Sexual Offences (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 during Stage 3 consideration, set out in the order in which they will be debated. THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.

Groupings of amendments

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.

Group 1: Circumstances in which conduct takes place without free agreement
1

Group 2: Belief as to child’s age and relevant sexual offences
2, 10, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 69, 70, 71

Group 3: Special provisions as regards failure to establish age of child
3, 4, 5, 6, 7, 8, 9, 11, 12

Group 4: Children: requirement to undertake an information and publicity campaign
120

Group 5: Offences by non-natural persons
13, 14, 19

Debate to end no later than 35 minutes after proceedings begin

Group 6: Penalties
121, 122, 124, 125

Group 7: Alternative offences
15, 16, 17, 18, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68
Group 8: Ancillary provision: parliamentary procedure
20

Group 9: Sexual assault by penetration, voyeurism, sexual exposure etc.: consequential amendments
72, 76, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98

Debate to end no later than 55 minutes after proceedings begin

Group 10: Criminal Law (Consolidation) (Scotland) Act 1995: male prostitution
73, 74, 75, 123, 116

Group 11: Notification of defence of consent
83, 118

99, 115, 117, 119

Group 13: Sexual offender notification requirements

Debate to end no later than 70 minutes after proceedings begin
Amendments in debating order

Group 1: Circumstances in which conduct takes place without free agreement

Margaret Curran

1  In section 10, page 7, line 2, leave out <the only indication or expression of consent by B to>

Group 2: Belief as to child’s age and relevant sexual offences

Kenny MacAskill

2  In section 20, page 11, line 27, leave out <19> and insert <19B>

Kenny MacAskill

10 In section 29, page 17, line 13, after <relevant> insert <sexual>

Kenny MacAskill

21 In schedule 1Z, page 30, line 12, at end insert—

<(  ) sexual abuse of trust of a mentally disordered person (section 35) of a person under the age of 16>

Kenny MacAskill

22 In schedule 1Z, page 30, line 12, at end insert—

<An offence under any of the following provisions of the Sexual Offences (Northern Ireland) Order 2008 (SI No. 1769 (N.I. 2)) against a person under the age of 16—

(  ) article 5 (rape),
(  ) article 6 (assault by penetration),
(  ) article 7 (sexual assault),
(  ) article 8 (causing a person to engage in sexual activity without consent),
(  ) article 23 (abuse of position of trust: sexual activity with a child under 18),
(  ) article 24 (abuse of position of trust: causing or inciting a child under 18 to engage in sexual activity),
(  ) article 25 (abuse of position of trust: sexual activity in the presence of a child under 18),
(  ) article 26 (abuse of position of trust: causing a child under 18 to watch a sexual act),
(  ) article 32 (sexual activity with an under 18 child family member),
(  ) article 33 (inciting an under 18 child family member to engage in sexual activity),
(  ) article 37 (paying for sexual services of a child under 18),
(  ) article 38 (causing or inciting a child under 18 to become a prostitute or to be involved in pornography),
( ) article 39 (controlling the activities of a child under 18 in relation to prostitution or involvement in pornography),
( ) article 40 (arranging or facilitating the prostitution or involvement in pornography of a child under 18),
( ) article 51 (care workers: sexual activity with a person with a mental disorder),
( ) article 52 (care workers: causing or inciting a person with a mental disorder to engage in sexual activity),
( ) article 53 (care workers: sexual activity in the presence of a person with a mental disorder),
( ) article 54 (care workers: causing a person with a mental disorder to watch a sexual act),
( ) article 65 (administering a substance with intention of stupefying etc. for sexual activity),
( ) article 70 (exposure of genitals),
( ) article 71 (voyeurism).

Kenny MacAskill

23 In schedule 1Z, page 30, line 12, at end insert—

<An offence under any of the following provisions of that order—
( ) article 12 (rape of a child under 13),
( ) article 13 (assault of a child under 13 by penetration),
( ) article 14 (sexual assault of a child under 13),
( ) article 15 (causing or inciting a child under 13 to engage in sexual activity),
( ) article 16 (sexual activity with a child under 16),
( ) article 17 (causing or inciting a child under 16 to engage in sexual activity),
( ) article 18 (engaging in sexual activity in the presence of a child under 16),
( ) article 19 (causing a child under 16 to watch a sexual act),
( ) article 20 (offences under articles 16 to 19 by a person under 18),
( ) article 21 (arranging or facilitating commission of an offence under articles 16 to 20),
( ) article 22 (meeting a child under 16 following sexual grooming etc.).>

Kenny MacAskill

24 In schedule 1Z, page 30, line 30, at end insert—

<( ) section 4 (causing a person to engage in sexual activity without consent),
( ) section 16 (abuse of position of trust: sexual activity with a child under 18),
( ) section 17 (abuse of position of trust: causing or inciting a child under 18 to engage in sexual activity),
( ) section 18 (abuse of position of trust: sexual activity in the presence of a child under 18),
section 19 (abuse of position of trust: causing a child under 18 to watch a sexual act),

Kenny MacAskill

25 In schedule 1Z, page 30, line 32, at end insert—

< ( ) section 38 (care workers: sexual activity with a person with a mental disorder),
( ) section 39 (care workers: causing or inciting a person with a mental disorder to engage in sexual activity),
( ) section 40 (care workers: sexual activity in the presence of a person with a mental disorder),
( ) section 41 (care workers: causing a person with a mental disorder to watch a sexual act),
( ) section 47 (paying for sexual services of a person under 18),
( ) section 48 (causing or inciting a child under 18 to become a prostitute or to be involved in pornography),
( ) section 49 (controlling the activities of a child under 18 in relation to prostitution or involvement in pornography),
( ) section 50 (arranging or facilitating the prostitution or involvement in pornography of a child under 18),
( ) section 61 (administering a substance with intention of stupefying etc. for sexual activity),
( ) section 66 (exposure of genitals),
( ) section 67 (voyeurism).>

Kenny MacAskill

26 In schedule 1Z, page 30, leave out lines 33 to 36

Kenny MacAskill

27 In schedule 1Z, page 31, leave out lines 12 to 14

Kenny MacAskill

28 In schedule 1Z, page 31, line 15, leave out paragraph 5

Kenny MacAskill

29 In schedule 1Z, page 31, line 22, at end insert—

< ( ) an offence under section 1 (incest) or 2 (intercourse with a step-child) against a child under the age of 16,
( ) an offence under section 3 (intercourse of person in position of trust with a child under 16).>

Kenny MacAskill

30 In schedule 1Z, page 31, line 24, at end insert—
<( ) an offence under section 9 (permitting a girl under 16 to use premises for intercourse).>

Kenny MacAskill
31 In schedule 1Z, page 31, line 36, leave out paragraph 10

Kenny MacAskill
32 In schedule 1Z, page 32, line 7, leave out paragraph 13

Kenny MacAskill
33 In schedule 1Z, page 32, line 23, at end insert—
   <Any of the following offences under the Sexual Offences Act 2003, in its application to Northern Ireland—
   ( ) an offence under section 15,
   ( ) an offence under section 16, 17, 18, 19, 47, 48, 49, 50, 66 or 67 against a child under the age of 17.>

Kenny MacAskill
34 In schedule 1Z, page 32, line 23, at end insert—
   <An offence under article 18, 19, 20 or 21 of the Criminal Justice (Northern Ireland) Order 2003 (SI No. 1247 (N.I. 13)) against a person under the age of 17.>

Kenny MacAskill
35 In schedule 1Z, page 32, line 27, at end insert—
   <An offence under article 123 of the Mental Health (Northern Ireland) Order 1986 (SI No. 595 (N.I. 4)) against a person under the age of 17.>

Kenny MacAskill
36 In schedule 1Z, page 32, line 27, at end insert—
   <An offence under article 9 of the Criminal Justice (Northern Ireland) Order 1980 (SI No. 704 (N.I. 6)).>

Kenny MacAskill
37 In schedule 1Z, page 32, line 29, leave out <An offence under section 3, 4, 5 or 10(1) of> and insert <Any of the following offences under>

Kenny MacAskill
38 In schedule 1Z, page 32, line 30, at end insert—
   <( ) an offence under section 2A or 2B against a person under the age of 16,
   ( ) an offence under section 2C, 3, 4, 5 or 10(1)>

Kenny MacAskill
39 In schedule 1Z, page 32, line 30, at end insert—
<An offence under section 21 or 22 of the Children and Young Persons Act (Northern Ireland) 1968 (c.34).>

Kenny MacAskill

40 In schedule 1Z, page 32, line 31, at end insert—
<An offence under section 2 of the Attempted Rape, etc., Act 1960 (Northern Ireland) (c.3) against a person under the age of 17.>

Kenny MacAskill

41 In schedule 1Z, page 32, line 32, after <1,> insert <10, 11,>

Kenny MacAskill

42 In schedule 1Z, page 32, line 34, at end insert—
<An offence under section 1 of the Punishment of Incest Act 1908 (c.45)—
( ) in its application to England and Wales, against a girl under the age of 16,
( ) in its application to Northern Ireland, against a girl under the age of 17.>

Kenny MacAskill

43 In schedule 1Z, page 32, line 35, leave out <An offence under section 3 or 5 of> and insert <Any of the following offences under>

Kenny MacAskill

44 In schedule 1Z, page 32, line 36, leave out from <against> to end of line 37 and insert—
<( ) an offence under section 2, 3, 5, 7 or 8—
(i) in its application to Scotland or England and Wales, against a girl under the age of 16,
(ii) in its application to Northern Ireland, against a girl under the age of 17,
( ) an offence under section 4 or 6.>

Kenny MacAskill

45 In schedule 1Z, page 32, line 38, leave out <An offence under section 52, 53, 54, 61 or 62 of> and insert <Any of the following offences under>

Kenny MacAskill

46 In schedule 1Z, page 32, line 39, leave out <against a person under the age of 16> and insert—
<(< ) an offence under section 52, 53 or 54—
(i) in its application to England and Wales, against a person under the age of 16,
(ii) in its application to Northern Ireland, against a person under the age of 17,
( ) an offence under section 61 or 62.>
Kenny MacAskill

47 In schedule 1Z, page 33, line 3, leave out <an offence in paragraphs 18, 19, 21 of that Part> and insert <any of the following offences—

( ) an offence against a person under the age of 16 under section 3 of the Sexual Offences (Amendment) Act 2000 in its application to Scotland (see paragraph 18),

( ) an offence in paragraph 19 or 21,

( ) an offence against a girl under the age of 16 under section 2, 3, 5, 7 or 8 of the Criminal Law Amendment Act 1885 in its application to Scotland.>

Kenny MacAskill

69 In schedule 4, page 45, line 10, leave out from <for> to the end of line 11 and insert—

<( ) after the word “charge” there is inserted “in proceedings”,

( ) the words from “, being” to “offence,” are omitted,>

Kenny MacAskill

70 In schedule 4, page 45, line 11, at end insert—

<( ) after that subsection, there is inserted—

“(2A) But the defence under subsection (2) is not available to the person so charged if—

(a) that person has previously been charged by the police with a relevant sexual offence; or

(b) there is in force in respect of that person a risk of sexual harm order.”,>

Kenny MacAskill

71 In schedule 4, page 45, line 12, leave out from <(3)(b)> to the end of line 22 and insert <(3), for the words from “(2)” to the end there is substituted “(2A) above—

(a) “a relevant sexual offence” has the same meaning as in section 29(5)(a) of the Sexual Offences (Scotland) Act 2009 (asp 00); and

(b) “a risk of sexual harm order” has the same meaning as in section 29(5)(b) of that Act.”>

Group 3: Special provisions as regards failure to establish age of child

Kenny MacAskill

3 In section 21, page 11, line 34, leave out <(or under section 30(1) is deemed to have attained)>

Kenny MacAskill

4 In section 21A, page 12, line 5, leave out from <the> to <attained> in line 6

Kenny MacAskill

5 In section 22, page 12, line 16, leave out <(or under section 30(1) is deemed to have attained)>
Kenny MacAskill
6 In section 23, page 12, line 36, leave out <(or under section 30(1) is deemed to have attained)>.

Kenny MacAskill
7 In section 24, page 13, line 5, leave out <(or under section 30(1) is deemed to have attained)>.

Kenny MacAskill
8 In section 25, page 13, line 25, leave out <(or under section 30(1) is deemed to have attained)>.

Kenny MacAskill
9 In section 26, page 14, line 6, leave out <(or under section 30(1) is deemed to have attained)>.

Kenny MacAskill
11 In section 30, page 17, line 28, leave out <26> and insert <26B>.

Kenny MacAskill
12 In section 30, page 18, line 17, at end insert—
   <( ) Where any of the deeming provisions apply, references in sections 21 to 27 to A or B having or not having attained a particular age are to be construed in accordance with this section and section 30A.>

Group 4: Children: requirement to undertake an information and publicity campaign

Robert Brown
120 After section 30A, insert—
   <Information and publicity
      The Scottish Ministers must, prior to the commencement of this Part—
      (a) consult in an appropriate manner with children and young people under the age of 18 about their attitudes to this Part,

Group 5: Offences by non-natural persons

Kenny MacAskill
13 In section 37, page 22, line 8, leave out <a person> and insert <an individual>.

Kenny MacAskill
14 In section 37, page 22, line 13, at end insert—
   <( ) Where—
   (a) a body corporate,
   (b) a Scottish partnership, or
   (c) an unincorporated association other than a Scottish partnership,
is convicted on indictment of an offence specified in subsection (2), a penalty of a fine alone may be imposed.

Kenny MacAskill

19 Before section 45, insert—

<Offences by bodies corporate etc.

(1) Where—

(a) an offence under this Act has been committed by—

(i) a body corporate,

(ii) a Scottish partnership, or

(iii) an unincorporated association other than a Scottish partnership, and

(b) it is proved that the offence was committed with the consent or connivance of, or was attributable to any neglect on the part of—

(i) a relevant individual, or

(ii) an individual purporting to act in the capacity of a relevant individual,

that individual (as well as the body corporate, partnership or, as the case may be, unincorporated association) commits the offence and is liable to be proceeded against and punished accordingly.

(2) In subsection (1), “relevant individual” means—

(a) in relation to a body corporate (other than a limited liability partnership)—

(i) a director, manager, secretary or other similar officer of the body,

(ii) where the affairs of the body are managed by its members, a member,

(b) in relation to a limited liability partnership, a member,

(c) in relation to a Scottish partnership, a partner,

(d) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.>

Group 6: Penalties

Robert Brown

121 In section 37, page 22, line 8, leave out second <sexual assault,>

Robert Brown

122 In section 37, page 22, line 9, leave out from first <sexual> to <child> in line 10 and insert <or sexual assault on a young child by penetration>

Robert Brown

124 In schedule 1, page 33, line 15, column 4, leave out <and a fine> and insert <or a fine (or both)>

Robert Brown

125 In schedule 1, page 34, line 21, column 4, leave out <and a fine> and insert <or a fine (or both)>
Group 7: Alternative offences

Kenny MacAskill
15 In section 38, page 23, line 5, leave out <19> and insert <19B>

Kenny MacAskill
16 In section 38, page 23, line 9, at end insert—
   <(   ) engaging in penetrative sexual activity with or towards an older child,>

Kenny MacAskill
17 In section 38, page 23, line 15, at end insert—
   <(   ) sexual exposure to an older child,>
   <(   ) voyeurism towards an older child,>

Kenny MacAskill
18 In section 38, page 23, line 21, after <21> insert <, 21A>

Kenny MacAskill
48 In schedule 2, page 37, line 7, column 3, at beginning insert—
   <Sexual assault by penetration>

Kenny MacAskill
49 In schedule 2, page 37, line 9, at end insert—
   <Sexual assault by penetration Section 1A Sexual assault
   Engaging in penetrative sexual activity with or towards an older child
   Engaging in sexual activity with or towards an older child
   Assault at common law>

Kenny MacAskill
50 In schedule 2, page 38, line 26, at end insert—
   <Voyeurism Section 7A Breach of the peace at common law>

Kenny MacAskill
51 In schedule 2, page 38, line 27, column 3, at beginning insert—
   <Sexual assault on a young child by penetration>

Kenny MacAskill
52 In schedule 2, page 38, line 29, column 3, at end insert—
   <Engaging in penetrative sexual activity with or towards an older child>
Kenny MacAskill

53 In schedule 2, page 39, line 3, at end insert—

<Sexual assault on a young child by penetration>

Section 14A Sexual assault on a young child
Engaging in penetrative sexual activity with or towards an older child
Engaging in sexual activity with or towards an older child
Assault at common law>

Kenny MacAskill

54 In schedule 2, page 40, line 10, column 3, at end insert—

<Sexual exposure to a young child>

Kenny MacAskill

55 In schedule 2, page 40, line 16, column 3, at end insert—

<Sexual exposure to an older child>

Kenny MacAskill

56 In schedule 2, page 40, line 22, column 3, at end insert—

<Sexual exposure to a young child>

Kenny MacAskill

57 In schedule 2, page 40, line 28, column 3, at end insert—

<Sexual exposure to an older child>

Kenny MacAskill

58 In schedule 2, page 41, line 9, column 3, at end insert—

<Sexual exposure to a young child>

Kenny MacAskill

59 In schedule 2, page 41, line 15, column 3, at end insert—

<Sexual exposure to an older child>

Kenny MacAskill

60 In schedule 2, page 41, line 21, column 3, at end insert—

<Sexual exposure to a young child>

Kenny MacAskill

61 In schedule 2, page 41, line 27, column 3, at end insert—

<Sexual exposure to an older child>

Kenny MacAskill

62 In schedule 2, page 41, line 27, column 3, at end insert—
<Sexual exposure to a young child> Section 19A <Sexual exposure to an older child> Public indecency at common law Breach of the peace at common law

Voyeurism towards a young child Section 19B Voyeurism towards an older child Breach of the peace at common law

Kenny MacAskill

63 In schedule 2, page 41, line 28, column 3, at beginning insert—

<Engaging in penetrative sexual activity with or towards an older child>

Kenny MacAskill

64 In schedule 2, page 42, line 3, at end insert—

<Engaging in penetrative sexual activity with or towards an older child>

Kenny MacAskill

65 In schedule 2, page 42, line 22, column 3, at end insert—

<Sexual exposure to an older child>

Kenny MacAskill

66 In schedule 2, page 42, line 28, column 3, at end insert—

<Sexual exposure to an older child>

Kenny MacAskill

67 In schedule 2, page 42, line 34, at column 3, at end insert—

<Sexual exposure to an older child>

Kenny MacAskill

68 In schedule 2, page 43, line 9, column 3, at end insert—

<Sexual exposure to an older child>

Sexual exposure to an older child Section 26A Public indecency at common law Breach of the peace at common law

Voyeurism towards an older child Section 26B Breach of the peace at common law
GROUP 8: ANCILLARY PROVISION: PARLIAMENTARY PROCEDURE

Kenny MacAskill

20 In section 46, page 28, line 32, leave out from <provisions> to end of line 33 and insert <incidental, supplemental or consequential provision>

GROUP 9: SEXUAL ASSAULT BY PENETRATION, VOYEURISM, SEXUAL EXPOSURE ETC.: CONSEQUENTIAL AMENDMENTS

Kenny MacAskill

72 In schedule 4, page 45, line 24 leave out <16 to 19 and 22 to 26> and insert <14A to 19B and 21A to 26B>

Kenny MacAskill

76 In schedule 4, page 46, line 1, leave out <district> and insert <JP>

Kenny MacAskill

77 In schedule 4, page 46, line 11, at end insert—

<(  ) section 1A (sexual assault by penetration),>

Kenny MacAskill

78 In schedule 4, page 46, line 20, at end insert—

<(  ) section 7A (voyeurism),>

Kenny MacAskill

79 In schedule 4, page 46, line 21, at end insert—

<(  ) section 14A (sexual assault on a young child by penetration),>

Kenny MacAskill

80 In schedule 4, page 46, line 30, at end insert—

<(  ) section 19A (sexual exposure to a young child),
  (  ) section 19B (voyeurism towards a young child),>

Kenny MacAskill

81 In schedule 4, page 46, line 31, at end insert—

<(  ) section 21A (engaging in penetrative sexual activity with or towards an older child),>

Kenny MacAskill

82 In schedule 4, page 47, line 2, at end insert—

<(  ) section 26A (sexual exposure to an older child),
  (  ) section 26B (voyeurism towards an older child),>
Kenny MacAskill

84 In schedule 4, page 47, line 25, at end insert—

<( ) section 1A (sexual assault by penetration),>

Kenny MacAskill

85 In schedule 4, page 47, line 34, at end insert—

<( ) section 7A (voyeurism),>

Kenny MacAskill

86 In schedule 4, page 47, line 36, at end insert—

<( ) section 14A (sexual assault on a young child by penetration),>

Kenny MacAskill

87 In schedule 4, page 48, line 4, at end insert—

<( ) section 19A (sexual exposure to a young child),

( ) section 19B (voyeurism towards a young child),>

Kenny MacAskill

88 In schedule 4, page 48, line 5, at end insert—

<( ) section 21A (engaging in penetrative sexual activity with or towards an older child),>

Kenny MacAskill

89 In schedule 4, page 48, line 15, at end insert—

<( ) section 26A (sexual exposure to an older child),

( ) section 26B (voyeurism towards an older child),>

Kenny MacAskill

90 In schedule 4, page 48, line 29, at end insert—

<( ) section 1A (sexual assault by penetration),>

Kenny MacAskill

91 In schedule 4, page 48, line 38, at end insert—

<( ) section 7A (voyeurism),>

Kenny MacAskill

92 In schedule 4, page 48, line 39, at end insert—

<( ) section 14A (sexual assault on a young child by penetration),>

Kenny MacAskill

93 In schedule 4, page 49, line 8, at end insert—

<( ) section 19A (sexual exposure to a young child),
( ) section 19B (voyeurism towards a young child),>

Kenny MacAskill

94 In schedule 4, page 49, line 9, at end insert—

<( ) section 21A (engaging in penetrative sexual activity with or
towards an older child),>

Kenny MacAskill

95 In schedule 4, page 49, line 19, at end insert—

<( ) section 26A (sexual exposure to an older child),
( ) section 26B (voyeurism towards an older child),>

Kenny MacAskill

96 In schedule 4, page 49, line 35, at end insert—

<Any offence under section 14A (sexual assault on a young child by
penetration) or 21A (engaging in penetrative sexual activity with or
towards an older child) of that Act.>

Kenny MacAskill

97 In schedule 4, page 50, line 3, leave out <or 7 (sexual exposure)> and insert <, 7 (sexual
exposure) or 7A (voyeurism)>

Kenny MacAskill

98 In schedule 4, page 50, line 5, leave out <19> and insert <19B>

Group 10: Criminal Law (Consolidation) (Scotland) Act 1995: male prostitution

Kenny MacAskill

73* In schedule 4, page 45, line 26, at end insert—

<( ) After section 12, there is inserted—

“12A Sections 11(5) and 12: further provision

(1) Premises shall be treated for the purposes of sections 11(5) and 12 of this Act as a brothel if people resort to them for the purposes of homosexual acts in circumstances in which resort to them for heterosexual practices would have led to the premises being treated as a brothel for the purposes of those sections.

(2) For the purposes of this section, a homosexual act is an act of engaging in sexual activity by one male person with another male person; and an activity is sexual in any case if a reasonable person would, in all the circumstances of the case, consider it to be sexual.”.

Kenny MacAskill

74 In schedule 4, page 45, line 26, at end insert—
For the heading above section 13, there is substituted “Living on earnings of another from male prostitution”.

For the section title, there is substituted “Living on earnings of another from male prostitution”.

Kenny MacAskill

75 In schedule 4, page 45, leave out lines 28 to 33 and insert <, in subsection (9), the words from “or who” to “above” are omitted>

Kenny MacAskill

123 In schedule 5, page 54, line 8, column 2, leave out <13(1), (2), (5) to (8A)> and insert <13(1) to (8A), (10)>

Kenny MacAskill

116 In schedule 5, page 54, line 8, column 2, leave out <(11)(a)> and insert <(11)>

Group 11: Notification of defence of consent

Kenny MacAskill

83 In schedule 4, page 47, leave out lines 17 and 18

Kenny MacAskill

118 In schedule 5, page 54, leave out lines 22 to 24


Kenny MacAskill

99* In schedule 4, page 50, line 12, at end insert—

<The Protection of Children (Scotland) Act 2003 (asp 5)

(1) Schedule 1 to the Protection of Children (Scotland) Act 2003 is amended as follows.

(2) At the end of paragraph 1 there is inserted—

“(n) an offence under section 14 (rape of a young child) of the Sexual Offences (Scotland) Act 2009 (asp 00);

(o) an offence under section 14A (sexual assault on a young child by penetration) of that Act;

(p) an offence under section 15 (sexual assault on a young child) of that Act;

(q) an offence under section 16 (causing a young child to participate in a sexual activity) of that Act;

(r) an offence under section 17 (causing a young child to be present during a sexual activity) of that Act;
(s) an offence under section 18 (causing a young child to look at a sexual image) of that Act;
(t) an offence under section 19(1) (communicating indecently with a young child) of that Act;
(u) an offence under section 19(2) (causing a young child to see or hear an indecent communication) of that Act;
(v) an offence under section 19A (sexual exposure to a young child) of that Act;
(w) an offence under section 19B (voyeurism towards a young child) of that Act;
(x) an offence under section 21 (having intercourse with an older child) of that Act;
(y) an offence under section 21A (engaging in penetrative sexual activity with or towards an older child) of that Act;
(z) an offence under section 22 (engaging in sexual activity with or towards an older child) of that Act;
(za) an offence under section 23 (causing an older child to participate in a sexual activity) of that Act;
(zb) an offence under section 24 (causing an older child to be present during a sexual activity) of that Act;
(zc) an offence under section 25 (causing an older child to look at a sexual image) of that Act;
(zd) an offence under section 26(1) (communicating indecently with an older child) of that Act;
(ze) an offence under section 26(2) (causing an older child to see or hear an indecent communication) of that Act;
(zf) an offence under section 26A (sexual exposure to an older child) of that Act;
(zg) an offence under section 26B (voyeurism towards an older child) of that Act;
(zh) an offence under section 31 (sexual abuse of trust) of that Act.”.

(3) After paragraph 2(d) there is inserted—

“(da) commits an offence under section 1 (rape) of the Sexual Offences (Scotland) Act 2009 (asp 00) in relation to a child;
(db) commits an offence under section 1A (sexual assault by penetration) of that Act in relation to a child;
(dc) commits an offence under section 2 (sexual assault) of that Act in relation to a child;
(dd) commits an offence under section 3 (sexual coercion) of that Act in relation to a child;
(de) commits an offence under section 4 (coercing a person into being present during a sexual activity) of that Act in relation to a child;
(df) commits an offence under section 5 (coercing a person into looking at a sexual image) of that Act in relation to a child;
(dg) commits an offence under section 6(1) (communicating indecently) of that Act in relation to a child;
(dh) commits an offence under section 6(2) (causing a person to see or hear an indecent communication) of that Act in relation to a child;
(di) commits an offence under section 7 (sexual exposure) of that Act in relation to a child;
(dj) commits an offence under section 7A (voyeurism) of that Act in relation to a child;
(dk) commits an offence under section 35 (sexual abuse of trust of a mentally disordered person) of that Act in relation to a child;”.

Kenny MacAskill
115 In schedule 4, page 53, line 6, leave out paragraph 7

Kenny MacAskill
117 In schedule 5, page 54, line 11, column 2, leave out <paragraphs (vii), (xx) and (xxi)> and insert <paragraph (vii)>

Kenny MacAskill
119 In schedule 5, page 55, leave out lines 5 and 6

Group 13: Sexual offender notification requirements

Kenny MacAskill
100 In schedule 4, page 50, line 16, at end insert—

<( ) after paragraph 41, there is inserted—

“41A Public indecency if—

(a) a person (other than the offender) involved in the offence was under 18, and

(b) the court determines that there was a significant sexual aspect to the offender’s behaviour in committing the offence.”>

Kenny MacAskill
101 In schedule 4, page 50, line 31, leave out <is> to <imprisonment> on line 32 and insert <, in respect of the offence, is or has been—

(i) sentenced to a term of imprisonment, or
(ii) admitted to a hospital>

Kenny MacAskill
102 In schedule 4, page 51, leave out lines 17 and 18 and insert—
<(  ) in respect of the offence, is or has been—
   (i) sentenced to a term of imprisonment, or
   (ii) admitted to a hospital.>

Kenny MacAskill

103 In schedule 4, page 51, leave out lines 22 and 23 and insert—
   <(  ) in respect of the offence, is or has been—
      (i) sentenced to a term of imprisonment, or
      (ii) admitted to a hospital.>

Kenny MacAskill

104 In schedule 4, page 51, leave out lines 27 and 28 and insert—
   <(  ) in respect of the offence, is or has been—
      (i) sentenced to a term of imprisonment, or
      (ii) admitted to a hospital.>

Kenny MacAskill

105 In schedule 4, page 51, leave out lines 32 and 33 and insert—
   <(  ) in respect of the offence, is or has been—
      (i) sentenced to a term of imprisonment, or
      (ii) admitted to a hospital.>

Kenny MacAskill

106 In schedule 4, page 51, leave out lines 37 and 38 and insert—
   <(  ) in respect of the offence, is or has been—
      (i) sentenced to a term of imprisonment, or
      (ii) admitted to a hospital.>

Kenny MacAskill

107 In schedule 4, page 52, leave out lines 1 and 2 and insert—
   <(  ) in respect of the offence, is or has been—
      (i) sentenced to a term of imprisonment, or
      (ii) admitted to a hospital.>

Kenny MacAskill

108 In schedule 4, page 52, leave out lines 6 and 7 and insert—
   <(  ) in respect of the offence, is or has been—
      (i) sentenced to a term of imprisonment, or
      (ii) admitted to a hospital.>
Kenny MacAskill

109 In schedule 4, page 52, leave out lines 11 and 12 and insert—

<(  ) in respect of the offence, is or has been—
   (i) sentenced to a term of imprisonment, or
   (ii) admitted to a hospital.>

Kenny MacAskill

110 In schedule 4, page 52, leave out lines 16 and 17 and insert—

<(  ) in respect of the offence, is or has been—
   (i) sentenced to a term of imprisonment, or
   (ii) admitted to a hospital.>

Kenny MacAskill

111 In schedule 4, page 52, leave out lines 21 and 22 and insert—

<(  ) in respect of the offence, is or has been—
   (i) sentenced to a term of imprisonment, or
   (ii) admitted to a hospital.>

Kenny MacAskill

112 In schedule 4, page 52, line 24, leave out from <the> to end of line 25 and insert <, in respect of the offence, the offender is or has been—

   (  ) sentenced to a term of imprisonment, or
   (  ) admitted to a hospital.>

Kenny MacAskill

113 In schedule 4, page 52, line 27, leave out from <the> to end of line 28 and insert <, in respect of the offence, the offender is or has been—

   (  ) sentenced to a term of imprisonment, or
   (  ) admitted to a hospital.>

Kenny MacAskill

114 In schedule 4, page 52, line 35, leave out <“59ZE”> and insert <“59ZF”>