being given (including consideration by any person of how to deal with the offence and the procedure for giving the alternative to prosecution),
 - (iii) any proceedings for the offence which took place before the alternative to prosecution was given (including anything that happened after that time for the purpose of bringing the proceedings to an end),
 - (iv) any judicial review proceedings relating to the alternative to prosecution,
 - (v) anything done or undergone in pursuance of the terms of the alternative to prosecution.
- (3) For the purposes of subsections (1)(a)(i) and (2)(a)—
- (a) the acceptance or establishment (or deemed establishment), in relation to the person, of the ground of referral to the children's hearing referred to in section 3(1) of the 1974 Act is to be treated as a conviction, and
 - (b) any disposal of the case by the children's hearing is to be treated as a sentence.
- (4) The Scottish Ministers may, by regulations, modify the meanings in subsections (1) and (2) of relevant behaviour and circumstances ancillary to such behaviour.
- (5) Regulations under subsection (4) may modify any enactment (including this Act).>

THIS IS NOT THE MARSHALLED LIST

Maree Todd

85 After section 4, insert—

<Disclosure of information about relevant behaviour: judicial proceedings

- (1) No evidence is admissible in any proceedings before a judicial authority exercising its jurisdiction or functions in Scotland (“judicial proceedings”) to prove relevant behaviour of the person, or circumstances ancillary to such behaviour.
- (2) The person is not, in any such proceedings, to be asked (and, if asked, is not to be required to answer) any question relating to the person’s past which cannot be answered without acknowledging or referring to relevant behaviour of the person or circumstances ancillary to such behaviour.
- (3) In this section and section (*disclosure of information about relevant behaviour: non-judicial proceedings*), “judicial proceedings” includes, in addition to any court proceedings, proceedings before any tribunal, body or person having power by virtue of any enactment, rule of law, arbitration agreement, rules, custom or practice—
 - (a) to determine any question affecting the rights, privileges, obligations or liabilities of any person, or
 - (b) to receive evidence affecting the determination of any such question.>

Maree Todd

86 After section 4, insert—

<Disclosure of information about relevant behaviour: non-judicial proceedings

- (1) Where a question is put to a person, other than in judicial proceedings, seeking information with respect to relevant behaviour of the person or of any other person—
 - (a) the question is to be treated as not relating to that behaviour or to any circumstances ancillary to it (and the answer to the question may be framed accordingly), and
 - (b) the person questioned is not to be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose that behaviour or, as the case may be, any circumstances ancillary to it in answering the question.
- (2) Any obligation imposed on any person by any enactment or rule of law, or by the provisions of any agreement or arrangement, to disclose any matters to any other person is not to extend to requiring the disclosure of relevant behaviour or any circumstances ancillary to it.
- (3) Relevant behaviour or any circumstances ancillary to it, or any failure to disclose relevant behaviour or any such circumstances, is not to be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing the person in any way in any occupation or employment.>

Maree Todd

87 After section 4, insert—

<Disapplication of sections (*disclosure of information about relevant behaviour: judicial proceedings*) and (*disclosure of information about relevant behaviour: non-judicial proceedings*)

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- (1) Subsection (2) applies where a referral is made to the independent reviewer for a determination under section 13 as to whether information with respect to relevant behaviour ought to be included in—
 - (a) an enhanced criminal record certificate under section 113B of the Police Act 1997 (the “1997 Act”), or
 - (b) a scheme record under section 52 of the Protection of Vulnerable Groups (Scotland) Act 2007 (the “2007 Act”).
- (2) Sections (*disclosure of information about relevant behaviour: judicial proceedings*) and (*disclosure of information about relevant behaviour: non-judicial proceedings*)(1) and (2) do not apply—
 - (a) for the purpose of the referral (including any appeal under section 15), and
 - (b) in relation to the relevant behaviour which is the subject of the referral.
- (3) Subsection (4) applies where—
 - (a) the independent reviewer has determined, on a review under section 13, that information with respect to relevant behaviour ought to be included in an enhanced criminal record certificate or, as the case may be, a scheme record, and
 - (b) such information is so included.
- (4) Sections (*disclosure of information about relevant behaviour: judicial proceedings*) and (*disclosure of information about relevant behaviour: non-judicial proceedings*) do not apply—
 - (a) in relation to the purpose for which the certificate or, as the case may be, scheme record is provided, and
 - (b) in relation to the relevant behaviour with respect to which information is included in the certificate or record.
- (5) Subsection (6) applies where information with respect to relevant behaviour is included in a certificate or, as the case may be, scheme record as mentioned in subsection (3)(b).
- (6) Subject to subsections (1) and (2), the application of sections (*disclosure of information about relevant behaviour: judicial proceedings*) and (*disclosure of information about relevant behaviour: non-judicial proceedings*) is not excluded in relation to that relevant behaviour, or any circumstances ancillary to it, during the period before the certificate or record was provided.>

Maree Todd

88 In section 5, page 3, line 1, leave out subsection (2)

Maree Todd

89 In section 5, page 3, line 3, after <information)> insert <of the 2007 Act>

Maree Todd

96 In section 21, page 9, line 9, at end insert—

<“1974 Act” means the Rehabilitation of Offenders Act 1974,>

Maree Todd

97 In section 21, page 9, line 19, at end insert—

THIS IS NOT THE MARSHALLED LIST

<“relevant behaviour” and “circumstances ancillary to relevant behaviour” have the meanings given by section (*disclosure of information about convictions etc. relating to time when person under 12*),>

Maree Todd

98 In section 66, page 34, line 33, at end insert—

<() section (*disclosure of information about convictions etc. relating to time when person under 12*)(4),>

Independent reviewer: period of appointment

Maree Todd

90 In section 7, page 3, line 31, leave out <such period, not exceeding> and insert <a period of>

Maree Todd

91 In section 7, page 3, line 32, leave out <, as Ministers determine>

Maree Todd

92 In section 7, page 3, line 33, after <terms> insert <and conditions>

Maree Todd

93 In section 7, page 3, line 35, at end insert—

<() A person is disqualified from appointment, and from holding office, as the independent reviewer if the person is or becomes—

- (a) a member of the House of Commons,
- (b) a member of the Scottish Parliament,
- (c) a member of the European Parliament, or
- (d) a councillor of a local authority.>

Maree Todd

94 In section 7, page 4, line 4, leave out subsection (6) and insert—

<(6) The Scottish Ministers may remove a person from the office of independent reviewer, by giving notice to the person in writing, if—

- (a) the person has, since appointment, been convicted of an offence listed in schedule 8A or 8B of the 1997 Act,
- (b) the person becomes insolvent, or
- (c) the Scottish Ministers consider that the person—
 - (i) is unable to exercise the reviewer’s functions, or
 - (ii) is unsuitable to continue to hold that office.

(7) For the purposes of subsection (6)(b), a person becomes insolvent if—

- (a) the person's estate is sequestrated,

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- (b) the person grants a trust deed for creditors or makes a composition or arrangement with creditors,
- (c) a voluntary arrangement proposed by the person is approved,
- (d) the person's application for a debt payment programme is approved under section 2 of the Debt Arrangement and Attachment (Scotland) Act 2002, or
- (e) the person becomes subject to any other kind of order or arrangement analogous to those described in paragraphs (a) to (d) anywhere in the world.>

Independent reviewer: effect of appeal decision on later determination

Mary Fee

102 In section 15, page 7, line 2, at end insert—

- <() For the avoidance of doubt, a decision of the sheriff under subsection (4) does not preclude the persons mentioned in subsection (1) from appealing a subsequent determination of the independent reviewer under section 13(4) where it concerns the information in the original appeal.>

Independent reviewer: matters which guidance may not cover

Maree Todd

95 In section 17, page 7, line 29, at end insert—

- <() Guidance under this section may not relate to—
- (a) a specific review being or to be carried out by the independent reviewer under section 13, or
 - (b) the way in which the reviewer is carrying out (or is to carry out) a specific review.>

Victim information: cases in which request for information may be made

Oliver Mundell

103 In section 22, page 9, line 27, after <child's> insert <offence or>

Oliver Mundell

104 In section 22, page 9, line 33, after <has> insert <acted or>

Oliver Mundell

105 In section 22, page 10, line 1, at beginning, insert <Action or>

Oliver Mundell

106 In section 22, page 10, line 6, after <harm> insert <or distress>

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Oliver Mundell

107 In section 22, page 10, line 9, after second <the> insert <action or>

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108 In section 22, page 10, line 14, after <harmed> insert <or distressed>

Oliver Mundell

109 In section 22, page 10, line 14, after <the> insert <action or>

Oliver Mundell

112 In section 22, page 11, line 26, after fourth <the> insert <action or>

Oliver Mundell

113 In section 22, page 11, line 28, after <or> insert <action or>

Oliver Mundell

114 In section 22, page 11, line 29, after third <the> insert <action or>

Oliver Mundell

116 In section 22, page 11, line 36 after <the> insert <action or>

Victim information: Principal Reporter decision following request for information

Oliver Mundell

110 In section 22, page 10, line 28, at end insert—

<() Where a request for information under subsection (3) is made by a person within the understanding of subsection (4)(a) or (b), there is to be a presumption that the information will be provided to that person.>

Oliver Mundell

111 In section 22, page 11, line 17, leave out from <may> to end of line 23 and insert <must, in complying with a request under section 179A(3), have regard to the factors mentioned in subsection (2).>

Oliver Mundell

115 In section 22, page 11, leave out line 32

Duty on Principal Reporter to make a report in cases of loss of life

Oliver Mundell

117 In section 22, page 11, line 36, at end insert—

<179D Duty on the Principal Reporter to make a report in cases of loss of life

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- (1) Where the offence or, as the case may be, the action or behaviour mentioned in subsection (1)(a)(ii) has resulted in the death of a person, the Principal Reporter must—
 - (a) as soon as practicable, prepare a report, and
 - (b) send that report to—
 - (i) the Scottish Ministers,
 - (ii) the Lord Advocate,
 - (iii) a prescribed relative.
- (2) In this section “prescribed relative” means a relative prescribed by the Scottish Ministers by regulations.
- (3) Regulations under subsection (1)(b)(iii) are subject to the negative procedure.>

Duty on Principal Reporter to prepare an annual report

Oliver Mundell

118 In section 22, page 11, line 36, at end insert—

<179E Duty on the Principal Reporter to prepare an annual report

- (1) The Principal Reporter must on an annual basis—
 - (a) prepare a report on—
 - (i) the number of cases where the action or behaviour mentioned in section 179A(1)(a)(ii) applies,
 - (ii) the provision of information to persons affected by a child’s action or behaviour,
 - (b) lay a copy of that report before the Scottish Parliament.
- (2) In this section, “reporting year” is—
 - (a) the period beginning with the day on which this section comes into force and ending on 31 March, and
 - (b) each successive year ending on that date.>

Places of safety: use of police stations and cells etc.

Alex Cole-Hamilton

60 In section 23, page 12, line 25, at end insert—

- <() For the avoidance of doubt, where a child is kept in a place of safety that is a police station, that child must not be kept in a legalised police cell within the meaning of section 14(1) of the Prisons (Scotland) Act 1989.>

THIS IS NOT THE MARSHALLED LIST

Alex Cole-Hamilton

61 In section 23, page 12, line 25, at end insert—

- <() Where a child under 14 years of age is kept in a place of safety that is a police station, that child must not be kept in a legalised police cell within the meaning of section 14(1) of the Prisons (Scotland) Act 1989.>

Alex Cole-Hamilton

62 In section 23, page 12, line 25, at end insert—

- <() Where a child under 16 years of age is kept in a place of safety that is a police station, that child must not be kept in a legalised police cell within the meaning of section 14(1) of the Prisons (Scotland) Act 1989.>

Alex Cole-Hamilton

63 In section 23, page 12, line 28, leave out from <has> to <Act> and insert <, in relation to a child, means—

- (i) a residential or other establishment provided by a local authority,
- (ii) a community home within the meaning of section 53 of the Children Act 1989 (c.41),
- (iii) a hospital or surgery, the person or body of persons responsible for the management of which is willing temporarily to receive the child,
- (iv) the dwelling-house of a suitable person who is so willing,
- (v) any other suitable place the occupier of which is so willing, or
- (vi) if no place of safety within the meaning of subparagraphs (i) to (v) is available, a police station.>

Daniel Johnson

100 After section 24, insert—

<Annual Report on the exercise of the power under section 23

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting year—
 - (a) prepare a report on the exercise of the power under section 23,
 - (b) lay a copy of that report before the Scottish Parliament.
- (2) The annual report must—
 - (a) specify the number of children under 12 taken to a place of safety in the reporting year,
 - (b) specify for each child taken to a place of safety in the reporting year—
 - (i) the reason why the child was taken to a place of safety,
 - (ii) the location or locations to which the child was taken,
 - (iii) the length of time the child spent at the location or locations,
 - (iv) where the location was a police station, the reasons why an alternative ‘place of safety’ could not be used,

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- (c) confirm that at no point a legalised police cell within the meaning of section 14(1) of the Prisons (Scotland) Act 1989 was used as a place of safety.
- (3) In this section, “reporting year” is—
 - (a) the period beginning with the day on which this section comes into force and ending on 31 March, and
 - (b) each successive year ending on that date.>

Children’s right to silence during interviews

Alex Cole-Hamilton

- 64** In section 38, page 19, line 23, leave out <not required to answer questions> and insert <under no obligation to say anything (other than to give the information specified in section 34(4) of the Criminal Justice (Scotland) Act 2016)>

Children’s hearings: consideration of diminished responsibility

Mary Fee

- 119*** After section 63, insert—

< PART

CHILDREN’S HEARINGS: CONSIDERATION OF DIMINISHED RESPONSIBILITY

Children’s hearings: consideration of diminished responsibility

After section 25 of the 2011 Act, insert—

“25A Diminished responsibility

- (1) This section applies where a children’s hearing or pre-hearing panel is coming to a decision about a matter relating to a child.
- (2) The children’s hearing or pre-hearing panel must consider if the child’s ability to determine or control the conduct to which the hearing relates was at the time of the conduct substantially impaired by reason of—
 - (a) abnormality of mind,
 - (b) developmental immaturity.
- (3) For the avoidance of doubt, the reference in subsection (2) to abnormality of mind includes mental disorder.
- (4) The fact that a child was under the influence of alcohol, drugs or any other substance at the time of the conduct in question does not of itself—
 - (a) constitute abnormality of mind for the purposes of subsection (2), or
 - (b) prevent such abnormality from being established for those purposes.
- (5) For the purposes of assessing developmental immaturity, a report must be obtained from an approved medical practitioner within the meaning of section 22 of the Mental Health (Care and Treatment) (Scotland) Act 2003.

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- (6) In this section, “conduct” includes acts and omissions.>

Review of Scottish Children’s Reporter Administration

Daniel Johnson

- 120 After section 63, insert—

<PART

REVIEW OF THE SCOTTISH CHILDREN’S REPORTER ADMINISTRATION

Review of the Scottish Children’s Reporter Administration

- (1) The Scottish Ministers must no later than 5 years after the Bill for this Act receives Royal Assent confer on such person as they determine appropriate responsibility to consider the matter referred to in subsection (2).
- (2) The matter is whether the Scottish Children’s Reporter Administration continues to perform its role to a satisfactory standard in consequence of the additional responsibilities conferred upon it by this Act.
- (3) The person on whom this responsibility is conferred must make a report to the Scottish Ministers.
- (4) The Scottish Ministers must—
 - (a) lay the report before the Scottish Parliament as soon as practicable after they have received it,
 - (b) publish the report in such manner as they consider appropriate.>

Power to make ancillary provision

Maree Todd

- 99 In section 67, page 35, line 9, leave out <or in connection with> and insert <, in connection with or for giving full effect to>

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