

# Management of Offenders (Scotland) Bill

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 16	Schedule 1
Sections 17 to 34	Schedule 2
Sections 35 to 50	Long Title

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

### Section 1

#### Humza Yousaf

- 4 In section 1, page 1, line 9, leave out from <disposing> to <person> in line 10 and insert <making a person subject to a disposal listed in section 3(2), a court may additionally require the person>

#### Liam Kerr

- 4A As an amendment to amendment 4, line 2, after first <person> insert <("offender")>

#### Liam Kerr

- 4B As an amendment to amendment 4, line 2, leave out second <person> and insert <offender>

#### Liam Kerr

- 5 In section 1, page 1, line 9, leave out <relevant person> and insert <person ("offender")>

#### Liam Kerr

- 6 In section 1, page 1, line 10, leave out <relevant person> and insert <offender>

#### Humza Yousaf

- 7 In section 1, page 1, line 14, leave out <relevant>

#### Liam Kerr

- 8 In section 1, page 1, line 14, leave out <relevant person> and insert <offender>

#### Humza Yousaf

- 9 In section 1, page 1, line 18, leave out <relevant>

**Liam Kerr**

- 10 In section 1, page 1, line 18, leave out <relevant person> and insert <offender>

**Humza Yousaf**

- 11 In section 1, page 1, line 22, leave out <relevant>

**Liam Kerr**

- 12 In section 1, page 1, line 22, leave out <relevant person> and insert <offender>

**Humza Yousaf**

- 13 In section 1, page 1, line 23, leave out <relevant>

**Liam Kerr**

- 14 In section 1, page 1, line 23, leave out <relevant person> and insert <offender>

**Liam Kerr**

- 144 In section 1, page 1, line 24, at end insert <, and  
( ) make available to a relevant local authority (in the exercise of any of its social work services functions) a summary of evidence presented during the case.>

**Humza Yousaf**

- 15 In section 1, page 2, line 2, leave out <relevant>

**Liam Kerr**

- 16 In section 1, page 2, line 2, leave out <relevant person's> and insert <offender's>

## **Section 2**

**Liam Kerr**

- 17 In section 2, page 2, line 4, leave out <a relevant person's> and insert <an offender's>

**Humza Yousaf**

- 18 In section 2, page 2, line 4, leave out <relevant>

**Humza Yousaf**

- 19 In section 2, page 2, line 5, leave out <relevant>

**Liam Kerr**

- 20 In section 2, page 2, line 5, leave out <relevant person> and insert <offender>

**Humza Yousaf**

21 In section 2, page 2, line 6, leave out <relevant>

**Liam Kerr**

22 In section 2, page 2, line 6, leave out <relevant person's> and insert <offender's>

**Humza Yousaf**

23 In section 2, page 2, line 8, leave out <relevant>

**Liam Kerr**

24 In section 2, page 2, line 8, leave out <relevant person> and insert <offender>

**Section 4**

**Liam Kerr**

25 In section 4, page 3, line 3, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

26 In section 4, page 3, line 3, leave out <relevant>

**Liam Kerr**

27 In section 4, page 3, line 4, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

28 In section 4, page 3, line 4, leave out <relevant>

**Liam Kerr**

29 In section 4, page 3, line 5, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

30 In section 4, page 3, line 5, leave out <relevant>

**Liam Kerr**

31 In section 4, page 3, line 9, leave out <a relevant person's> and insert <an offender's>

**Humza Yousaf**

32 In section 4, page 3, line 9, leave out <relevant>

**Liam Kerr**

33 In section 4, page 3, line 11, leave out <a relevant person's> and insert <an offender's>

**Humza Yousaf**

34 In section 4, page 3, line 11, leave out <relevant>

**Humza Yousaf**

145 In section 4, page 3, line 12, at end insert—

<( ) For the avoidance of doubt, anything listed in section 3(2) is to be regarded as a disposal for the purposes of this Part (whether or not it is the final disposal of a case).>

**Section 5**

**Humza Yousaf**

35 In section 5, page 3, line 16, leave out <relevant>

**Liam Kerr**

36 In section 5, page 3, line 16, leave out <relevant person> and insert <person (“offender”)>

**Humza Yousaf**

37 In section 5, page 3, line 17, leave out <relevant>

**Liam Kerr**

38 In section 5, page 3, line 17, leave out <relevant person> and insert <offender>

**Humza Yousaf**

39 In section 5, page 3, line 20, leave out <relevant>

**Liam Kerr**

40 In section 5, page 3, line 20, leave out <relevant person> and insert <offender>

**Humza Yousaf**

41 In section 5, page 3, line 24, leave out <relevant>

**Liam Kerr**

42 In section 5, page 3, line 24, leave out <relevant person> and insert <offender>

**Humza Yousaf**

43 In section 5, page 3, line 28, leave out <relevant>

**Liam Kerr**

44 In section 5, page 3, line 28, leave out <relevant person> and insert <offender>

**Humza Yousaf**

45 In section 5, page 3, line 29, leave out <relevant>

**Liam Kerr**

46 In section 5, page 3, line 29, leave out <relevant person> and insert <offender>

**Humza Yousaf**

47 In section 5, page 3, line 32, leave out <relevant>

**Liam Kerr**

48 In section 5, page 3, line 32, leave out <relevant person> and insert <offender>

**Humza Yousaf**

49 In section 5, page 3, line 33, leave out <relevant>

**Liam Kerr**

50 In section 5, page 3, line 33, leave out <relevant person> and insert <offender>

**Section 6**

**Liam Kerr**

51 In section 6, page 4, line 3, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

52 In section 6, page 4, line 4, leave out <relevant>

**Humza Yousaf**

53 In section 6, page 4, line 5, leave out <relevant>

**Liam Kerr**

54 In section 6, page 4, line 5, leave out <relevant person's> and insert <offender's>

**Humza Yousaf**

55 In section 6, page 4, line 7, leave out <relevant>

**Liam Kerr**

56 In section 6, page 4, line 7, leave out <relevant person> and insert <offender>

## Section 7

**Liam Kerr**

57 In section 7, page 4, line 28, leave out <a relevant person's> and insert <an offender's>

**Humza Yousaf**

58 In section 7, page 4, line 28, leave out <relevant>

**Liam Kerr**

59 In section 7, page 4, line 30, leave out <a relevant person's> and insert <an offender's>

**Humza Yousaf**

60 In section 7, page 4, line 30, leave out <relevant>

## Section 7A

**Humza Yousaf**

61 Leave out section 7A

## Section 8

**Liam Kerr**

62 In section 8, page 5, line 14, leave out <a relevant person's> and insert <an offender's>

**Humza Yousaf**

63 In section 8, page 5, line 14, leave out <relevant>

**Liam Kerr**

64 In section 8, page 5, line 17, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

65 In section 8, page 5, line 17, leave out <relevant>

**Humza Yousaf**

66 In section 8, page 5, line 20, leave out <an offender> and insert <a person>

## Section 9

**Liam Kerr**

67 In section 9, page 5, line 28, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

68 In section 9, page 5, line 28, leave out <relevant>

**Liam Kerr**

69 In section 9, page 5, line 32, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

70 In section 9, page 5, line 32, leave out <relevant person> and insert <person subject to a requirement made under section 1(1) or 5(1)>

**Liam Kerr**

70A As an amendment to amendment 70, line 1, leave out second <person> and insert <offender>

**Liam Kerr**

71 In section 9, page 5, line 33, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

72 In section 9, page 5, line 33, leave out <relevant person> and insert <person subject to such a requirement>

**Liam Kerr**

72A\* As an amendment to amendment 72, line 1, leave out second <person> and insert <offender>

**Section 10**

**Liam Kerr**

73 In section 10, page 6, line 10, leave out <a relevant person> and insert <an offender>

**Humza Yousaf**

74 In section 10, page 6, line 10, leave out <relevant>

**Section 11**

**Humza Yousaf**

75 In section 11, page 6, line 22, leave out <relevant> and insert <monitored>

**Liam Kerr**

76 In section 11, page 6, line 22, leave out <relevant person> and insert <offender>

**Humza Yousaf**

77 In section 11, page 6, line 24, leave out from <relevant> to end of line and insert <monitored person that a person has been designated under paragraph (a),>

**Liam Kerr**

77A As an amendment to amendment 77, line 1, leave out <monitored person> and insert <offender>

**Liam Kerr**

78 In section 11, page 6, line 24, leave out <relevant person> and insert <offender>

**Humza Yousaf**

79 In section 11, page 6, line 27, leave out <relevant> and insert <monitored>

**Liam Kerr**

80 In section 11, page 6, line 27, leave out <relevant person> and insert <offender>

**Humza Yousaf**

81 In section 11, page 6, line 32, leave out <relevant> and insert <monitored>

**Liam Kerr**

82 In section 11, page 6, line 32, leave out <relevant person> and insert <offender>

**Humza Yousaf**

83 In section 11, page 6, line 34, leave out from <relevant> to end of line and insert <monitored person that a person has been designated under paragraph (a),>

**Liam Kerr**

83A As an amendment to amendment 83, line 1, leave out <monitored person> and insert <offender>

**Liam Kerr**

84 In section 11, page 6, line 34, leave out <relevant person> and insert <offender>

**Humza Yousaf**

85 In section 11, page 6, line 37, leave out <relevant> and insert <monitored>

**Liam Kerr**

86 In section 11, page 6, line 37, leave out <relevant person> and insert <offender>

**Humza Yousaf**

87 In section 11, page 7, line 4, leave out <relevant> and insert <monitored>



**Liam Kerr**

88 In section 11, page 7, line 4, leave out <relevant person> and insert <offender>

**Humza Yousaf**

89 In section 11, page 7, line 13, leave out <relevant> and insert <monitored>

**Liam Kerr**

90 In section 11, page 7, line 13, leave out <relevant person> and insert <offender>

**Humza Yousaf**

91 In section 11, page 7, line 21, at end insert—

<( ) a reference to the monitored person is to the person subject to the requirement made under section 1(1) or (as the case may be) 5(1),>

**Liam Kerr**

91A As an amendment to amendment 91, line 2, leave out <monitored person> and insert <offender>

## **Section 12**

**Humza Yousaf**

92 In section 12, page 7, line 30, leave out <relevant> and insert <monitored>

**Liam Kerr**

93 In section 12, page 7, line 30, leave out <relevant person> and insert <offender>

**Humza Yousaf**

94 In section 12, page 7, line 31, leave out <relevant> and insert <monitored>

**Liam Kerr**

95 In section 12, page 7, line 31, leave out <relevant person> and insert <offender>

**Humza Yousaf**

96 In section 12, page 7, line 32, leave out <by the relevant person>

**Liam Kerr**

97 In section 12, page 7, line 32, leave out <relevant person> and insert <offender>

**Humza Yousaf**

98 In section 12, page 7, line 33, leave out <by the relevant person>

**Liam Kerr**

- 99 In section 12, page 7, line 33, leave out <relevant person> and insert <offender>

**Humza Yousaf**

- 100 In section 12, page 7, line 34, leave out <relevant> and insert <monitored>

**Liam Kerr**

- 101 In section 12, page 7, line 34, leave out <relevant person> and insert <offender>

**Humza Yousaf**

- 102 In section 12, page 7, line 36, leave out <relevant> and insert <monitored>

**Liam Kerr**

- 103 In section 12, page 7, line 36, leave out <relevant person> and insert <offender>

**Humza Yousaf**

- 104 In section 12, page 8, line 3, leave out subsection (3A)

**Liam Kerr**

- 105 In section 12, page 8, line 4, at end insert—

<(3B) An offender who contravenes subsection (2) or (3) commits an offence.

(3C) But it is a defence for an offender charged with an offence under subsection (3B) to prove that the offender tampered with the approved device, or caused or permitted someone else to tamper with the device, for the purposes of assisting the offender to alleviate the effects of a medical condition that the offender has.

(3D) An offender who commits an offence under subsection (3B) is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding level 5 on the standard scale (or both).>

**Humza Yousaf**

- 106 In section 12, page 8, line 8, at end insert—

<( ) the references to the monitored person are to the person subject to the requirement made under section 1(1) or (as the case may be) 5(1).>

**Liam Kerr**

- 106A As an amendment to amendment 106, line 2, leave out <monitored person> and insert <offender>

## Section 13

**Humza Yousaf**

- 107 In section 13, page 8, line 14, leave out <relevant person> and insert <person subject to it>

**Liam Kerr**

108 In section 13, page 8, line 14, leave out <relevant person> and insert <offender>

**Humza Yousaf**

109 In section 13, page 8, line 23, leave out <relevant person> and insert <person subject to it>

**Liam Kerr**

110 In section 13, page 8, line 23, leave out <relevant person> and insert <offender>

### **After section 13**

**Margaret Mitchell**

146\* After section 13, insert—

#### **<Notification procedures following suspected breach of disposal or conditions**

- (1) This section applies where a person designated under section 11(1) suspects that an offender has breached—
  - (a) the terms of a disposal mentioned in section 3(2), or
  - (b) any of the conditions mentioned in section 7(1).
- (2) Immediately or as soon as is reasonably practicable after a suspected breach mentioned in subsection (1) has occurred, a person designated under section 11(1) must notify such bodies mentioned in subsection (3) as they consider appropriate.
- (3) The bodies are—
  - (a) the Police Service of Scotland,
  - (b) such other body as the Scottish Ministers may by regulations specify.
- (4) Regulations under this section are subject to the negative procedure.>

### **Section 14**

**Humza Yousaf**

111 In section 14, page 8, line 34, leave out <relevant person> and insert <person subject to the requirement>

**Liam Kerr**

111A\*As an amendment to amendment 111, line 1, leave out second <person> and insert <offender>

**Liam Kerr**

112 In section 14, page 8, line 34, leave out <relevant person> and insert <offender>

**Humza Yousaf**

113 In section 14, page 8, line 38, leave out <relevant person> and insert <person subject to the requirement>

**Liam Kerr**

113A\*As an amendment to amendment 113, line 1, leave out <person> and insert <offender>

**Liam Kerr**

114 In section 14, page 8, line 38, leave out <relevant person> and insert <offender>

**Humza Yousaf**

115 In section 14, page 9, line 19, leave out from <on> to end of line 20 and insert <, prior to the start of the hearing, on the person whose alleged contravention is the subject of the hearing.>

**Liam Kerr**

115A As an amendment to amendment 115, line 2, leave out <person> and insert <offender>

**Liam Kerr**

116 In section 14, page 9, line 19, leave out <relevant person> and insert <offender>

## **Section 16**

**Humza Yousaf**

117 In section 16, page 10, line 3, leave out <imposable on relevant persons>

**Liam Kerr**

118 In section 16, page 10, line 3, leave out <relevant persons> and insert <offenders>

**Humza Yousaf**

119 In section 16, page 10, line 5, leave out <of relevant persons>

**Liam Kerr**

120 In section 16, page 10, line 5, leave out <relevant persons> and insert <offenders>

## **After section 16**

**Lewis Macdonald**

121 After section 16, insert—

**<PART**

**ENFORCEMENT OF FINES ETC.: DECLARATION OF INCOME FORM**

*Declaration of income form*

### **Declaration of income form**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) After section 226A, there is inserted—

#### **“226AA Declaration of income form**

- (1) The court may, for the purpose mentioned in subsection (2), make an order requiring a person who has received a relevant penalty to complete a declaration of income form within 28 days.
- (2) The purpose of a declaration of income form is to obtain information on the financial means of a person who has received but not paid a relevant penalty.
- (3) For the purposes of this section, a declaration of income form is a form issued by or on behalf of the court to a person who has received a relevant penalty which requires that person to provide in writing—
  - (a) the person’s name,
  - (b) the person’s date of birth,
  - (c) the person’s home address and telephone number,
  - (d) information about the person’s income,
  - (e) information about the person’s expenditure,
  - (f) information about the person’s accommodation and living circumstances,
  - (g) information about any vehicles owned by the person,
  - (h) the person’s bank details,
  - (i) any other information as the court may specify on the form.
- (4) It is an offence—
  - (a) knowingly to provide false information on a declaration of income form,
  - (b) not to comply with an order made under subsection (1) without reasonable excuse.
- (5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) For the avoidance of doubt, reference in subsection (3) to “a form issued by or on behalf of the court” includes a declaration of income form issued by—
  - (a) a FEO,
  - (b) the clerk of court,
  - (c) the Crown Office and Procurator Fiscal Service.
- (7) The Scottish Ministers may by regulations make further provision for the purposes of and in connection with this section.
- (8) Regulations under subsection (7) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.”.>

#### **Section 44**

#### **Humza Yousaf**

- 122** In section 44, page 28, line 29, leave out <Prisoners and Criminal Proceedings (Scotland) Act 1993> and insert <1993 Act>

## Daniel Johnson

1\* In section 44, page 28, line 31, at end insert—

- <( ) The following persons must uphold the independence of the Parole Board—
- (a) the First Minister,
  - (b) the Lord Advocate,
  - (c) the Scottish Ministers,
  - (d) members of the Scottish Parliament,
  - (e) all other persons with responsibility for matters relating to—
    - (i) the Parole Board or its members, or
    - (ii) the administration of justice,where that responsibility is to be discharged only in or as regards Scotland.
- ( ) In particular, the First Minister, the Lord Advocate and the Scottish Ministers—
- (a) must not seek to influence particular decisions of the Parole Board through any special access to the Board or any of its members, and
  - (b) must have regard to the need for the Parole Board and its members to have the support necessary to enable them to carry out their functions.>

## Section 36

### Humza Yousaf

123 In section 36, page 29, line 16, leave out from <Prisoners> to <Act"> and insert <1993 Act>

## Before section 39A

### Humza Yousaf

124 Before section 39A, insert—

#### <PART

PRISONERS: CONTROL OF RELEASE, BEING UNLAWFULLY AT LARGE, ETC.

*Control of release of prisoners, etc.*

#### **Release on licence under section 3AA of the 1993 Act**

- (1) The 1993 Act is amended as follows.
- (2) In section 3AA, in subsection (2), for the words from “whichever” to the end there is substituted “one quarter of the prisoner’s sentence”.
- (3) In section 3AA, for subsection (6)(b) there is substituted—
  - “(b) amend a period for the time being specified in subsection (2) above (which may be done by amending the subsection to describe a period as a particular length of time or a proportion of a prisoner’s sentence),”.
- (4) In section 3AA, after subsection (6) there is inserted—

- “(7) For the avoidance of doubt, nothing in this section requires the Parole Board to make a decision by a particular date about whether to recommend that a long-term prisoner be released having served one-half of the prisoner’s sentence.”.>

#### **After section 42**

##### **Gordon Lindhurst**

**3** After section 42, insert—

##### **<Provision of assistance to a prisoner whose case the Board is considering**

- (1) The 1993 Act is amended as follows.
- (2) In section 20, after subsection (4A), there is inserted—
  - “(4B) The Board must make provision with respect to its proceedings—
    - (a) to ensure that a prisoner whose case the Board is considering understands the relevant matters being discussed at a hearing,
    - (b) to ensure that a prisoner whose case the Board is considering is supplied with material appropriate to the prisoner’s needs (and in a form that is appropriate to those needs and permanent) from which the prisoner may refresh the prisoner’s understanding of those matters,
    - (c) to ensure that a prisoner whose case the Board is considering has the opportunity of making use of any independent advocacy services to which the prisoner may be entitled, and
    - (d) for or in connection with the circumstances in which a curator *ad litem* may be appointed.”.>

#### **Section 40A**

##### **Humza Yousaf**

**125** In section 40A, page 32, line 39, leave out from beginning to end of line 5 on page 33 and insert <In section 20, after subsection (4A) there is inserted—

- “(4B) Provision mentioned in subsection (4)(c) may in particular include provision about the taking into account by the Board of the likely impact of its decision on a prisoner’s family.”.>

#### **After section 43A**

##### **Humza Yousaf**

**126** After section 43A, insert—

##### **<Co-operation between public authorities**

- (1) The Management of Offenders etc. (Scotland) Act 2005 is amended as follows.
- (2) In subsection (1) of section 1—
  - (a) for the words “Scottish Ministers, and local authorities” there is substituted “following public authorities”,

- (b) after “persons” there is inserted “—
  - (a) the Scottish Ministers,
  - (b) local authorities,
  - (c) the Scottish Courts and Tribunals Service,
  - (d) the chief constable of the Police Service of Scotland”.
- (3) In subsection (3) of section 1, after “(c.45)” there is inserted “and Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9)”.>

**Humza Yousaf**

**127** After section 43A, insert—

**<Operating protocol for release on licence under section 3AA of the 1993 Act**

- (1) The 1993 Act is amended as follows.
- (2) After section 21 there is inserted—

**“21A Operating protocol for release on licence under section 3AA**

- (1) The Scottish Ministers must prepare a document that describes—
  - (a) the process of risk assessment that is carried out before a prisoner is released on licence under section 3AA,
  - (b) the factors taken into account in carrying out such risk assessments,
  - (c) the procedures for monitoring a prisoner while released on licence under section 3AA,
  - (d) the process for investigating a suspected failure to comply with a condition included in a licence under section 3AA,
  - (e) the process by which a licence under section 3AA is revoked and a prisoner recalled to prison as a result.
- (2) The Scottish Ministers must—
  - (a) keep the document under review, and
  - (b) revise it to reflect any changes in the things it describes.
- (3) When preparing the first version of the document, or a revised version, the Scottish Ministers must consult—
  - (a) the Scottish Courts and Tribunals Service,
  - (b) the Parole Board,
  - (c) the chief constable of the Police Service of Scotland,
  - (d) local authorities,
  - (e) the Risk Management Authority.
- (4) Having prepared the first version of the document, or a revised version, the Scottish Ministers must—
  - (a) make it publicly available, and
  - (b) lay a copy of it before the Scottish Parliament.



- (5) A copy of the first version of the document must be laid before the Scottish Parliament within 6 months of the Bill for the Management of Offenders (Scotland) Act 2019 receiving Royal Assent.”.>

**Daniel Johnson**

2 After section 43A, insert—

**<Release of prisoners: duty to assess availability of suitable accommodation on release**

- (1) The 1993 Act is amended as follows.
- (2) After section 26C, there is inserted—

**“26CF Release of prisoners: duty to assess availability of suitable accommodation on release**

- (1) Where a prisoner is to be released by the Scottish Ministers, they must ensure that, prior to the day on which the prisoner would fall to be released, they have complied with the duties under this section.
- (2) The Scottish Ministers must assess whether, having regard to the needs of the prisoner and any other person who normally resides with the prisoner, the prisoner has suitable accommodation which the prisoner can occupy on release.
- (3) For the purposes of subsection (2), a prisoner does not have suitable accommodation which the prisoner can occupy on release where—
  - (a) the prisoner has no accommodation,
  - (b) the prisoner would be treated as having no accommodation within the meaning of section 24(2)-(2B) of the Housing (Scotland) Act 1987 (“the 1987 Act”),
  - (c) the prisoner would be homeless within the meaning of section 24(3) of the 1987 Act, or
  - (d) the prisoner is likely to be threatened with homelessness within 2 months of release.
- (4) Where the prisoner does not have suitable accommodation which the prisoner can occupy on release, the Scottish Ministers must—
  - (a) refer the prisoner to the relevant local authority for the purpose of the authority considering its duties to the prisoner under Part II of the 1987 Act,
  - (b) take such other steps, whether on their own initiative or in collaboration with the relevant local authority, as they consider appropriate to—
    - (i) assist in ensuring that the prisoner has suitable accommodation that the prisoner can occupy on release, and
    - (ii) secure such information, advice and support as the prisoner may require to secure and retain suitable accommodation.
- (5) In complying with their duties under subsections (2) and (4), the Scottish Ministers must consult—
  - (a) the prisoner,

- (b) where practicable, such relatives of the prisoner and such other persons involved in the care and support of the prisoner as the prisoner may request.
- (6) In subsection (4), “relevant local authority” means the local authority in whose area the prisoner was resident before being imprisoned.”.>

**Daniel Johnson**

**128** After section 43A, insert—

**<Provision for person subject to a curfew condition**

- (1) The 1993 Act is amended as follows.
- (2) After section 12AA there is inserted—

**“12AAA Provision for person subject to a curfew condition**

- (1) This section applies where a person is subject to a curfew condition as provided for in section 12AA(1)(b).
- (2) The Scottish Ministers must take steps to ensure that a person subject to a curfew condition is provided with meaningful activity whilst subject to the curfew condition.
- (3) For the purposes of this section, “meaningful activity” has such meaning as the Scottish Ministers may by regulations specify, but must include the provision of work or volunteering opportunities.”.>

**Daniel Johnson**

**129** After section 43A, insert—

**<Parole Board recommendations: publication of test**

- (1) The 1993 Act is amended as follows.
- (2) In section 1, after subsection (3A) there is inserted—
  - “(3B) The Parole Board must publish, in such manner as it considers appropriate, the test it will apply in making a recommendation under subsection (3).”.>

**Section 43B**

**Daniel Johnson**

**130\*** In section 43B, page 34, line 3, at end insert—

- <(1A) A person commits an offence under this section where the person—
  - (a) tampers with an approved device, or causes or permits someone else to tamper with the device, or
  - (b) intentionally damages or destroys the approved device, or causes or permits someone else to damage or destroy the device,in contravention of section 12(3) of the Management of Offenders (Scotland) Act 2019.
- (1B) But subsection (1A) does not apply where the person—

- (a) tampers with an approved device, or causes or permits someone else to tamper with the device, or
  - (b) intentionally damages or destroys the approved device, or causes or permits someone else to damage or destroys the device,
- where the device may reasonably be considered to seriously compromise the person's physical or mental health.>

### **Section 43C**

#### **Humza Yousaf**

- 131** In section 43C, page 36, line 13, leave out from <constable,> to <necessary,> in line 14 and insert <constable—  
(a)>

#### **Humza Yousaf**

- 132** In section 43C, page 36, line 15, leave out <warrant.> and insert <warrant, and  
(b) to use reasonable force in doing so.>

#### **Humza Yousaf**

- 133** In section 43C, page 36, line 18, leave out <Prisoners and Criminal Proceedings (Scotland) Act 1993> and insert <1993 Act>

### **Section 43D**

#### **Humza Yousaf**

- 134** Move section 43D to after section 39

### **Section 46**

#### **Humza Yousaf**

- 135** Move section 46 to after section 39

### **Section 47**

#### **Humza Yousaf**

- 136** In section 47, page 37, line 2, leave out <Part> and insert <Act>

#### **Humza Yousaf**

- 137** Move section 47 to before section 48

## After section 47

**Liam Kerr**

138 After section 47, insert—

### <PART

#### RISK ASSESSMENT OF OFFENDERS

##### *Risk assessment tool*

##### **Risk assessment tool**

- (1) Not later than 6 months after the date on which this section comes into force, the Scottish Ministers must develop a tool to assess the risk posed by offenders after release from prison (the “risk assessment tool”).
- (2) The purpose of the risk assessment tool is to assess the risk of an offender being at liberty to the safety of the public at large.
- (3) The risk assessment tool must include guidance on how to assess—
  - (a) risk posed by the offender to individuals or the public at large,
  - (b) the likelihood of the offender reoffending when at liberty,
  - (c) the capacity of bodies responsible for monitoring the offender whilst at liberty to carry out that monitoring effectively.
- (4) In developing the risk assessment tool, the Scottish Ministers must consult—
  - (a) the Scottish Courts and Tribunals Service,
  - (b) the Parole Board,
  - (c) the Police Service of Scotland,
  - (d) a relevant local authority (in the exercise of any of its social work services functions),
  - (e) the Risk Management Authority.
- (5) When disposing of a case in respect of an offender wholly or partly as mentioned in the list in section 3(2), a court must have regard to the risk assessment tool.
- (6) Not later than 2 years after the date on which this section comes into force, the Scottish Ministers must publish and lay before the Parliament a report on the operation of the risk assessment tool.>

**Daniel Johnson**

139 After section 47, insert—

### <PART

#### RISK ASSESSMENT OF PRISONERS

##### *Risk assessment of prisoners*

##### **Risk assessment of prisoners**

- (1) The section applies where a person is subject to a curfew condition as provided for in section 12AA(1)(b) of the 1993 Act (which relates to release on licence under section 3).

- (2) Not later than 6 months after the date on which this section comes into force, the Scottish Ministers must publish (in such manner as they consider appropriate) a report setting out the steps they will take to comply with subsection (3).
- (3) Following the publication of the report under subsection (2), a person must not be released from prison until an assessment has been made of the risk the person is likely to pose immediately upon release.
- (4) In making an assessment under subsection (3), the Scottish Ministers must assess the risk to the safety of the public at large of a person being released on licence under section 3AA of the 1993 Act (further powers to release prisoners).
- (5) A risk assessment made under subsection (3) must—
  - (a) be in writing,
  - (b) have regard to any information the Scottish Ministers have received from—
    - (i) the Parole Board,
    - (ii) the Police Service of Scotland,
    - (iii) a relevant local authority (in the exercise of any of its social work services functions),
    - (iv) the Risk Management Authority,
  - (c) set out the steps that will be taken by the Scottish Ministers or, as the case may be, other agencies, to mitigate the risk posed by the person.
- (6) The Scottish Ministers must by regulations make further provision about how they will make assessments under subsection (3).
- (7) Not later than 5 years after the date on which this section comes into force, the Scottish Ministers must review how they make assessments under subsection (3).
- (8) The Scottish Ministers must publish and lay before the Parliament a report on the review under subsection (7).>

**Neil Bibby**

**140** After section 47, insert—

**<PART**

MURDER COMMITTED BY PERSON SUBJECT TO A CURFEW CONDITION

*Murder committed by person subject to a curfew condition*

**Murder committed by person subject to a curfew condition**

- (1) This section applies where a person is subject to a curfew condition as provided for in section 12AA(1)(b) of the 1993 Act (which relates to release on licence under section 3AA of that Act).
- (2) Where a person mentioned in subsection (1) is convicted of murdering an individual whilst the person is subject to such a curfew condition, an inquiry must be held under section 2 of the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 into the events that led to the murder of the individual.
- (3) This section applies where the murder occurs on or after 15 January 2016.>

**Liam Kerr**

- 140A** As an amendment to amendment 140, line 6, leave out from <subject> to end of line 8 and insert <released on licence under section 3AA of the 1993 Act.>

**Margaret Mitchell**

- 147** After section 47, insert—

**<PART**

RESTRICTION OF LIBERTY ORDERS

*Restriction of liberty orders*

**Restriction of liberty orders**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) After subsection (8)(c) of section 245A, there is inserted—
  - “(d) specific places and named locations or areas which may be specified under subsection (2)(b).”.>

**Section 49**

**Neil Bibby**

- 141** In section 49, page 37, line 18, at end insert—

<(za) section (*Murder committed by person subject to a curfew condition*),>

**Liam Kerr**

- 142** In section 49, page 37, line 22, at end insert—

- <(2A) The Scottish Ministers may not lay before the Parliament regulations under subsection (2) until the end of the period of one month beginning with the day on which the condition in subsection (2B) is met.
- (2B) The condition is that the Scottish Ministers must have published Scottish devolved statistics showing that the proportion of completions for community payback orders (imposed by virtue of section 227A of the Criminal Procedure (Scotland) Act 1995) for the most recent one-year period is at least 80%.>

**Schedule 1**

**Humza Yousaf**

- 143\*** In schedule 1, page 38, line 11, leave out second <Act>

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