

Criminal Justice and Licensing (Scotland) Bill

Groupings of Amendments for Stage 3

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;
- the text of amendments to be debated at Stage 3, 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

Note: The time limits indicated are those set out in the timetabling motion to be considered by the Parliament before the Stage 3 proceedings begin. If that motion is agreed to, debate on the groups above each line must be concluded by the time indicated, although the amendments in those groups may still be moved formally and disposed of later in the proceedings. The timings in relation to groups 1 to 16 relate to the time from the commencement of proceedings in the morning (expected to be approximately 9.20 am), while the timings for groups 17 to 32 relate to the time from the start of proceedings in the afternoon (2.30 pm).

MORNING

Group 1: Scottish Sentencing Council

8, 171, 172

Group 2: Purpose of community payback orders etc.

9, 10, 11

Group 3: Community payback orders – offences punishable by a fine

33, 34, 35

Group 4: Community payback orders – minor, drafting and consequential amendments

36, 37, 38, 39, 40, 41, 42, 43, 44, 47, 48, 49, 50, 51, 52, 53, 58, 59, 60, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185

Group 5: Community payback orders – fine defaulters

45, 46, 55, 56, 57

Group 6: Community payback orders – change of offender's residence

54

Debate to end no later than 45 minutes after proceedings begin

Group 7: Presumption against short sentences

61, 61A, 187, 12, 62

Group 8: Voluntary intoxication by alcohol: effect in sentencing

2

Debate to end no later than 1 hour 35 minutes after proceedings begin

Group 9: Minimum sentence for having in a public place an article with a blade or point

3

Debate to end no later than 2 hours 20 minutes after proceedings begin

Group 10: Offences aggravated by connection with serious organised crime

13

Group 11: Threatening or abusive behaviour and stalking

63, 188, 64, 65, 66, 67, 14, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 189

Group 12: Sexual offences

6, 79, 7

Debate to end no later than 3 hours 10 minutes after proceedings begin

Group 13: Age of criminal prosecution

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Group 14: Victims' representation at parole board hearings

4

Group 15: Aggravation by intent to rape

80

Group 16: DNA retention: children referred to children's hearing

81, 191, 192, 16

Debate to end no later than 3 hours 40 minutes after proceedings begin

AFTERNOON

Group 17: Witness anonymity orders

82, 83, 84, 85, 86, 87, 88, 89

Group 18: Excusal from jury service

90, 91, 92, 186

Group 19: Rehabilitation of offenders – spent alternatives to prosecution

93, 94, 95

Debate to end no later than 10 minutes after proceedings begin

Group 20: Disclosure – definitions of “information” and “conclusion of proceedings” and other minor changes

193, 96, 97, 101, 102, 104, 107, 108, 109, 110, 112, 114, 115, 116, 142, 146, 150, 153

Group 21: Disclosure – prosecutor’s duty to disclose

98, 99, 100, 17, 18, 19, 103, 20, 21, 22, 23, 105, 106, 24, 25, 26, 27, 148, 28, 29, 30, 31, 32

Notes on amendments in group

Amendment 23 pre-empts amendment 105

Amendment 26 is pre-empted by amendment 128 in group 22

Amendment 27 is pre-empted by amendment 131 in group 22

Amendment 32 is pre-empted by amendment 160 in group 22

Group 22: Application of provisions to disclosure after conclusion of trial etc.

111, 113, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 143, 144, 145, 147, 149, 151, 152, 154, 155, 156, 157, 158, 159, 160, 161, 162

Notes on amendments in group

Amendment 128 pre-empts amendment 26 in group 21

Amendment 131 pre-empts amendment 27 in group 21

Amendment 160 pre-empts amendment 32 in group 21

Group 23: Acts of adjournal

194

Debate to end no later than 40 minutes after proceedings begin

Group 24: Licensing of knife dealers

195, 196, 197

Group 25: Licensing of sexual entertainment venues

198

Group 26: Premises license applications: statements about disabled access etc.

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Group 27: Premises licence applications: antisocial behaviour reports

164, 165

Debate to end no later than 1 hour 10 minutes after proceedings begin

Group 28: Alcohol licensing – duration of provisional premises licences

166

Group 29: Alcohol licensing – provision of copies of licences to police

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Group 30: 24 hour licences – role of local licensing forum

199

Group 31: Modification of references to “Act”, “enactment” etc.

168

Group 32: Minor drafting and technical amendments

169, 170

Debate to end no later than 1 hour 30 minutes after proceedings begin

THIS IS NOT THE MARSHALLED LIST

Amendments in debating order

Group 1: Scottish Sentencing Council

Robert Brown

- 8 In section 12, page 5, line 37, after <Advocate,> insert—
<() the Lord Justice General,>

Stewart Maxwell

- 171 In schedule 1, page 196, line 12, leave out <two persons> and insert <one person>

Stewart Maxwell

- 172 In schedule 1, page 196, line 31, leave out <with the approval of> and insert <after consulting>

Group 2: Purpose of community payback orders etc.

Robert Brown

- 9 In section 14, page 6, line 39, at end insert—
- <(1A) The purpose of a community payback order is to punish an offender in a way that helps to pay back to the community adversely affected by the conduct of the offender, including by supporting the offender in addressing the behaviour or circumstances that contributed to that conduct.
 - (1B) When imposing a community payback order, the court must have regard to the purpose of such an order as stated in subsection (1A).>

Robert Brown

- 10 In section 14, page 21, line 30, at end insert—

<Community payback orders: regulations about standards

227VB Standards with which community payback orders must comply

- (1) The Scottish Ministers may, by regulations made by statutory instrument, specify standards with which community payback orders must comply.
- (2) Standards specified under subsection (1) must aim to ensure that community payback orders (and any requirements imposed by them) begin as soon as practicable and are—
 - (a) capable of being delivered promptly,
 - (b) effective,
 - (c) proportionate to the nature of the offence and the circumstances of the offender, and
 - (d) consistent with the purposes and principles of sentencing.
- (3) Regulations under subsection (1) are subject to annulment in pursuance of a resolution of the Scottish Parliament.>

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Robert Brown

11 In section 14, page 32, line 11, at end insert—

<Annual reports on community payback orders

227ZJA Annual reports on community payback orders

- (1) Each local authority must, as soon as practicable after the end of each reporting year, prepare a report on the operation of community payback orders within their area during that reporting year, and send a copy of the report to the Scottish Ministers.
- (2) The Scottish Ministers may issue directions to local authorities about the content of their reports under subsection (1); and local authorities must comply with any such directions.
- (3) The Scottish Ministers must, as soon as practicable after the end of each reporting year, lay before the Scottish Parliament and publish a report that collates and summarises the data included in the various reports under subsection (1).
- (4) In this section, “reporting year” means—
 - (a) the period of 12 months beginning on the day this section comes into force, or
 - (b) any subsequent period of 12 months beginning on an anniversary of that day.>

Group 3: Community payback orders – offences punishable by a fine

Kenny MacAskill

33 In section 14, page 7, leave out lines 12 to 15 and insert—

<() Subsection (4) applies where—

- (a) a person (the “offender”) is convicted of an offence punishable by a fine (whether or not it is also punishable by imprisonment), and
- (b) where the offence is also punishable by imprisonment, the court decides not to impose—
 - (i) a sentence of imprisonment, or
 - (ii) a community payback order under subsection (1) instead of a sentence of imprisonment.>

Kenny MacAskill

34 In section 14, page 7, line 16, leave out from <Where> to <may> in line 17 and insert <The court may, instead of or as well as imposing a fine,>

Kenny MacAskill

35 In section 14, page 7, line 18, after <imposing> insert <one or more of the following requirements>

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Group 4: Community payback orders – minor, drafting and consequential amendments

Kenny MacAskill

36 In section 14, page 7, line 19, leave out <a> and insert <an offender>

Kenny MacAskill

37 In section 14, page 7, leave out lines 30 to 32

Kenny MacAskill

38 In section 14, page 8, line 5, at end insert—

<() The court must not impose the order unless it is of the opinion that the offence, or the combination of the offence and one or more offences associated with it, was serious enough to warrant the imposition of such an order.

() Before imposing a community payback order imposing two or more requirements, the court must consider whether, in the circumstances of the case, the requirements are compatible with each other.>

Kenny MacAskill

39 In section 14, page 8, line 34, leave out <(5)> and insert <(5)(b)>

Kenny MacAskill

40 In section 14, page 9, line 32, at end insert <in the area of the local authority concerned.>

Kenny MacAskill

41 In section 14, page 11, line 20, leave out <227ZB(7B)> and insert <227ZCA(4)>

Kenny MacAskill

42 In section 14, page 11, line 21, leave out first <a> and insert <an offender>

Kenny MacAskill

43 In section 14, page 11, line 27, leave out <a> and insert <an offender>

Kenny MacAskill

44 In section 14, page 12, line 8, after <the> insert <offender>

Kenny MacAskill

47 In section 14, page 14, line 38, leave out <a> and insert <an offender>

Kenny MacAskill

48 In section 14, page 15, leave out lines 8 to 10

Kenny MacAskill

49 In section 14, page 17, line 36, after first <the> insert <written or oral>

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Kenny MacAskill

- 50 In section 14, page 18, line 18, leave out <purpose of making a finding under> and insert <purposes of>

Kenny MacAskill

- 51 In section 14, page 23, line 21, leave out <an offender> and insert <a>

Kenny MacAskill

- 52 In section 14, page 24, line 29, leave out <which> and insert <so that it>

Kenny MacAskill

- 53 In section 14, page 25, line 41, leave out <of> and insert <imposed by>

Kenny MacAskill

- 58 In section 14, page 27, line 23, leave out from beginning to end of line 2 on page 28

Kenny MacAskill

- 59 In section 14, page 28, line 10, leave out <an offender> and insert <a>

Kenny MacAskill

- 60 In section 14, page 28, line 19, at end insert—

<Restricted movement requirement

227ZCA Restricted movement requirement

- (1) The requirements which the court may impose under section 227ZB(5)(c) include a restricted movement requirement.
- (2) If the court varies a community payback order under section 227ZB(5)(c) so as to impose a restricted movement requirement, the court must also vary the order so as to impose an offender supervision requirement, unless an offender supervision requirement is already imposed by the order.
- (3) The court must ensure that the specified period under section 227G in relation to the offender supervision requirement is at least as long as the period for which the restricted movement requirement has effect and, where the community payback order already imposes an offender supervision requirement, must vary it accordingly, if necessary.
- (4) The minimum period of 6 months in section 227G(3) does not apply in relation to an offender supervision requirement imposed under subsection (2).
- (5) Where the court varies the order so as to impose a restricted movement requirement, the court must give a copy of the order making the variation to the person responsible for monitoring the offender's compliance with the requirement.
- (6) If during the period for which the restricted movement requirement is in effect it appears to the person responsible for monitoring the offender's compliance with the requirement that the offender has failed to comply with the requirement, the person must report the matter to the offender's responsible officer.

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- (7) On receiving a report under subsection (6), the responsible officer must report the matter to the court.>

Kenny MacAskill

- 173 In schedule 1A, page 200, line 5, at end insert—
<(dza) against any disposal under section 227ZB(5)(a) to (ba) or (d) or (5ZA)(a) of this Act;”.>

Kenny MacAskill

- 174 In schedule 1A, page 200, line 8, at end insert—
<In section 118(4) (disposal of appeals against sentence), after “(d),” insert “(dza),”.>

Kenny MacAskill

- 175 In schedule 1A, page 200, line 11, at end insert—
<In section 173(2) (quorum of High Court in relation to appeals), for “175(2)(b) or (c)” substitute “175(2)(b), (c) or (cza)”.>

Kenny MacAskill

- 176 In schedule 1A, page 200, line 13, leave out <subsection (2)(c),> and insert <subsection (2)—
(i) in paragraph (c),>

Kenny MacAskill

- 177 In schedule 1A, page 200, line 14, at end insert—
<(ii) after paragraph (c), insert—
“(cza) against any disposal under section 227ZB(5)(a) to (ba) or (d) or (5ZA)(a) of this Act;”.>

Kenny MacAskill

- 178 In schedule 1A, page 200, line 16, at end insert—
<In section 186 (appeals against sentence only), in each of subsections (1), (2)(a), (9) and (10), for “175(2)(b) or (c)” substitute “175(2)(b), (c) or (cza)”.
In section 187(1) (leave to appeal against sentence), for “175(2)(b) or (c)” substitute “175(2)(b), (c) or (cza)”.
In section 189(5) (disposal of appeal against sentence), after “175(2)(c)” insert “or (cza)”.>

Kenny MacAskill

- 179 In schedule 1A, page 203, line 24, at end insert—
<““offender supervision requirement” has the meaning given in section 227G(1);”>

Kenny MacAskill

- 180 In schedule 1A, page 203, leave out line 31

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Kenny MacAskill

181 In schedule 1A, page 204, line 5, at end insert—

<*The Firearms Act 1968 (c.27)*

- (1) The Firearms Act 1968 is amended as follows.
- (2) In section 21(3ZA) (possession of firearms by persons previously convicted of crime), for paragraph (b) substitute—
 - “(b) a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46).”.
- (3) In section 52(1A) (forfeiture and disposal of firearms: cancellation of certificate by convicting court), for paragraph (b) substitute—
 - “(b) a community payback order under section 227A of the Criminal Procedure (Scotland) Act 1995 (c.46).”.>

Kenny MacAskill

182 In schedule 1A, page 205, line 8, at end insert—

<*The 1982 Act*

- (1) The 1982 Act is amended as follows.
- (2) In section 49(6) (dangerous and annoying creatures), the words “or makes a probation order in relation to him” are repealed.
- (3) In section 58(3) (convicted thief in possession)—
 - (a) the words “or makes a probation order in relation to him” are repealed, and
 - (b) for the words from “discharged absolutely,” to the end substitute “discharged absolutely.”.>

Kenny MacAskill

183 In schedule 1A, page 205, line 16, at end insert—

<*The Jobseekers Act 1995 (c.18)*

In section 20D(5) of the Jobseekers Act 1995 (as inserted by section 25(2) of the Welfare Reform Act 2009 (c.24) (jobseeker’s allowance: sanctions for violent conduct etc. in connection with claim)), the words “or a court in Scotland makes a probation order” are repealed.>

Kenny MacAskill

184 In schedule 1A, page 206, line 11, leave out from <In> to <2001> and insert—

- <() The Social Security Fraud Act 2001 is amended as follows.
- () In section 6C(5)(b)(i) (provisions supplementary to section 6B), the words “or a court in Scotland makes a probation order” are repealed.
- () In section 7(9)(b)>

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Kenny MacAskill

- 185 In schedule 1A, page 208, line 8, after <(c.46)> insert <imposing an offender supervision requirement (within the meaning given by section 227G(1) of that Act) whether alone or along with any other requirement>

Group 5: Community payback orders – fine defaulters

Kenny MacAskill

- 45 In section 14, page 14, leave out lines 29 and 30 and insert—
<() the offender is not serving a sentence of imprisonment, and>

Kenny MacAskill

- 46 In section 14, page 14, leave out lines 34 to 36 and insert—
<(2) Instead of imposing a period of imprisonment under section 219(1) of this Act, the court—
(a) where the amount of the fine or the instalment does not exceed level 2 on the standard scale, must impose a community payback order on the offender imposing a level 1 unpaid work or other activity requirement,
(b) where the amount of the fine or the instalment exceeds that level, may impose such a community payback order.>

Kenny MacAskill

- 55 In section 14, page 26, line 29, leave out <If> and insert <Where the order was imposed under section 227A, if>

Kenny MacAskill

- 56 In section 14, page 27, leave out lines 1 to 5

Kenny MacAskill

- 57 In section 14, page 27, line 10, at end insert—
<(5ZA)Where the order was imposed under section 227M(2), if the court is satisfied that the offender has failed without reasonable excuse to comply with a requirement imposed by the order, the court may—
(a) revoke the order and impose on the offender a period of imprisonment for a term not exceeding—
(i) where the court is a justice of the peace court, 60 days,
(ii) in any other case, 3 months, or
(b) vary—
(i) the number of hours specified in the level 1 unpaid work or other activity requirement imposed by the order, and
(ii) where the order also imposes an offender supervision requirement, the specified period under section 227G in relation to the requirement.>

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Group 6: Community payback orders – change of offender’s residence

Kenny MacAskill

54 In section 14, page 25, line 41, at end insert—

- <() If the court considers that a requirement (“the requirement concerned”) imposed by the order cannot be complied with if the offender resides in the new locality, the court must not vary the order so as to specify the new local authority area unless it also varies the order so as to—
- (a) revoke or discharge the requirement concerned, or
 - (b) substitute for the requirement concerned another requirement that can be so complied with.>

Group 7: Presumption against short sentences

Kenny MacAskill

61 After section 16, insert—

<Presumption against short periods of imprisonment

In section 204 of the 1995 Act (restrictions on passing sentence of imprisonment or detention), after subsection (3) insert—

- “(3A) A court must not pass a sentence of imprisonment for a term of 3 months or less on a person unless the court considers that no other method of dealing with the person is appropriate.
- (3B) Where a court passes such a sentence, the court must—
- (a) state its reasons for the opinion that no other method of dealing with the person is appropriate, and
 - (b) have those reasons entered in the record of the proceedings.
- (3C) The Scottish Ministers may by order made by statutory instrument substitute for the number of months for the time being specified in subsection (3A) another number of months.
- (3D) An order under subsection (3C) is not to be made unless a draft of the statutory instrument containing the order has been laid before and approved by resolution of the Scottish Parliament.”>

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Robert Brown

61A As an amendment to amendment 61, line 17, at end insert—

- <(2) The Scottish Ministers may not bring subsection (1) into force until they have—
- (a) prepared a report setting out—
 - (i) the reduction in the number of sentences of imprisonment or detention imposed annually that is expected as a result of bringing those subsections into force,
 - (ii) the increase in the number of community payback orders imposed annually that is expected as a result of bringing those subsections into force (by comparison with the number of such orders imposed annually that would be expected if those subsections were not brought into force),
 - (iii) the estimated annual cost implications of the changes referred to in subparagraphs (i) and (ii), and
 - (iv) the additional funding, if any, that Ministers will provide to community justice authorities or local authorities to ensure that they have the capacity to support the requirements expected to be imposed by any additional community payback orders identified under sub-paragraph (ii);
 - (b) laid that report before the Scottish Parliament; and
 - (c) taken into account any views expressed on it by any committee of the Parliament the remit of which includes the criminal justice system.>

Patrick Harvie

187* After section 16, insert—

<Presumption against short periods of imprisonment or detention

- (1) The 1995 Act is amended as follows.
- (2) In section 204 (restrictions on passing sentence of imprisonment or detention), after subsection (4) insert—
 - “(4A) A court may pass a sentence of imprisonment for a term not exceeding 6 months on a person only where the court considers that no other method of dealing with the person is appropriate.
 - (4B) Where a court passes such a sentence, the court must—
 - (a) state its reasons for the opinion that no other method of dealing with the person is appropriate, and
 - (b) have those reasons entered in the record of the proceedings.”.
- (3) In section 208 (detention of children convicted on indictment)—
 - (a) after subsection (1) insert—
 - “(1A) Where the court imposes a sentence of detention for a term not exceeding 6 months on a child, the court must—
 - (a) state its reasons for the opinion that no other method of dealing with the child is appropriate, and

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(b) have those reasons entered in the record of the proceedings.”, and

(b) in subsection (2), for “Subsection (1) above is” substitute “Subsections (1) and (1A) above are”.>

Robert Brown

12* After section 16, insert—

<Report on operation of sections 14 and (*Presumption against short periods of imprisonment*)

- (1) The Scottish Ministers must, no later than 5 years after sections 14 and (*Presumption against short periods of imprisonment*) come fully into force, lay before the Scottish Parliament and publish a report on the operation of those sections.
- (2) The report under subsection (1) must, in particular, include an assessment of whether and to what extent those sections, individually or collectively, have—
 - (a) reduced offending,
 - (b) increased public safety.>

Kenny MacAskill

62 After section 20, insert—

<Detention of children convicted on indictment

- (1) Section 208 of the 1995 Act (detention of children convicted on indictment) is amended as follows.
- (2) After subsection (1), insert—

“(1A) Where the court imposes a sentence of detention on a child, the court must—

 - (a) state its reasons for the opinion that no other method of dealing with the child is appropriate, and
 - (b) have those reasons entered in the record of the proceedings.”.
- (3) In subsection (2), for “Subsection (1) above is” substitute “Subsections (1) and (1A) above are”.>

Group 8: Voluntary intoxication by alcohol: effect in sentencing

Kenny MacAskill

2 After section 23, insert—

<Voluntary intoxication by alcohol: effect in sentencing

- (1) Subsection (2) applies in relation to an offender who was, at the time of the offence, under the influence of alcohol as a result of having voluntarily consumed alcohol.
- (2) A court, in sentencing the offender in respect of the offence, must not take that fact into account by way of mitigation.>

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Group 9: Minimum sentence for having in a public place an article with a blade or point

Kenny MacAskill

- 3 Leave out section 24B

Group 10: Offences aggravated by connection with serious organised crime

Robert Brown

- 13 In section 26, page 44, line 3, leave out <Evidence from a single source is sufficient> and insert <Corroborating evidence is required>

Group 11: Threatening or abusive behaviour and stalking

Kenny MacAskill

- 63 After section 31A, insert—

<Threatening or abusive behaviour

Threatening or abusive behaviour

- (1) A person (“A”) commits an offence if—
 - (a) A behaves in a threatening or abusive manner,
 - (b) the behaviour would be likely to cause a reasonable person to suffer fear or alarm, and
 - (c) A intends by the behaviour to cause fear or alarm or is reckless as to whether the behaviour would cause fear or alarm.
- (2) It is a defence for a person charged with an offence under subsection (1) to show that the behaviour was, in the particular circumstances, reasonable.
- (3) Subsection (1) applies to—
 - (a) behaviour of any kind including, in particular, things said or otherwise communicated as well as things done, and
 - (b) behaviour consisting of—
 - (i) a single act, or
 - (ii) a course of conduct.
- (4) A person guilty of an offence under subsection (1) is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both.>

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John Lamont

188 After section 31A, insert—

<Threatening or abusive behaviour: domestic abuse

Threatening or abusive behaviour: domestic abuse

- (1) A person (“A”) commits an offence if—
 - (a) A behaves in such a manner that another person (“B”) would be likely to be caused fear, alarm or distress, and
 - (b) the conditions in subsections (2) and (3) are satisfied.
- (2) It is a condition that B is in such a relationship with A that B would be eligible to make an application for a matrimonial or domestic interdict in respect of A under the Matrimonial Homes (Family Protection) (Scotland) Act 1981.
- (3) It is a condition that A—
 - (a) intends the behaviour to cause B fear, alarm or distress, or
 - (b) is reckless as to whether the behaviour would cause B fear, alarm or distress.
- (4) It is a defence that—
 - (a) the accused had no reason to believe that there was any person within the hearing or sight of the accused who was likely to be caused fear, alarm or distress, or
 - (b) the behaviour was in the circumstances reasonable.
- (5) An offence under this section may be committed in a public or in a private place.
- (6) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.>

Kenny MacAskill

64 In section 31B, page 56, leave out lines 11 to 13 and insert <fear or alarm.>

Kenny MacAskill

65 In section 31B, page 56, line 15, leave out from first <such> to end of line and insert <B to suffer fear or alarm.>

Kenny MacAskill

66 In section 31B, page 56, line 17, leave out from <such> to end of line 18 and insert <B to suffer fear or alarm.>

Kenny MacAskill

67 In section 31B, page 56, line 20, leave out <action> and insert <conduct>

Robert Brown

14 In section 31B, page 56, line 22, after <crime,> insert—

<() was engaged in as part of public protest or industrial action that was reasonable and (leaving aside the question of whether it constituted an offence under subsection (1)) lawful,>

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Kenny MacAskill

- 68 In section 31B, page 56, line 25, leave out <includes (but is not limited to)> and insert <means>

Kenny MacAskill

- 69 In section 31B, page 56, line 27, after <contacting> insert <, or attempting to contact,>

Kenny MacAskill

- 70 In section 31B, page 56, line 27, leave out from <post> to end of line 28 and insert <any means,>

Kenny MacAskill

- 71 In section 31B, page 56, line 32, leave out <tracing> and insert <monitoring>

Kenny MacAskill

- 72 In section 31B, page 56, leave out lines 34 to 37 and insert—
<() entering any premises,
() loitering in any place (whether public or private),>

Kenny MacAskill

- 73 In section 31B, page 57, line 1, leave out <offensive material> and insert <anything>

Kenny MacAskill

- 74 In section 31B, page 57, line 1, leave out <such material> and insert <anything>

Kenny MacAskill

- 75 In section 31B, page 57, leave out line 4 and insert—
<() watching or spying on B or any other person,>

Kenny MacAskill

- 76 In section 31B, page 57, line 6, leave out from <arouse> to end of line 7 and insert <cause B to suffer fear or alarm, and>

Kenny MacAskill

- 77 In section 31B, page 57, line 12, leave out <6> and insert <12>

Kenny MacAskill

- 78 In section 31B, page 57, line 13, at end insert—
<(8) Subsection (9) applies where, in the trial of a person (“the accused”) charged with the offence of stalking, the jury or, in summary proceedings, the court—
(a) is not satisfied that the accused committed the offence, but
(b) is satisfied that the accused committed an offence under section (*Threatening or abusive behaviour*)(1).>
(9) The jury or, as the case may be, the court may acquit the accused of the charge and, instead, find the accused guilty of an offence under section (*Threatening or abusive behaviour*)(1).>

THIS IS NOT THE MARSHALLED LIST

Robert Brown

189 After section 37A, insert—

<Breach of the peace

Breach of the peace: modification of common law offence

In deciding the question whether an accused person has committed the offence of breach of the peace, the court is not required to decide that question in the negative solely because the person's behaviour took place in private, so long as—

- (a) that behaviour led to mischief to the public peace or could (in the view of a reasonable person) have led to such a mischief, or
- (b) that behaviour led to, or was such that it could have led to, a person reasonably suffering fear or alarm;

and any rule of law to the contrary ceases to have effect.>

Group 12: Sexual offences

Marlyn Glen

6 After section 34C, insert—

<Offences of engaging in and advertising paid-for sexual activities

- (1) The Sexual Offences (Scotland) Act 2009 (asp 9) is amended as follows.
- (2) After section 11 insert—

“Engaging in and advertising paid-for sexual activities

11A Engaging in a paid-for sexual activity

- (1) A person (“A”) commits an offence, to be known as the offence of engaging in a paid-for sexual activity, if A knowingly engages in a paid-for sexual activity with another person (“B”).
- (2) A sexual activity is paid for where B—
 - (a) engages in that activity in exchange for payment, and
 - (b) would not have engaged in that activity without the expectation of payment.
- (3) For the purposes of subsection (2), it is immaterial whether the payment is made (or expected to be made)—
 - (a) by A or by another person, or
 - (b) to B or to another person on B's behalf.
- (4) The Scottish Ministers may, by order, make further provision about the circumstances in which sexual activity qualifies as paid-for for the purposes of subsection (1).

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11B Advertising paid-for sexual activities

- (1) A person (“A”) commits an offence, to be known as the offence of advertising paid-for sexual activities, if A knowingly advertises, by any means, the availability of sexual activities that can be engaged in for payment.
- (2) But A does not commit an offence under subsection (1) by advertising only the availability of sexual activities involving A as a participant.

11C Arrest for offences under sections 11A and 11B

- (1) Where a constable reasonably believes that a person is committing or has committed an offence under section 11A or 11B, the constable may arrest the person without warrant.
- (2) Subsection (1) is without prejudice to any power of arrest conferred by law apart from that subsection.”.

- (3) In the table in schedule 2 insert at the appropriate place—

“Engaging in a paid-for sexual activity	Section 11A	A fine not exceeding level 3 on the standard scale	
Advertising paid-for sexual activities	Section 11B	A fine not exceeding level 3 on the standard scale”>.	

Richard Baker

- 79** After section 34C, insert—

<Offence of paying for sexual services of a prostitute subjected to force etc.

- (1) The Sexual Offences (Scotland) Act 2009 (asp 9) is amended as follows.
- (2) After section 11 insert—

“Paying for sexual services of a prostitute subjected to force etc.

11E Paying for sexual services of a prostitute subjected to force etc.

- (1) A person (“A”) commits an offence, to be known as the offence of paying for sexual services of a coerced prostitute, if—
 - (a) A makes or promises payment for the sexual services of a prostitute (“B”),
 - (b) a third person (“C”) has engaged in exploitative conduct of a kind likely to induce or encourage B to provide the sexual services for which A has made or promised payment, and
 - (c) C engaged in that conduct for or in the expectation of gain for C or another person (apart from A or B).
- (2) The following are irrelevant—

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- (a) where in the world the sexual services are to be provided and whether those services are provided,
 - (b) whether A is, or ought to be, aware that C has engaged in exploitative conduct.
- (3) C engages in exploitative conduct if—
- (a) C uses force, threats (whether or not relating to violence) or any other form of coercion, or
 - (b) C practises any form of deception.”.
- (3) In the table in schedule 2 insert at the appropriate place—

“Paying for sexual services of a coerced prostitute	Section 11E	A fine not exceeding level 3 on the standard scale”.>	
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Marlyn Glen

- 7 In section 72, page 124, line 26, at end insert <other than an offence under section 11A (engaging in a paid-for sexual activity) or 11B (advertising paid-for sexual activities),>

Group 13: Age of criminal prosecution

Robert Brown

- 190 In section 38, page 70, line 18, at end insert—
- <(3) The Scottish Ministers may, by order made by statutory instrument, substitute for the number of years for the time being specified in subsections (1) and (2) and for the first number of years for the time being specified in section 42(1) a higher number of years.
 - (4) A statutory instrument containing an order under subsection (3) is not made unless a draft has been laid before, and approved by resolution of, the Scottish Parliament.”>

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Group 14: Victims' representation at parole board hearings

Margaret Curran

4 After section 40, insert—

<Parole: victims' representation

Victims' representation at Parole Board hearings

- (1) Section 17 of the Criminal Justice (Scotland) Act 2003 (asp 7) is amended as follows.
- (2) After subsection (1), insert—
 - “(1A) Representations under subsection (1) may include notification by the victim of a desire to be heard (either in person or through a representative) at the relevant hearing of the Parole Board for Scotland.
 - (1B) In this section, the “relevant hearing” of the Board is the hearing at which the Board is to consider the convicted person’s case in order to decide whether to recommend, or direct, that person’s release on licence (and if there are to be a number of hearings which otherwise meet this description, the Board may determine which is the relevant hearing for the purposes of this section).”.
- (3) In subsection (3), for “Parole Board for Scotland” substitute “Board”.
- (4) After subsection (5), insert—
 - “(5A) Where representations are made under subsection (1) which include notification of a desire to be heard at the relevant hearing, the Board must—
 - (a) give the victim reasonable notice in writing of when and where the hearing is to take place and invite the victim to—
 - (i) attend the hearing, with or without an accompanying person, in order to be heard in person; or
 - (ii) send a representative to the hearing to be heard on the victim’s behalf;
 - (b) in so doing, give the victim appropriate information about the hearing and how it is likely to be conducted, including in particular—
 - (i) information about any parts of the hearing from which the victim and any accompanying person are, or the victim’s representative is, to be excluded; and
 - (ii) any limits on their participation during the other parts of the hearing;
 - (c) at the hearing, afford the victim (or the victim’s representative) a reasonable opportunity to be heard.
 - (5B) A victim’s representative may only be a member of the victim’s immediate family or a friend of the victim.
 - (5C) In reaching its decision at or after the hearing, the Board must take account of—
 - (a) any written representations made under subsection (1); and
 - (b) anything said by the victim (or the victim’s representative) at the hearing.”.

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- (5) In section 20(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9) (Parole Board rules), after paragraph (ba) insert—

“(bb) in relation to victims who have made representations under section 17(1) of the Criminal Justice (Scotland) Act 2003 (asp 7) which include notifications of a desire to be heard at the relevant hearing (within the meaning of subsection (1B) of that section), enabling such victims to attend such hearings of the Board;”.>

Group 15: Aggravation by intent to rape

Kenny MacAskill

- 80** In section 46A, page 79, line 36, at end insert—

<288BC Aggravation by intent to rape

- (1) Subsection (2) applies as respects a qualifying offence charged in an indictment or a complaint.
- (2) Any specification in the charge that the offence is with intent to rape (however construed) may be given by referring to the statutory offence of rape.
- (3) In this section—
 - (a) the reference to a qualifying offence is to an offence of assault or abduction (and includes attempt, conspiracy or incitement to commit such an offence),
 - (b) the reference to the statutory offence of rape is (as the case may be) to—
 - (i) the offence of rape under section 1 of the Sexual Offences (Scotland) Act 2009, or
 - (ii) the offence of rape of a young child under section 18 of that Act.”.>

Group 16: DNA retention: children referred to children’s hearing

Kenny MacAskill

- 81** In section 59, page 99, line 3, at end insert—

<() An order under subsection (6) may prescribe a relevant violent offence by reference to a particular degree of seriousness.>

Robert Brown

- 191** In section 59, page 99, leave out lines 4 to 20 and insert—

<(7) Where—

- (a) the second condition is satisfied, the relevant person must notify the relevant chief constable of that fact within 7 days of the date on which the ground of referral is accepted as mentioned in that condition,

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- (b) the third or fourth condition is satisfied, the sheriff must notify the relevant chief constable of that fact within 7 days of the date on which the ground of referral is established as mentioned in the condition in question.
- (7A) The relevant chief constable may, by summary application made within 3 months of receiving notice under subsection (7), apply to the sheriff for an order under subsection (7C).
- (7B) An application under subsection (7A) may be made to any sheriff—
 - (a) in whose sheriffdom the child mentioned in subsection (1) resides;
 - (b) in whose sheriffdom that child is believed by the applicant to be; or
 - (c) to whose sheriffdom that child is believed by the applicant to be intending to come.
- (7C) On receipt of such an application, the sheriff may, by order, specify a date that is no later than 3 years after the date mentioned in subsection (7)(a) or (as the case may be) (b).
- (7D) The sheriff may only make the order mentioned in subsection (7C) if satisfied that—
 - (a) the child continues to pose a risk to public safety; and
 - (b) retention of the relevant physical data, sample or information until the date specified in the order is justified by that risk.
- (7E) Where—
 - (a) an application made under subsection (7A) is refused, the relevant data, sample or information must be destroyed as soon as possible after that refusal;
 - (b) no application is made under subsection (7A), the relevant data, sample or information must be destroyed as soon as possible after the expiry of the period of 3 months mentioned in that subsection.
- (8) Where an order is made under subsection (7C), the data, sample or information must, subject to section 18C(6) and (7), be destroyed no later than the date (“the destruction date”) which is—
 - (a) the date specified in the order made under subsection (7C); or
 - (b) such later date as an order under section 18C(1) may specify.>

Robert Brown

192 In section 59, page 99, line 24, at end insert—

<“relevant chief constable” has the same meaning as in subsection (11) of section 18A, with the modification that references to the person referred to in subsection (2) of that section are references to the child referred to in section 18B(1);>

Robert Brown

16 In section 59, page 99, line 38, leave out from <there> to end of line 39 and insert <at least one ground for doing so, specified by virtue of subsection (1A), is established, make an order amending (or further amending) the destruction date.

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- (1A) The Scottish Ministers must, by regulations made by statutory instrument, specify the grounds on which an order under subsection (1) may be made.
- (1B) Before making regulations under subsection (1A), the Scottish Ministers must consult such persons as they consider appropriate.
- (1C) A statutory instrument containing regulations under subsection (1A) is subject to annulment in pursuance of a resolution of the Scottish Parliament.>

Group 17: Witness anonymity orders

Kenny MacAskill

- 82** In section 66, page 107, line 32, leave out <section 271P> and insert <sections 271P and 271PA>

Kenny MacAskill

- 83** In section 66, page 108, line 37, leave out from <Accordingly> to <any> in line 38 and insert <Subsections (4A) and (4B) apply where the prosecutor or the accused proposes to make an application under this section in respect of a witness.

(4A) Any>

Kenny MacAskill

- 84** In section 66, page 109, line 3, at end insert—
- <(4B) Despite any provision in this Act to the contrary, any relevant list, application or notice lodged, made or given by that party before the determination of the application must not—
- (a) disclose the identity of the witness, or
 - (b) contain any other information that might enable the witness to be identified,
- but the list, application or notice must, instead, refer to the witness by a pseudonym.>

Kenny MacAskill

- 85** In section 66, page 109, line 7, at end insert—
- <() “Relevant list, application or notice” means—
- (a) a list of witnesses,
 - (b) a list of productions,
 - (c) a notice under section 67(5) or 78(4) relating to the witness,
 - (d) a motion or application under section 268, 269 or 270 relating to the witness,
 - (e) any other motion, application or notice relating to the witness.>
 - (e) any other motion, application or notice relating to the witness.>

Kenny MacAskill

- 86** In section 66, page 109, line 15, at end insert—

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<271PA Making and determination of applications

- (1) In proceedings on indictment, an application under section 271P is a preliminary issue (and sections 79 and 87A and other provisions relating to preliminary issues apply accordingly).
- (2) No application under section 271P may be made in summary proceedings by any party unless notice of the party's intention to do so has been given—
 - (a) if an intermediate diet has been fixed, before that diet,
 - (b) if no intermediate diet has been fixed, before the commencement of the trial.
- (3) Subsection (2) is subject to subsections (4) and (8).
- (4) In summary proceedings in which an intermediate diet has been fixed, the court may, on cause shown, grant leave for an application under section 271P to be made without notice having been given in accordance with subsection (2)(a).
- (5) Subsection (6) applies where—
 - (a) the court grants leave for a party to make an application under section 271P without notice having been given in accordance with subsection (2)(a), or
 - (b) notice of a party's intention to make such an application is given in accordance with subsection (2)(b).
- (6) The application must be disposed of before the commencement of the trial.
- (7) Subsection (8) applies where a motion or application is made under section 268, 269 or 270 to lead the evidence of a witness.
- (8) Despite section 79(1) and subsection (2) above, an application under section 271P may be made in respect of the witness at the same time as the motion or application under section 268, 269 or 270 is made.
- (9) The application must be determined by the court before continuing with the trial.
- (10) Where an application is made under section 271P, the court may postpone or adjourn (or further adjourn) the trial diet.
- (11) In this section, "commencement of the trial" means the time when the first witness for the prosecution is sworn.>

Kenny MacAskill

87 In section 66, page 111, line 25, at end insert—

- <() The appeal may be brought only with the leave of the court of first instance, granted—
- (a) on the motion of the party making the appeal, or
 - (b) on its own initiative.>

Kenny MacAskill

88 In section 66, page 111, leave out lines 27 to 31 and insert—

- <() If an appeal is brought under this section—

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- (a) the period between the lodging of the appeal and its determination does not count towards any time limit applying in respect of the case,
- (b) the court of first instance or the High Court may do either or both of the following—
 - (i) postpone or adjourn (or further adjourn) the trial diet,
 - (ii) extend any time limit applying in respect of the case.>

Kenny MacAskill

89 In section 66, page 112, line 34, at end insert—

<() The 1995 Act is amended as follows—

(a) in section 79 (preliminary pleas and preliminary issues)—

(i) after subsection (1), insert—

“(1A) Subsection (1) is subject to section 271PA(8).”,

(ii) in subsection (2)(b), after sub-paragraph (ii), insert—

“(ia) an application for a witness anonymity order under section 271P of this Act;”,

(b) in section 148 (intermediate diets), after subsection (3), insert—

“(3AA)At an intermediate diet, the court shall also dispose of any application for a witness anonymity order under section 271P of this Act of which notice has been given in accordance with section 271PA(2)(a) of this Act.”>

Group 18: Excusal from jury service

Kenny MacAskill

90 In section 68A, page 115, line 33, at beginning insert <Subject to subsection (3),>

Kenny MacAskill

91 In section 68A, page 116, line 4, at beginning insert <Without prejudice to subsection (1),>

Kenny MacAskill

92 In section 68A, page 116, line 11, at end insert—

<(3) Subsection (1) does not apply to a person who is qualified under section 1(1) but is among the persons listed in paragraph (a)(iii) of Group F of Part III of Schedule 1 to this Act (persons who have attained the age of 71), but instead such a person is to be excused from jury service in relation to criminal proceedings on any occasion where—

(a) in the case of a person who has been required to provide information under section 3(2) of the Jurors (Scotland) Act 1825, the person gives written notice to the sheriff principal that the person wishes to be excused; or

(b) in the case of a person who has been cited to attend for jury service, the person—

THIS IS NOT THE MARSHALLED LIST

- (i) gives written notice to the clerk of court issuing the citation that the person wishes to be excused, before the date on which the person is cited first to attend; or
- (ii) attends in compliance with the citation and intimates to the court that the person wishes to be excused.”.>

Kenny MacAskill

186 In schedule 5, page 225, line 32, at end insert—

<In section 85 (juries: citation and attendance of jurors), in subsection (6), after “section 1” insert “or 1A”.>

Group 19: Rehabilitation of offenders – spent alternatives to prosecution

Kenny MacAskill

93 In section 79A, page 134, leave out lines 27 to 29 and insert—

<(e) anything done or undergone in pursuance of the terms of the alternative to prosecution.>

Kenny MacAskill

94 In section 79A, page 135, line 39, leave out <any of paragraphs (a) to (c) of paragraph 3(2)> and insert <either or both of sub-paragraphs (2) and (3) of paragraph 4>

Kenny MacAskill

95 In section 79A, page 135, line 42, leave out <paragraphs 4 and> and insert <paragraph>

Group 20: Disclosure – definitions of “information” and “conclusion of proceedings” and other minor changes

Kenny MacAskill

193 In section 85, page 141, line 13, leave out <sections 96B to 96I> and insert <this Part>

Kenny MacAskill

96 In section 87, page 142, line 25, at end insert—

<() the accused is convicted and appeals against the conviction before the expiry of the time allowed for such an appeal,>

Kenny MacAskill

97 In section 88B, page 143, line 25, at end insert—

<() the accused is convicted and appeals against the conviction before the expiry of the time allowed for such an appeal,>

Kenny MacAskill

101 In section 90, page 145, line 11, at end insert—

THIS IS NOT THE MARSHALLED LIST

<() the accused is convicted and appeals against the conviction before the expiry of the time allowed for such an appeal,>

Kenny MacAskill

102 In section 95, page 147, line 24, at end insert—

<() the accused is convicted and appeals against the conviction before the expiry of the time allowed for such an appeal,>

Kenny MacAskill

104 In section 95C, page 150, line 26, at end insert—

<() the accused is convicted and appeals against the conviction before the expiry of the time allowed for such an appeal,>

Kenny MacAskill

107 In section 96F, page 155, line 27, leave out <earlier proceedings> and insert <proceedings in which the person was convicted>

Kenny MacAskill

108 In section 96F, page 156, leave out line 3

Kenny MacAskill

109 In section 92, page 158, line 22, leave out <any of those sections> and insert <this Part>

Kenny MacAskill

110 Move section 92 to after section 113

Kenny MacAskill

112 Move section 97 to after section 113

Kenny MacAskill

114 Move section 98 to after section 113

Kenny MacAskill

115 Move section 99 to after section 113

Kenny MacAskill

116 Move section 91 to after section 113

Kenny MacAskill

142 In section 106B, page 165, line 6, after <section> insert <106C(7) or>

Kenny MacAskill

146 In section 107B, page 168, line 8, after <accused> insert <or the accused's representative (if any)>

THIS IS NOT THE MARSHALLED LIST

Kenny MacAskill

150 In section 111, page 170, line 34, at end insert—

<(da) the proceedings are deserted *pro loco et tempore* for any reason and no further trial diet is appointed,

(db) the indictment falls or is for any other reason not brought to trial, the diet is not continued, adjourned or postponed and no further proceedings are in contemplation,>

Kenny MacAskill

153 In section 111A, page 171, line 35, at end insert—

<(9) For the purposes of this section, proceedings against an accused are to be taken to be concluded if—

(a) a plea of guilty is recorded against the accused,

(b) the accused is acquitted,

(c) the proceedings against the accused are deserted *simpliciter*,

(d) the accused is convicted and does not appeal against the conviction before the expiry of the time allowed for such an appeal,

(e) the proceedings are deserted *pro loco et tempore* for any reason and no further trial diet is appointed,

(f) the indictment falls or is for any other reason not brought to trial, the diet is not continued, adjourned or postponed and no further proceedings are in contemplation,

(g) any appeal by the prosecutor is determined or abandoned, or

(h) the accused is convicted and any appeal is determined or abandoned.

(10) In its application to proceedings against an appellant or other person, subsection (9) is to be read as if paragraphs (a) to (f) were omitted.>

Group 21: Disclosure – prosecutor’s duty to disclose

Kenny MacAskill

98 In section 89, page 144, line 10, leave out subsection (7)

Kenny MacAskill

99 In section 90, page 144, line 29, leave out <This section> and insert <Subsection (2)>

Kenny MacAskill

100 In section 90, page 144, line 35, after <(2)> insert <in relation to an accused who falls within section 89(1)(a) or (b)>

Robert Brown

17 Leave out section 94

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Robert Brown

18 Leave out section 95

Robert Brown

19 Leave out section 95A

Kenny MacAskill

103 After section 95A, insert—

<Sections 89 to 95A: general

Sections 89 to 95A: no need to disclose same information more than once

- (1) Subsection (2) applies where the prosecutor is required by section 89(2)(b), 89A(2), 90(2)(b) or (2A), 94(1A)(b), 95(3)(b) or 95A(6)(b) to disclose information to an accused.
- (2) The prosecutor need not disclose anything that the prosecutor has already disclosed to the accused in relation to the same matter (whether because the same matter has been the subject of an earlier petition, indictment or complaint or otherwise).>

Robert Brown

20 Leave out section 95B

Robert Brown

21 Leave out section 95C

Robert Brown

22 Leave out section 95D

Robert Brown

23 In section 96, page 151, line 13, leave out <, 90(2)(b), 94(1A)b or 95(3)(b)> and insert <or 90(2)(b)>

Kenny MacAskill

105 In section 96, page 151, line 13, leave out <or 95(3)(b)> and insert <, 95(3)(b) or 95A(6)(b)>

Kenny MacAskill

106 In section 96D, page 155, line 1, at end insert—

<(3A) The prosecutor need not disclose under subsection (3)(b) anything that the prosecutor has already disclosed to the appellant.>

Robert Brown

24 In section 102, page 160, line 20, leave out <, 90(2)(b), 94(1A)(b), 95(3)(b) or 95A(6)(b)> and insert <or 90(2)(b)>

THIS IS NOT THE MARSHALLED LIST

Robert Brown

- 25 In section 106, page 162, line 38, leave out <, 90(2)(b), 94(1A)(b), 95(3)(b) or 95A(6)(b)> and insert <or 90(2)(b)>

Robert Brown

- 26 In section 106A, page 163, line 27, leave out <, 90(2)(b), 94(1A)(b), 95(3)(b) or 95A(6)(b)> and insert <or 90(2)(b)>

Robert Brown

- 27 In section 106A, page 163, line 37, leave out <, 90(2)(b), 94(1A)(b), 95(3)(b) or 95A(6)(b)> and insert <or 90(2)(b)>

Kenny MacAskill

- 148 After section 107C, insert—

<Prohibition on disclosure pending determination of certain appeals

- (1) Subsection (2) applies where—
- (a) the prosecutor appeals to the High Court under subsection (1)(a), (b) or (g) of section 107C, or
 - (b) the Secretary of State appeals to the High Court under subsection (3)(a) or (d) of that section.
- (2) Pending the determination or abandonment of the appeal, the prosecutor must not disclose the item of information to which the appeal relates.>

Robert Brown

- 28 In section 115A, page 173, line 15, leave out <Sections 95B and 96H do> and insert <Section 96H does>

Robert Brown

- 29 In section 115A, page 173, line 19, leave out <section 95B or>

Robert Brown

- 30 In section 115A, page 173, line 29, leave out <95B or>

Robert Brown

- 31 In section 115A, page 173, line 32, leave out <95B or>

Robert Brown

- 32 In section 116, page 174, leave out line 8

Group 22: Application of provisions to disclosure after conclusion of trial etc.

Kenny MacAskill

- 111 In section 97, page 159, line 13, leave out <the statement> and insert <a copy of the statement (but subsections (2) and (3) continue to apply).

THIS IS NOT THE MARSHALLED LIST

- () This section is subject to any provision made by an order under section 106(4B), 106A(7), 111(6) or 111A(6).
- () In this section—
 - “accused” includes appellant or, in any case relating to section 96E(2), 96F(2) or 96G(2), other person to whom the section concerned applies,
 - “appellant” has the meaning given by section 96A.>

Kenny MacAskill

113 In section 98, page 159, line 40, at end insert—

- <() In this section, “accused” includes, where information is disclosed by virtue of section 96B(2)(b), 96C(2)(b), 96D(3)(b), 96E(2), 96F(2) or 96G(2), the appellant or, as the case may be, person to whom the prosecutor is required to disclose the information.>

Kenny MacAskill

117 In section 102, page 160, line 19, after <where> insert <the conditions in subsection (1A) or (1B) are met.

- (1A) The conditions are that—>

Kenny MacAskill

118 In section 102, page 160, line 23, at end insert—

- <(1B) The conditions are that—
 - (a) by virtue of section 96B(2)(b), 96C(2)(b), 96D(3)(b), 96E(2), 96F(2) or 96G(2) the prosecutor is required to disclose an item of information to an appellant or, as the case may be, a person,
 - (b) where there are proceedings, the information is not likely to form part of the evidence to be led by the prosecutor in the proceedings, and
 - (c) the prosecutor considers that subsection (2) applies.>

Kenny MacAskill

119 In section 103, page 160, line 31, after <proceedings> insert <(whether continuing or concluded)>

Kenny MacAskill

120 In section 103, page 160, line 35, after <proceedings> insert <(whether continuing or concluded)>

Kenny MacAskill

121 In section 103, page 161, line 19, at end insert—

- <(8) In this section and sections 104 to 106—
 - “accused” includes, where subsection (3) of section 102 applies by virtue of the conditions in subsection (1B) of that section being met, the appellant or other person to whom the prosecutor is required to disclose the item of information,
 - “appellant” has the meaning given by section 96A.>

THIS IS NOT THE MARSHALLED LIST

Kenny MacAskill

122 In section 104, page 162, line 7, at end insert—

<() In this section and sections 105 and 106, references to the accused’s receiving a fair trial include, where subsection (3) of section 102 applies by virtue of the conditions in subsection (1B) of that section being met, references to the appellant or other person to whom the prosecutor is required to disclose the item of information having received a fair trial.>

Kenny MacAskill

123 In section 106, page 162, line 35, at beginning insert <where the application for the section 106 order is made by virtue of section 102(1A),>

Kenny MacAskill

124 In section 106, page 162, line 35, leave out <and

(ii) if so,> and insert <or

(ii) where the application for the section 106 order is made by virtue of section 102(1B), whether the conditions in subsection (3A) apply, and

() if the court determines that the conditions in subsection (3) or, as the case may be, (3A) apply, determine>

Kenny MacAskill

125 In section 106, page 163, line 6, at end insert—

<(3A) The conditions are—

(a) that by virtue of section 96B(2)(b), 96C(2)(b), 96D(3)(b), 96E(2), 96F(2) or 96G(2) the prosecutor is required to disclose an item of information to an appellant or, as the case may be, a person,

(b) where there are proceedings, the information is not likely to form part of the evidence to be led by the prosecutor in the proceedings,

(c) that if the item of information were to be disclosed there would be a real risk of substantial harm or damage to the public interest,

(d) that withholding the item of information is not inconsistent with the person’s having received a fair trial in the proceedings to which the item relates, and

(e) that the public interest would be protected only if a section 106 order were to be made.>

Kenny MacAskill

126 In section 106, page 163, line 9, after <(3)> insert <or, as the case may be, paragraph (b) of subsection (3A)>

Kenny MacAskill

127 In section 106, page 163, line 12, after <(3)> insert <or, as the case may be, (3A)>

Kenny MacAskill

128 In section 106A, page 163, line 24, leave out subsection (1) and insert—

THIS IS NOT THE MARSHALLED LIST

- <(1) Where the condition in subsection (1A), (1B) or (1C) is met in relation to an item of information that the prosecutor proposes to disclose, the Secretary of State may apply to the court for an order under this section (a “section 106A order”) in relation to the item of information.
- (1A) The condition is that the prosecutor proposes to disclose to the accused information which the prosecutor is required to disclose by virtue of section 89(2)(b), 90(2)(b), 94(1A)(b), 95(3)(b) or 95A(6)(b).
- (1B) The condition is that the prosecutor proposes to disclose to an appellant or, as the case may be, a person information which the prosecutor is required to disclose by virtue of section 96B(2)(b), 96C(2)(b), 96D(3)(b), 96E(2), 96F(2) or 96G(2).
- (1C) The condition is that the prosecutor proposes to disclose to an accused, appellant or person to whom section 96E, 96F or 96G applies information which the prosecutor is not required to disclose by virtue of this Part.>

Kenny MacAskill

- 129** In section 106A, page 163, line 31, leave out <relevant>

Kenny MacAskill

- 130** In section 106A, page 163, line 33, leave out <relevant>

Kenny MacAskill

- 131** In section 106A, page 163, line 37, leave out from <section> to <95A(6)(b)> and insert <subsection (1A) or (1B)>

Kenny MacAskill

- 132** In section 106A, page 163, line 41, at beginning insert <where the application for the section 106A order is made by virtue of subsection (1A),>

Kenny MacAskill

- 133** In section 106A, page 163, line 41, leave out <and
- (ii) if so,> and insert <or
 - (ii) where the application for the section 106A order is made by virtue of subsection (1B) or (1C), whether the conditions in subsection (4A) apply, and
- () if the court determines that the conditions in subsection (4) or, as the case may be, (4A) apply, determine>

Kenny MacAskill

- 134** In section 106A, page 164, line 8, at end insert—
- <(4A) The conditions are—
- (a) in the case of an application made by virtue of subsection (1B), that by virtue of section 96B(2)(b), 96C(2)(b), 96D(3)(b), 96E(2), 96F(2) or 96G(2) the prosecutor is required to disclose an item of information to an appellant or, as the case may be, a person,
 - (b) that if the item of information were to be disclosed there would be a real risk of substantial harm or damage to the public interest,

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- (c) that withholding the item of information is not inconsistent with the person's having received a fair trial in the proceedings to which the item relates, and
- (d) that the public interest would be protected only if a section 106A order of the type mentioned in subsection (6) were to be made.>

Kenny MacAskill

- 135** In section 106A, page 164, line 11, after <(4)> insert <or, as the case may be, paragraph (b) of subsection (4A)>

Kenny MacAskill

- 136** In section 106A, page 164, line 14, after <(4)> insert <or, as the case may be, (4A)>

Kenny MacAskill

- 137** In section 106A, page 164, line 24, leave out subsection (9)

Kenny MacAskill

- 138** In section 106A, page 164, leave out lines 27 to 30 and insert—
- <“accused” includes, where subsection (1B) or (1C) applies, the appellant or other person to whom the prosecutor is required to disclose the item of information,
 - “appellant” has the meaning given by section 96A.
- () In this section and sections 106B to 106D, references to the accused's receiving a fair trial include, where subsection (1B) or (other than in relation to an accused) (1C) applies, references to the appellant or other person to whom the prosecutor is required to disclose the item of information having received a fair trial.>

Kenny MacAskill

- 139** In section 106B, page 164, line 33, after <proceedings> insert <(whether continuing or concluded)>

Kenny MacAskill

- 140** In section 106B, page 164, line 34, leave out <relevant>

Kenny MacAskill

- 141** In section 106B, page 164, line 37, after <proceedings> insert <(whether continuing or concluded)>

Kenny MacAskill

- 143** In section 106C, page 165, line 21, leave out <relevant>

Kenny MacAskill

- 144** In section 106D, page 166, line 12, leave out <relevant>

Kenny MacAskill

- 145** In section 107, page 167, line 18, at end insert—
- <“accused” includes appellant or, where the order relates to section 96E(2), 96F(2) or 96G(2), other person to whom the section concerned applies,

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“appellant” has the meaning given by section 96A,>

Kenny MacAskill

147 In section 107C, page 169, line 28, at end insert—

<() In this section—

“accused” includes appellant or, where the order relates to section 96E(2), 96F(2) or 96G(2), other person to whom the section concerned applies,

“appellant” has the meaning given by section 96A.>

Kenny MacAskill

149 In section 111, page 170, line 23, at end insert—

<“accused” includes appellant or, where the order relates to section 96E(2), 96F(2) or 96G(2), other person to whom the section concerned applies,

“appellant” has the meaning given by section 96A,>

Kenny MacAskill

151 In section 111, page 170, line 36, at end insert—

<() In its application to proceedings against an appellant or other person, subsection (9) is to be read as if paragraphs (a) to (db) were omitted.>

Kenny MacAskill

152 In section 111A, page 171, line 31, at end insert—

<“accused” includes appellant or, where the order relates to section 96E(2), 96F(2) or 96G(2), other person to whom the section concerned applies,

“appellant” has the meaning given by section 96A,>

Kenny MacAskill

154 In section 113, page 172, line 6, leave out <This section> and insert <Subsection (3)>

Kenny MacAskill

155 In section 113, page 172, line 12, at end insert—

<() a restricted notification order,

() a non-attendance order,

() a section 106A order.>

Kenny MacAskill

156 In section 113, page 172, line 13, leave out from third <to> to end of line 16 and insert <in accordance with subsection (3A).

(3A) The application or, as the case may be, review is to be assigned—

(a) if the proceedings against the accused to which the application or review relates are continuing (or have concluded and there are no appellate proceedings), to the same justice of the peace, sheriff or, as the case may be, judge as has been (or is to be or was) assigned to the trial diet in those proceedings,

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- (b) if the appellate proceedings to which the application or review relates are continuing, to the same judge as has been (or is to be) assigned to those proceedings.>

Kenny MacAskill

- 157** In section 113, page 172, line 17, after <accused> insert <, appellant or, as the case may be, other person to whom the order relates>

Kenny MacAskill

- 158** In section 113, page 172, leave out lines 19 to 22 and insert—
 - <() an order mentioned in subsection (2),
 - () a review relating to such an order made by the prosecutor, the Secretary of State or special counsel.>

Kenny MacAskill

- 159** In section 113, page 172, line 22, at end insert—
 - <() In this section, “appellant” and “appellate proceedings” have the meanings given by section 96A.
 - () The reference in subsection (3A)(a) to proceedings against the accused includes a reference to an appeal by the prosecutor against an acquittal.>

Kenny MacAskill

- 160*** In section 116, page 174, leave out lines 7 to 10 and insert—
 - <() section 90(2)(b) and (2A),
 - () section 94(1A)(b),
 - () section 95(3)(b),
 - () section 95A(6)(b),
 - () section (*Sections 89 to 95A: no need to disclose same information more than once*)(2),
 - () section 95B(1)(b),
 - () section 95C(6).
 - () References in the following sections to the accused or the appellant or other person include references to a solicitor or advocate acting on behalf of the accused or, as the case may be, the appellant or other person—
 - (a) section 97,
 - (b) section 98(1), (2), (where it first occurs) (3) and (4A),>

Kenny MacAskill

- 161** In section 116, page 174, leave out lines 15 and 16 and insert <(other than subsection (4)(c)),
 - () section 106(3A)(a) and (4B),
 - () section 106A (other than subsections (4)(b), (5)(b) and (4A)(c)),
 - () section 106B,

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- () section 106C (other than subsection (6)(b)),
- () section 106D (other than subsection (5)(b)),
- () section 107C(8)(c) and (d),
- () section 111(1) and (4),
- () section 111A(1)(b), (4), (5) (in the second place where it occurs) and (6)
- () section 113(4).>

Kenny MacAskill

162 In section 116, page 174, line 16, at end insert—

- <() References in the following sections to an appellant include references to a solicitor or advocate acting on behalf of the appellant—
 - (a) section 96B(2)(b) and (4),
 - (b) section 96C(1), (2)(b) and (3),
 - (c) section 96D(1), (2), (3)(b) and (3A).
- () References in the following sections to a person include references to a solicitor or advocate acting on behalf of the person or, as the case may be, to a solicitor or advocate who acted on behalf of the person in the proceedings to which the information relates—
 - (a) section 96E(2) and (3),
 - (b) section 96F(2) and (4),
 - (c) section 96G(2) and (3).>

Group 23: Acts of adjournal

Rhoda Grant

194 In section 115, page 173, line 7, at end insert—

- <() In any case where the rules do anything other than (or in addition to) regulating practice and procedure in relation to criminal procedure, the act of adjournal under subsection (1) is subject to annulment in pursuance of a resolution of the Scottish Parliament.>

Group 24: Licensing of knife dealers

John Lamont

Supported by: Bill Aitken

195 After section 124, insert—

<Licensing of knife dealers: exceptions for qualified sport teachers

- (1) Section 27A of the 1982 Act (knife dealers' licences) is amended as follows.
- (2) In subsection (4), at beginning insert “Subject to subsection (6A),”.
- (3) After subsection (6) insert—

THIS IS NOT THE MARSHALLED LIST

“(6A) Where a person (“A”) is teaching another person (“B”) a recognised sport, the hiring, offering or exposing for hire, lending or giving of equipment necessary for the sport by A to B is not to be taken to be a business for the purposes of subsection (4), but only where A is qualified to teach B in the sport.

(6B) For the purposes of subsection (6A), the Scottish Ministers must list, in regulations made by statutory instrument, all the sports for the time being recognised as sports by sportscotland.

(6C) In subsections (6A) and (6B)—

“recognised sport” means a sport listed in regulations made under subsection (6B), and

“sportscotland” means the body created by Royal Charter as the Scottish Sports Council.”.

(4) On the day on which, by virtue of the coming into force of regulations under section 27A(6B) (as inserted by subsection (3)), fencing becomes a recognised sport, article 3 of the Knife Dealers (Exceptions) Order 2009 (SSI 2009/218) is revoked.>

John Lamont

Supported by: Bill Aitken

196 After section 124, insert—

<Licensing of knife dealers: exceptions for qualified archery teachers

(1) Section 27A of the 1982 Act (knife dealers’ licences) is amended as follows.

(2) In subsection (4), at the beginning insert “Subject to subsection (6A),”.

(3) After subsection (6) insert—

“(6A) Where a person (“A”) is teaching another person (“B”) the sport of archery, the hiring, offering or exposing for hire, lending or giving of arrows designed for use in that sport by A to B is not to be taken to be a business for the purposes of subsection (4), but only where A is qualified to teach B in the sport of archery.”.>

John Lamont

Supported by: Bill Aitken

197 After section 124, insert—

<Licensing of knife dealers: special provision for sporting goods dealers

(1) The 1982 Act is amended as follows.

(2) In section 27A (knife dealers’ licences)—

(a) in subsection (3), insert at the beginning “Subject to subsection (3A),”,

(b) after that subsection insert—

“(3A) A knife dealer’s licence applied for by a person whose business is (or includes) dealing in sporting goods may, instead of specifying premises in or from which the activity is to be carried out, either—

THIS IS NOT THE MARSHALLED LIST

- (a) specify premises located in the area of the authority issuing the licence in or from which the activity is to be carried on, and authorise the carrying on of the activity in or from other premises in Scotland associated with sporting activity (without specifying those other premises); or
- (b) specify the address in a part of the United Kingdom other than Scotland at or from which the dealer normally carries on business or resides, and authorise the carrying on of the activity which the dealer engages in in or from premises in Scotland associated with sporting activity (without specifying those other premises);

and such a licence is referred to as a “travelling knife dealer’s licence”.

- (3B) Where an applicant for a travelling knife dealer’s licence intends that the licence should fall within subsection (3A)(b), the application should be made to the local authority in whose area is located the premises in or from which the applicant first expects to carry on activity under the licence.”.

- (3) After section 27P insert—

“27PA Travelling knife dealers’ licences: further provision

- (1) Where a sporting goods dealer holds a travelling knife dealer’s licence and wishes to carry on activity as such a dealer in premises not specified in the licence, the dealer must first give notice in writing to the local authority in whose area those premises are located, specifying in the notice the premises in question and the dates on which the activity will or may be carried on in those premises.
- (2) The Scottish Ministers may, by regulations, make further provision about the notice that is to be given under subsection (1), and such provision may, in particular, specify—
 - (a) the form in which that notice is to be given, and
 - (b) how far in advance of any date specified in the notice the notice must be received by the local authority.
- (3) If the local authority to whom notice is given under subsection (1) (“the notified authority”) is not the authority that granted the travelling knife dealer’s licence, the notified authority is to treat the licence as applicable in their area as if it was a licence they had granted.”.>

Group 25: Licensing of sexual entertainment venues

Sandra White

- 198** After section 127, insert—

<Licensing of sexual entertainment venues

- (1) The 1982 Act is amended as follows.
- (2) In section 41(2) (definition of place of public entertainment), after paragraph (aa) insert—

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“(ab) a sexual entertainment venue (as defined in section 45A) in relation to which Schedule 2 (as modified for the purposes of section 45B) has effect, while being used as such;”.

- (3) The title of Part 3 becomes “Control of sex shops and sexual entertainment venues”.
- (4) After section 45 insert—

“45A Licensing of sexual entertainment venues: interpretation

- (1) This section applies for the purposes of the interpretation of section 45B and Schedule 2 (as modified for the purposes of section 45B).
- (2) “Sexual entertainment venue” means any premises at which sexual entertainment is provided before a live audience for the financial gain of the organiser.
- (3) For the purposes of that definition—
 - “audience” includes an audience of one;
 - “financial gain” includes financial gain arising directly or indirectly from the provision of the sexual entertainment;
 - “organiser”, in relation to the provision of sexual entertainment in premises, means—
 - (a) the person who is responsible for the management of the premises; or
 - (b) where that person exercises that responsibility on behalf of another person (whether by virtue of a contract of employment or otherwise), that other person;
 - “premises” includes any vehicle, vessel or stall but does not include any private dwelling to which the public is not admitted;
 - “sexual entertainment” means—
 - (a) any live performance; or
 - (b) any live display of nudity,which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (4) For the purposes of the definition of “sexual entertainment”, “display of nudity” means—
 - (a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus;
 - (b) in the case of a man, exposure of his pubic area, genitals or anus.
- (5) Sexual entertainment is provided if (and only if) it is provided (or allowed to be provided) by or on behalf of the organiser.
- (6) References in Schedule 2 (as modified for the purposes of section 45B) to the use of any premises by a person as a sexual entertainment venue are to be read as references to their use by the organiser.
- (7) The following are not sexual entertainment venues—

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- (a) premises being used in accordance with a public entertainment licence;
 - (b) a sex shop (within the meaning of paragraph 2(1) of Schedule 2);
 - (c) premises licensed under the Theatres Act 1968;
 - (d) such other premises as the Scottish Ministers may by order specify.
- (8) An order under subsection (7)(d) may make—
- (a) different provision for different cases or descriptions of case;
 - (b) different provision for different purposes.
- (9) Premises at which sexual entertainment is provided as mentioned in subsection (2) on a particular occasion (“the current occasion”) are not to be treated as a sexual entertainment venue if sexual entertainment has not been provided on more than 3 previous occasions which fall wholly or partly within the period of 12 months ending with the start of the current occasion.
- (10) For the purposes of subsection (9)—
- (a) each continuous period during which sexual entertainment is provided on the premises is to be treated as a separate occasion; and
 - (b) where the period during which sexual entertainment is provided on the premises exceeds 24 hours, each period of 24 hours (and any part of a period of 24 hours) is to be treated as a separate occasion.
- (11) The Scottish Ministers may by order provide for—
- (a) descriptions of performances; or
 - (b) descriptions of displays of nudity,
- which are not to be treated as sexual entertainment for the purposes of this section.
- (12) An order under subsection (7)(d) or (11) is to be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.

45B Licensing of sexual entertainment venues

- (1) A local authority may resolve that Schedule 2 (as modified for the purposes of this section) is to have effect in their area in relation to sexual entertainment venues.
- (2) If a local authority passes a resolution under subsection (1), Schedule 2 (as so modified) has effect from the day specified in the resolution.
- (3) The day mentioned in subsection (2) must not be before the expiry of the period of one month beginning with the day on which the resolution is passed.
- (4) A local authority must, not later than 28 days before the day mentioned in subsection (2), publish notice that they have passed a resolution under this section—
 - (a) on their website; or
 - (b) if they do not have a website, in a newspaper circulating in their area.
- (5) The notice is to state the general effect of Schedule 2 (as modified for the purposes of this section).

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- (6) For the purposes of this section, paragraphs 1 and 3 to 25 of Schedule 2 apply with the following modifications—
- (a) references to a sex shop are to be read as references to a sexual entertainment venue;
 - (b) references to the use by a person of premises, vehicles, vessels or stalls as a sexual entertainment venue are to be read as references to their use by the organiser;
 - (c) in paragraph 1—
 - (i) sub-paragraph (b)(ii) and the word “or” immediately preceding it is omitted; and
 - (ii) sub-paragraph (c) is omitted;
 - (d) in paragraph 7—
 - (i) in sub-paragraph (2), at the beginning insert “Subject to sub-paragraph (3A),”; and
 - (ii) after sub-paragraph (3) insert—

“(3A) If a local authority consider it appropriate to do so in relation to an application, the local authority may dispense with the requirement to publish an advertisement under sub-paragraph (2) and may instead publish notice of the application on the authority’s website.

(3B) Publication under sub-paragraph (3A) must be not later than 7 days after the date of the application.”;
 - (e) in paragraph 9, after sub-paragraph (6) insert—

“(6A) A local authority may refuse an application for the grant or renewal of a licence despite the fact that a premises licence under Part 3 of the Licensing (Scotland) Act 2005 is in effect in relation to the premises, vehicle, vessel or stall to which the application relates.”;
 - (f) in paragraph 12, for sub-paragraph (2) substitute—

“(2) Subject to the provisions of this paragraph, licences granted by a local authority under this Schedule have effect for the period (including an indefinite period) that the local authority determine.”;
 - (g) in paragraph 19, sub-paragraph (1)(e) is omitted;
 - (h) in paragraph 20(2)(a)(iv), the words from “or” in the first place where it occurs to the end are omitted; and
 - (i) in paragraph 25, for “45” in both places where that word occurs substitute “45B”.
- (7) In carrying out functions under this section, a local authority must have regard to any guidance issued by the Scottish Ministers.”.>

Group 26: Premises license applications: statements about disabled access etc.

George Foulkes

163 Before section 130, insert—

THIS IS NOT THE MARSHALLED LIST

<Premises licence applications: statements about disabled access etc.

- (1) Section 20 of the 2005 Act (application for premises licence) is amended as follows.
- (2) In subsection (2)(b)—
 - (a) the word “and” immediately following sub-paragraph (ii) is repealed, and
 - (b) after that sub-paragraph, insert—
 - “(ia) a disabled access and facilities statement, and”.
- (3) After subsection (5), insert—
 - “(6) A “disabled access and facilities statement” is a statement, in the prescribed form, containing information about—
 - (a) provision made for access to the subject premises by disabled persons,
 - (b) facilities provided on the subject premises for use by disabled persons, and
 - (c) any other provision made on or in connection with the subject premises for disabled persons.
 - (7) In subsection (6), “disabled person” has the meaning given by section 1 of the Disability Discrimination Act 1995 (c.50).”.>

Group 27: Premises licence applications: antisocial behaviour reports

Paul Martin

- 164** In section 130, page 184, line 26, leave out subsections (3) and (4)

Paul Martin

- 165** Leave out section 132

Group 28: Alcohol licensing – duration of provisional premises licences

Kenny MacAskill

- 166** After section 132A, insert—

<Provisional premises licences: duration

In section 45 of the 2005 Act (provisional premises licence), in subsection (6), for “2” substitute “4”.>

THIS IS NOT THE MARSHALLED LIST

Group 29: Alcohol licensing – provision of copies of licences to police

Kenny MacAskill

167 After section 132B, insert—

<Provision of copies of licences to chief constable

- (1) The 2005 Act is amended as follows.
- (2) In section 26 (issue of licence and summary), after subsection (2) insert—
 - “(3) Where a Licensing Board grants a premises licence application, the Board must send a copy of the premises licence to the appropriate chief constable.”.
- (3) In section 47 (temporary premises licence), after subsection (4) insert—
 - “(4A) Where a Licensing Board issues a temporary premises licence, the Board must send a copy of the temporary premises licence to the appropriate chief constable.”.
- (4) In section 49 (Licensing Board’s duty to update premises licence), after subsection (2) insert—
 - “(2A) Where a Licensing Board issues a new summary of the licence under subsection (2), the Board must send a copy of the new summary of the licence to the appropriate chief constable.”.
- (5) In section 56 (occasional licence), after subsection (9) insert—
 - “(10) Where a Licensing Board issues an occasional licence under subsection (1), the Board must send a copy of the occasional licence to the appropriate chief constable.”.>

Group 30: 24 hour licences – role of local licensing forum

James Kelly

199 After section 136, insert—

<24 hour licences: refusal, revocation etc. on advice or recommendation of Local Licensing Forum

- (1) The 2005 Act is amended as follows.
- (2) In section 11 (general functions of Local Licensing Forums), in subsection (2), insert at the end “except where it relates to an application for 24 hour licensing (within the meaning of section 64)”.
- (3) In section 64 (24 hour licences to be granted only in exceptional circumstances)—
 - (a) in subsection (1), for “Subsection (2) applies” substitute “Subsections (2) to (4) apply”,
 - (b) in subsection (2), at the end insert “(the granting of any such application being referred to in this section and section 64A as “24 hour licensing””, and
 - (c) after subsection (2) insert—

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- “(3) In reaching a decision under subsection (2), the Licensing Board must have regard to any advice given or recommendations made by the Local Licensing Forum for the Board’s area that allowing 24 hour licensing in the area in which the subject premises are situated would be inappropriate or undesirable.
 - (4) Where the Local Licensing Forum has not, at the time the application is made, given any advice or made any recommendations about the appropriateness or desirability of allowing 24 hour licensing, the Licensing Board may invite it to do so before reaching a decision under subsection (2).”.
- (4) After that section insert—
- “64A Revocation etc. of 24 hour licence on advice or recommendation of Local Licensing Forum**
- (1) This section applies where—
 - (a) a Licensing Board has granted, under section 64, an application for 24 hour licensing, and
 - (b) the Local Licensing Forum for the Board’s area subsequently gives advice or makes recommendations to the Board to the effect that 24 hour licensing in the area in which the subject premises are situated is inappropriate or undesirable.
 - (2) The Licensing Board—
 - (a) must have regard to the advice or recommendations of the Local Licensing Forum, and
 - (b) may either revoke the licence or vary it so as to restrict the licensed hours during which alcohol may be sold on the premises to a continuous period of less than 24 hours.”.>

Group 31: Modification of references to “Act”, “enactment” etc.

Kenny MacAskill

168 After section 141, insert—

<Modification of references to “Act”, “enactment” etc. in certain Acts of Parliament

- (1) The 1982 Act is amended as follows—
 - (a) in section 8 (interpretation of Parts 1 and 2), insert at the appropriate place—

““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”
 - (b) in section 49 (dangerous and annoying creatures), after subsection (8), add—

“(9) In subsection (7), “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”
 - (c) in Schedule 2 (control of sex shops), in paragraph 3 (miscellaneous definitions), insert at the appropriate place—

““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”
- (2) The Criminal Law (Consolidation) (Scotland) Act 1995 is amended as follows—

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- (a) in section 30 (disclosure of information), after subsection (7) add—
 - “(8) In subsection (2) above, “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”,
 - (b) in section 44 (false statements and declarations), in each of the following provisions, namely subsection (2)(b) and (c), subsection (3)(a) and subsection (4), after “Act of Parliament” insert “or any Act of the Scottish Parliament”,
 - (c) in section 45 (provision supplementary to section 44), after subsection (5) add—
 - “(6) In subsections (4) and (5), “other Act” includes an Act of the Scottish Parliament.”, and
 - (d) in section 46 (proceedings for a contravention of section 44)—
 - (i) in subsection (4), the words “(including subordinate legislation)” are repealed, and
 - (ii) after subsection (4) add—
 - “(5) In subsection (4), “enactment” includes—
 - (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
 - (b) subordinate legislation.”.
- (3) Section 307(1) of the 1995 Act (interpretation) is amended as follows—
- (a) in the definition of “crime”, after “this Act,” insert “or under any Act of the Scottish Parliament (whenever passed),”,
 - (b) for the definition of “enactment” substitute—
 - ““enactment” includes—
 - (a) an enactment contained in any local Act or any order, regulation or other instrument having effect by virtue of an Act, and
 - (b) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”, and
 - (c) for the definition of “statute” substitute—
 - ““statute” means—
 - (a) any Act of Parliament, public, general, local or private,
 - (b) any Provisional Order confirmed by Act of Parliament, or
 - (c) any Act of the Scottish Parliament;”.>

Group 32: Minor drafting and technical

Kenny MacAskill

- 169** In section 143, page 194, line 35, leave out <regulations or>

Kenny MacAskill

- 170** In section 148, page 195, line 19, leave out <143 to> and insert <143, 144, 146 and>