

Victims and Witnesses (Scotland) Bill

2nd Groupings of Amendments for Stage 2

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

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

Groupings of amendments

Definition of victim

74, 75, 76, 20, 22, 23, 26, 39, 40, 41, 49, 48, 50, 51

General principles: consideration of children

55, 56, 57

Standards of service

12, 58, 13, 14, 15, 16, 17, 18, 19, 59, 60, 21

Review of decision not to prosecute

77

Co-ordination of support for victims and witnesses

78

Restorative justice

79

Disclosure of information about criminal proceedings

24, 25, 80, 81

Interviews with children: compliance with guidance

61, 62

Notes on amendments in this group

Amendment 61 pre-empts amendment 62

Certain medical examinations: gender of medical examiner

27

Evidence in relation to sexual offences: disclosure of information

82, 83, 85

Minor and technical

28, 52, 53

Objections to special measures

63, 64, 65, 67

Child witnesses

66

Special measures: intermediary

84

Victim statements

29, 86, 30, 68, 31, 32

Notes on amendments in this group
Amendment 68 pre-empts amendment 31

Compensation orders

69

Restitution orders: extension of application of the fund

70, 71, 72, 73

The Restitution Fund and Victim Surcharge Fund: establishment and administration

33, 34, 35, 36, 37, 38, 42, 90, 43, 44, 45, 46, 47

Victim Surcharge Fund: eligibility

87, 88, 89

Victim Surcharge Fund: reports

91

Right to release information about offender

92, 93, 94

Right to make oral representations

95, 96, 97, 98, 99, 100

Communication with victims and witnesses

101

Commencement

54

THIS IS NOT THE MARSHALLED LIST

Amendments in debating order

Definition of victim

Margaret Mitchell

74 Before section 1, insert—

<Definition of victim

- (1) For the purposes of this Act, a victim is a person who has suffered harm—
 - (a) because an offence is committed against the person,
 - (b) because the person is a prescribed relative or dependent of a person who has died or suffered harm because an offence is committed against that person, or
 - (c) as a direct result of intervening—
 - (i) to help another person against whom an offence is committed, or
 - (ii) to prevent an offence being committed against another person.
- (2) For the purposes of subsection (1), “harm” includes—
 - (a) physical, mental or emotional harm,
 - (b) economic loss.
- (3) In subsection (1)(b), “prescribed” means prescribed by the Scottish Ministers by order.
- (4) An order under subsection (1)(b) is subject to the negative procedure.>

Margaret Mitchell

75 In section 2, page 2, leave out line 25

Margaret Mitchell

76 In section 2, page 2, line 26, leave out subsection (6)

Kenny MacAskill

20 In section 2, page 2, line 28, leave out <(6)> and insert <(5)>

Kenny MacAskill

22 In section 3, page 2, line 36, at end insert—

<(aa) in the case where the death of a person mentioned in paragraph (a) was (or appears to have been) caused by the offence or alleged offence, a prescribed relative of the person,>

Kenny MacAskill

23 In section 3, page 3, line 8, at end insert—

<“prescribed” means prescribed by the Scottish Ministers by order.>

Kenny MacAskill

26 In section 3, page 3, line 30, after <under> insert—

THIS IS NOT THE MARSHALLED LIST

<() subsection (2)(aa) is subject to the negative procedure,>

Kenny MacAskill

- 39 In section 22, page 16, line 36, leave out <have been the victims of crime (“victims”)> and insert <are, or appear to be, the victims of crime and prescribed relatives of such persons.>

Kenny MacAskill

- 40 In section 22, page 16, line 38, leave out <victim> and insert <person who is, or appears to be, the victim of crime,
(aa) a prescribed relative of a person who is, or appears to be, the victim of crime,>

Kenny MacAskill

- 41 In section 22, page 16, line 40, leave out <victims> and insert <persons who are, or appear to be, victims of crime,>

Kenny MacAskill

- 49 In section 22, page 17, line 15, after <section> insert—
<“prescribed” means prescribed by the Scottish Ministers by regulations,>

Kenny MacAskill

- 48 In section 22, page 17, line 15, leave out <victim> and insert <person who is, or appears to be, the victim of crime>

Kenny MacAskill

- 50 In section 22, page 17, line 17, leave out <victim> and insert <person or a prescribed relative of the person>

Kenny MacAskill

- 51 In section 22, page 17, line 17, at end insert—
<() Regulations under subsections (3), (4) and (8) are subject to the negative procedure.>

General principles: consideration of children

Elaine Murray

- 55 In section 1, page 1, line 26, at end insert—
<() In having regard to the principles mentioned in subsection (3), each person mentioned in subsection (2) must consider the specific needs, rights and wishes of a child who is or appears to be a victim or witness in relation to a criminal investigation or criminal proceedings.>

Elaine Murray

- 56 In section 1, page 1, line 26, at end insert—

THIS IS NOT THE MARSHALLED LIST

<() In having regard to the principle mentioned in subsection (3)(a), each person mentioned in subsection (2) must take steps to provide information to a child who is or appears to be a victim or witness in relation to a criminal investigation or criminal proceedings in such form as the child may reasonably require.>

Elaine Murray

57 In section 1, page 1, line 28, at end insert—

<() In this section, “child” means a person under 18 years of age.>

Standards of service

Kenny MacAskill

12 In section 2, page 2, line 4, leave out <any of the person’s functions> and insert <the functions of the person mentioned in subsection (3)>

Elaine Murray

58 In section 2, page 2, line 8, at end insert—

<() Each person mentioned in subsection (2) in setting and publishing standards under subsection (1), in so far as the standards could relate to a child, must do so in such a way that the welfare of a child is of paramount consideration.>

Kenny MacAskill

13 In section 2, page 2, line 10, leave out from <but> to end of line 11

Kenny MacAskill

14 In section 2, page 2, line 12, leave out from <but> to end of line 13

Kenny MacAskill

15 In section 2, page 2, line 18, at beginning insert <in the case of the Lord Advocate,>

Kenny MacAskill

16 In section 2, page 2, line 19, at beginning insert <in the case of the Scottish Ministers,>

Kenny MacAskill

17 In section 2, page 2, line 20, at end insert—

<() in the case of any other person mentioned in subsection (2), any functions.>

Kenny MacAskill

18 In section 2, page 2, line 20, at end insert—

<() Before a person mentioned in subsection (2) (“the publisher”) publishes standards under subsection (1), the publisher must consult—

(a) every other person mentioned in subsection (2), and

(b) such other persons as appear to the publisher to have a significant interest in the standards.>

THIS IS NOT THE MARSHALLED LIST

Kenny MacAskill

19 In section 2, page 2, line 21, at end insert—

<() so far as is necessary or expedient in consequence of any modification made under paragraph (a), modify subsection (1), (3) or (5).>

Elaine Murray

59 In section 2, page 2, line 21, at end insert—

<(4A) As soon as practicable after the end of each 1 year period, each person mentioned in subsection (2) must publish a report on how the person has met the standards set under subsection (1).

(4B) In preparing a report under subsection (4A), those persons mentioned in subsection (2) are, so far as reasonably practicable, to ascertain and have regard to the views of victims and witnesses in relation to a criminal investigation or criminal proceedings.

(4C) A person mentioned in subsection (2) may in consequence of a report under subsection (4A) revise the standards the person set so as to meet the needs of victims and witnesses in relation to a criminal investigation or criminal proceedings.

(4D) Where a person mentioned in subsection (2) revises the standards set the person must publish those revised standards.

(4E) The Scottish Ministers may by regulations prescribe the information that reports published under subsection (4A) must contain.

(4F) Before making regulations under subsection (4E), the Scottish Ministers must consult those persons mentioned in subsection (2).

(4G) Regulations under subsection (4E) are subject to the negative procedure.

(4H) In subsection (4A), “1 year period” means—

(a) the period of 1 year beginning with the date on which the standards are published, and

(b) each subsequent period of 1 year.>

Elaine Murray

60 In section 2, page 2, line 22, at end insert—

<“child” means a person under 18 years of age.>

Kenny MacAskill

21 After section 2, insert—

<Reports

(1) This section applies where a person publishes standards under section 2(1).

(2) The person must prepare and publish a report in relation to the matters mentioned in subsection (3)—

(a) before the end of the period of 12 months beginning with the day on which standards are first published under section 2(1), and

(b) as soon as practicable following—

THIS IS NOT THE MARSHALLED LIST

- (i) the expiry of the period of 12 months beginning with the day on which a report is published under paragraph (a), and
 - (ii) each subsequent period of a year.
- (3) The matters are—
- (a) an assessment of how, and the extent to which, the standards have been met during the period of the report,
 - (b) an explanation of how the person intends to meet the standards during the year after the period of the report,
 - (c) a description of any modification of the standards made during the period of the report, and
 - (d) a description of any modification of the standards that the person proposes to make during the year after the period of the report.
- (4) The Scottish Ministers may by regulations prescribe information (in addition to that required under subsection (3)) that reports prepared under subsection (2) must contain.
- (5) Regulations under subsection (4) are subject to the negative procedure.>

Review of decision not to prosecute

Kenny MacAskill

77 After section 2, insert—

<Rules: review of decision not to prosecute

Rules: review of decision not to prosecute

- (1) The Lord Advocate must make and publish rules about the process for reviewing, on the request of a person who is or appears to be a victim in relation to an offence, a decision of the prosecutor not to prosecute a person for the offence.
- (2) Rules under subsection (1) may in particular make provision for or in connection with—
 - (a) the circumstances in which reviews may be carried out,
 - (b) the manner in which a request for review must be made,
 - (c) the information that must be included in a request for review,
 - (d) the matters to be taken into account by the Lord Advocate when carrying out reviews,
 - (e) the process to be followed by the Lord Advocate when carrying out reviews.
- (3) In this section, “prosecutor” means Lord Advocate, Crown Counsel or procurator fiscal.>

Co-ordination of support for victims and witnesses

Margaret Mitchell

78 After section 2, insert—

THIS IS NOT THE MARSHALLED LIST

<Co-ordination of support for victims and witnesses

Co-ordination of support for victims and witnesses

- (1) In so far as appropriate, the persons mentioned in subsection (2) (“the persons”) must take steps to co-operate and co-ordinate in the provision of support to a person who is or appears to be a victim or witness (“victim” and “witness”) in relation to a criminal investigation or criminal proceedings and, in particular, take the steps mentioned in subsections (3) and (5).
- (2) The persons are—
 - (a) the Lord Advocate, but only in relation to functions relating to the investigation and prosecution of crime,
 - (b) the chief constable of the Police Service of Scotland.
- (3) The persons must, in respect of each 3-year period, jointly prepare, publish and lay before the Parliament a strategic communications plan.
- (4) The strategic communications plan must, in particular, set out the steps the persons will take to—
 - (a) co-operate and co-ordinate in the provision of information to victims and witnesses in relation to a criminal investigation or criminal proceedings,
 - (b) co-operate and co-ordinate in the provision of appropriate support to victims or witnesses during and after a criminal investigation or proceedings,
 - (c) share information, in so far as appropriate, in relation to victims and witnesses,
 - (d) share and promote best practice in relation to victims and witnesses,
 - (e) consult with other persons providing support to victims and witnesses,
 - (f) provide advice, guidance and training in relation to the provision of co-ordinated support to victims and witnesses.
- (5) The persons must jointly establish a single point of contact for all victims and witnesses seeking information or support in relation to a criminal investigation or criminal proceedings.
- (6) Information about the single point of contact must be published and made available to victims or witnesses.
- (7) The single point of contact must—
 - (a) provide information on the range of services available to support victims and witnesses,
 - (b) direct a victim or witness to the relevant person where a victim or witness is seeking information or support in relation to a criminal investigation or criminal proceedings.
- (8) The Scottish Ministers may by regulations make further provision in respect of the single point of contact.
- (9) Regulations under subsection (8) are subject to the negative procedure.>

THIS IS NOT THE MARSHALLED LIST

Restorative justice

Alison McInnes

79* After section 2, insert—

<Restorative justice

Restorative justice

- (1) The Scottish Ministers must by regulations make provision for the referral of a victim and a person who has or is alleged to have committed an offence to restorative justice processes.
- (2) Regulations under subsection (1) must, in particular, make provision for—
 - (a) the circumstances where referral to restorative justice processes may be appropriate,
 - (b) the procedure for referral to restorative justice processes,
 - (c) the conditions for referral to restorative justice processes.
- (3) The conditions mentioned in subsection (2)(c) must include—
 - (a) that such services are used only where they are in the interest of the victim and are based on the victim’s free and informed consent which may be withdrawn at any time,
 - (b) that provision must be made to ensure the safety of the victim and that the victim is protected from victimisation and retaliation,
 - (c) that full and impartial information about the process, including information about potential outcomes, is provided in advance to the victim,
 - (d) that the person who has or is alleged to have committed an offence has acknowledged the basic facts of the case,
 - (e) that discussions in restorative justice processes that are not conducted in public are confidential and not subsequently disclosed except with the agreement of the parties or as required in the public interest.
- (4) For the purposes of this section, “restorative justice” means any process whereby the victim and a person who has or is alleged to have committed an offence are enabled, where they freely consent, to participate actively in the resolution of matters arising from an offence through the assistance of an impartial third party.
- (5) Regulations under subsection (1) are subject to the negative procedure.>

Disclosure of information about criminal proceedings

Kenny MacAskill

24 In section 3, page 3, line 24, at end insert—

- <() the place in which the hearing of an appeal arising from a trial is to be held,
() the date on which and time at which the hearing of an appeal arising from a trial is to be held,>

THIS IS NOT THE MARSHALLED LIST

Kenny MacAskill

- 25 In section 3, page 3, line 26, leave out <disposal in criminal proceedings> and insert <decision of a court in a trial or any appeal arising from a trial,>

Margaret Mitchell

- 80 In section 3, page 3, line 26, at end insert—
- <(6A) For the purposes of subsection (4), the circumstances where it would be inappropriate to disclose information include if—
- (a) doing so is prohibited by or under any enactment,
 - (b) doing so would constitute, or be punishable as, a contempt of court,
 - (c) it would, or would be likely to, prejudice the administration of justice,
 - (d) it is likely to cause substantial distress to the requester,
 - (e) the information is not available in a format which could be transmitted to the requester,
 - (f) the information can reasonably be obtained other than by a request to the qualifying person.>

Margaret Mitchell

- 81 In section 3, page 3, line 29, at end insert—
- <() subsection (6A).>

Interviews with children: compliance with guidance

Alison McInnes

- 61 In section 4, page 4, line 1, leave out <have regard to> and insert <comply with>

John Finnie

Supported by: Elaine Murray

- 62 In section 4, page 4, line 1, after <have> insert <due>

Certain medical examinations: gender of medical examiner

Kenny MacAskill

- 27 After section 5, insert—

<Medical examinations

Certain medical examinations: gender of medical examiner

- (1) This section applies where a person makes a complaint to a constable alleging that the person is the victim of an offence listed in any of paragraphs 36 to 60 of Schedule 3 to the Sexual Offences Act 2003.

THIS IS NOT THE MARSHALLED LIST

- (2) Before a medical examination of the person in relation to the complaint is carried out by a registered medical practitioner in pursuance of section 31 of the Police and Fire Reform (Scotland) Act 2012, the constable must give the person an opportunity to request that any such medical examination be carried out by a registered medical practitioner of a gender specified by the person.
- (3) If the person makes such a request, the constable must ensure that the registered medical practitioner who is to (or, but for the request, would) carry out the examination is informed of the nature of the request.
- (4) In this section, references to a registered medical practitioner include references to a person of such other description as the Scottish Ministers may by order prescribe.
- (5) An order under subsection (4) is subject to the negative procedure.>

Evidence in relation to sexual offences: disclosure of information

Graeme Pearson

82* After section 5, insert—

<Evidence in relation to sexual offences: health information

- (1) The Scottish Ministers must by regulations make provision for the circumstances when information relating to the physical or mental health of a person who is or appears to be a victim of an offence of a type mentioned in subsection (3) (“the victim”) can be disclosed in relation to a criminal investigation or criminal proceedings.
- (2) Regulations under subsection (1) must make provision in particular about—
 - (a) the circumstances when it may be considered appropriate to seek disclosure of such information,
 - (b) the process by which a decision to disclose such information must be made,
 - (c) subject to paragraph (d), the need to obtain the free and informed consent of the victim,
 - (d) the circumstances when it may appropriate to disclose such information without the consent of the victim,
 - (e) the nature of the support that must be made available to the victim where disclosure of such information is sought.
- (3) The types of offence are—
 - (a) an offence listed in any of paragraphs 36 to 60 of Schedule 3 to the Sexual Offences Act 2003 (c.42),
 - (b) an offence under section 22 of the 2003 Act (traffic in prostitutions etc.),
 - (c) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19) (trafficking of people for exploitation),
 - (d) an offence consisting of domestic abuse,
 - (e) stalking.
- (4) Regulations under subsection (1) are subject to the affirmative procedure.>

THIS IS NOT THE MARSHALLED LIST

Margaret Mitchell

83* After section 5, insert—

<Medical and other sensitive information

Evidence relating to sexual offences: medical and other sensitive information

- (1) This section applies where a relevant person wishes to access medical or other sensitive information about a person who is or appears to be the victim of an offence of a type mentioned in subsection (6) in relation to—
 - (a) the questioning of that person in the course of criminal proceedings which have been instituted in relation to another person,
 - (b) the questioning of that person with a view to instituting criminal proceedings against another person,
 - (c) an application under section 275(1) of the 1995 Act.
- (2) The person must be given the opportunity to—
 - (a) obtain legal advice,
 - (b) appoint a legal representative.
- (3) Where the person appoints a legal representative, the legal representative must be given an opportunity to submit evidence on whether access to the medical or other sensitive information should be provided.
- (4) The legal representative may provide such evidence—
 - (a) in writing,
 - (b) at any relevant hearing.
- (5) The fees incurred by a legal representative appointed under subsection (3) are to be paid out of the Scottish Legal Aid Fund.
- (6) The types of offence are—
 - (a) an offence listed in any of paragraphs 36 to 60 of Schedule 3 to the Sexual Offences Act 2003 (c.42),
 - (b) an offence under section 22 of the 2003 Act (traffic in prostitutions etc.),
 - (c) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c.19) (trafficking of people for exploitation),
 - (d) an offence consisting of domestic abuse,
 - (e) stalking.
- (7) In this section—

“medical information” means information which relates to the physical or mental health or condition of a person,

“other sensitive information” includes information in a social work record, an educational record, a local authority care record and a counselling record,

“relevant person” means—

 - (a) a constable,
 - (b) a prosecutor (as defined in section 307(1) of the 1995 Act),

THIS IS NOT THE MARSHALLED LIST

- (c) a person accused of an offence or the legal representative of the person so accused.>

Margaret Mitchell

85* After section 17, insert—

<Legal representation for complainer

Evidence relating to sexual offences: legal representation

In section 275 of the 1995 Act (exception to restrictions under section 274), after subsection (5), insert—

<“(5A) Where an application under subsection (1) is made, the complainer must in respect of that application—

(a) be informed of the right of the complainer—

- (i) to seek legal advice,
- (ii) to appoint a legal representative,

(b) be given the opportunity—

- (i) to seek such advice,
- (ii) to appoint such a representative.

(5B) Where the complainer appoints a legal representative—

(a) a copy of the application must be sent to the legal representative, and

(b) the legal representative must be given an opportunity to—

- (i) submit written evidence on the matters set out in the application in accordance with subsection (3),
- (ii) represent the complainer at any hearing in relation to the application.

(5C) The fees incurred by a legal representative appointed under subsection (5B) are to be paid out of the Scottish Legal Aid Fund.”.>

Minor and technical

Kenny MacAskill

28 In section 6, page 5, line 32, at end insert <or>

Kenny MacAskill

52 In section 23, page 18, line 24, leave out <Prisons (Scotland) Act 1989 (c.45)> and insert <1989 Act>

Kenny MacAskill

53 In section 25, page 19, line 18, leave out <Prisons (Scotland) Act 1989 (c.45)> and insert <1989 Act>

THIS IS NOT THE MARSHALLED LIST

Objections to special measures

Alison McInnes

- 63 In section 9, page 8, line 10, after <measure> insert <(other than a standard special measure)>

Kenny MacAskill

- 64 In section 9, page 8, line 16, leave out <(5)> and insert <(5)(a)(ii)>

Elaine Murray

- 65 Leave out section 9

Elaine Murray

- 67 Leave out section 13

Child witnesses

Alison McInnes

- 66 Leave out section 10

Special measures: intermediary

John Finnie

- 84* After section 16, insert—

<Special measures: intermediary

- (1) In section 271H(1) of the 1995 Act (the special measures), after paragraph (ea) (inserted by section 16(1) of this Act), insert—

“(eb) taking of evidence through an interpreter or other person approved by the court for the purposes of section 271HC of this Act.”.

- (2) After section 271HB of the 1995 Act (inserted by section 16(2) of this Act), insert—

“271HC Taking of evidence through an intermediary

- (1) This section applies where the special measure to be used in respect of a vulnerable witness is taking evidence through an interpreter or other person approved by the court (“the intermediary”).
- (2) The intermediary must in so far as is necessary—
- (a) communicate to the witness any questions put to the witness,
 - (b) communicate to any person asking such questions the responses given by the witness,
 - (c) provide any further information to the witness or person asking the questions to enable such questions and responses to be understood.”.
- (3) In section 271F(8)(a) of the 1995 Act (special measures not applying in relation to a vulnerable witness who is the accused), after “271H(1)(c)” insert “and (eb)”.>

THIS IS NOT THE MARSHALLED LIST

Victim statements

Kenny MacAskill

- 29** In section 19, page 12, line 3, leave out <as follows> and insert <in accordance with subsections (2) to (7).>

Graeme Pearson

- 86** In section 19, page 12, line 10, at end insert—
- <() After subsection (5), insert—
- “(5A) A victim statement or a statement supplementary to, or in amplification of, the victim statement may be made—
 - (a) in writing,
 - (b) by way of oral representation,
 - (c) by such other means as the Scottish Ministers may prescribe by order.
 - (5B) Where a person chooses to make a statement by way of oral representation, the person may do so by use of a live television link.
 - (5C) Where a person chooses to make a statement by way of live television link the court must make such arrangements as seem to it appropriate for the person to give evidence by means of such a link.
 - (5D) An order under subsection (5A)(c) must not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the Parliament.”>

Kenny MacAskill

- 30** In section 19, page 12, line 13, leave out <14> and insert <12>

Elaine Murray

- 68** In section 19, page 12, line 23, leave out from beginning to end of line 10 on page 13 and insert—
- <“(11A) A child must be given an opportunity to make a victim statement where the child has not attained the age of 12 but is of sufficient age and maturity to make such a statement.
- (11B) Where a child is not of sufficient age and maturity under subsection (11A)—
- (a) any victim statement must instead be made by a person who has parental responsibilities or rights under the Children (Scotland) Act 1995 (c.36), or
 - (b) if a statement cannot be made by a person under paragraph (a), the statement may be made by a “qualifying person” whose relationship to the child is listed in subsection (10).
- (11C) In determining the maturity of a child a view must be obtained from a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists.

THIS IS NOT THE MARSHALLED LIST

- (11D) Where there is more than one qualifying person in relation to a child, the court must determine which qualifying person should make that statement.
- (11E) In making a determination under subsection (11D), so far as practicable and having regard to the age and maturity of the child, the court must—
- (a) give the child an opportunity to express any views on which qualifying person is to make the statement, and
 - (b) take into account any such views in determining which qualifying person is to make the statement.
- (11F) A child who is given an opportunity to make a victim statement by virtue of subsection (11A) or to express views on which qualifying person is to make the statement under subsection (11C) must be provided with such support as the child needs to enable the child to make the statement or express views, as the case may be.”.>

Kenny MacAskill

- 31 In section 19, page 12, line 23, leave out <14> and insert <12>

Kenny MacAskill

- 32 In section 19, page 13, line 13, at end insert—
- <(7) After subsection (12), insert—
- “(13) A victim statement, or a statement made by virtue of subsection (3) in relation to a victim statement, may be made in such form and manner as may be prescribed.
 - (14) An order under subsection (13) may—
 - (a) include such incidental, supplementary or consequential provision as the Scottish Ministers consider appropriate,
 - (b) modify any enactment (including this Act).
 - (15) An order under subsection (13) may be made so as to have effect for a period specified in the order.
 - (16) An order under subsection (13) containing provision of the type mentioned in subsection (15) may provide that its provisions are to apply only in relation to one or more areas specified in the order.”.
- (8) In section 88(2) of the 2003 Act (orders), at the beginning of paragraph (b) insert “14(13) or”.>

Compensation orders

Elaine Murray

- 69 In section 20, page 13, line 19, at end insert—
- <(4B) In considering whether to make a compensation order, the court must take steps to ascertain the views of the victim.

THIS IS NOT THE MARSHALLED LIST

- (4C) No compensation order may be made where the victim notifies the court that the victim does not wish to receive compensation from the person convicted of the offence.
- (4D) For the purposes of subsections (4B) and (4C), “victim” has the meanings given by subsections (1A) and (1C).”.>

Restitution orders: extension of application of the fund

Alison McInnes

70 In section 21, page 13, line 26, at end insert—

<() section 1(1) of the Emergency Workers (Scotland) Act 2005 (assaulting or impeding certain providers of emergency services).>

Alison McInnes

71 In section 21, page 13, line 26, at end insert—

<() section 2(1) of the Emergency Workers (Scotland) Act 2005 (assaulting or impeding certain emergency workers responding to emergency circumstances).>

Alison McInnes

72 In section 21, page 14, line 6, after <(asp 8)> insert <and section 1(1) of the Emergency Workers (Scotland) Act 2005.>

Alison McInnes

73 In section 21, page 14, line 6, after <(asp 8)> insert <and section 2(1) of the Emergency Workers (Scotland) Act 2005.>

The Restitution Fund and Victim Surcharge Fund: establishment and administration

Kenny MacAskill

33 In section 21, page 14, line 3, leave out <and maintain> and insert <, maintain and administer>

Kenny MacAskill

34 In section 21, page 14, line 8, at end insert—

<() the Scottish Ministers or, with the consent of the Scottish Ministers, a person specified by order by virtue of subsection (5) in respect of outlays incurred in administering the fund.>

Kenny MacAskill

35 In section 21, page 14, line 10, leave out <and maintaining> and insert <, maintaining and administering>

THIS IS NOT THE MARSHALLED LIST

Kenny MacAskill

36 In section 21, page 14, line 12, after <about> insert <the administration of>

Kenny MacAskill

37 In section 21, page 14, leave out lines 14 and 15

Kenny MacAskill

38 In section 22, page 16, line 34, leave out <and maintain> and insert <, maintain and administer>

Kenny MacAskill

42* In section 22, page 16, line 40, at end insert <or
() the Scottish Ministers or, with the consent of the Scottish Ministers, a person specified by order by virtue of subsection (5) in respect of outlays incurred in administering the fund.>

Graeme Pearson

90 In section 22, page 16, line 40, at end insert—
<() A payment out of the fund may not be used to supplement or replace payments to be made out of the Scottish Consolidated Fund.>

Kenny MacAskill

43 In section 22, page 17, line 2, leave out <and maintaining> and insert <, maintaining and administering>

Kenny MacAskill

44 In section 22, page 17, line 4, leave out <order> and insert <regulations>

Kenny MacAskill

45 In section 22, page 17, line 4, after <about> insert <the administration of>

Kenny MacAskill

46 In section 22, page 17, leave out lines 6 to 9

Kenny MacAskill

47 In section 22, page 17, line 14, leave out <or (6) is> and insert <and regulations under subsection (6) are>

Victim Surcharge Fund: eligibility

Margaret Mitchell

87 In section 22, page 16, line 6, leave out from <other> to end of line 8

Margaret Mitchell

88 In section 22, page 16, leave out line 10

THIS IS NOT THE MARSHALLED LIST

Margaret Mitchell

- 89 In section 22, page 16, line 11, leave out from beginning to <Ministers,> in line 12

Victim Surcharge Fund: reports

Graeme Pearson

- 91 In section 22, page 18, line 15, at end insert—

<The Victim Surcharge Fund: reports

- (1) The Scottish Ministers, or such person to whom they have delegated the duties imposed on them by section 253G(3), must prepare and publish a report in relation to the matters mentioned in subsection (3).
- (2) A report under subsection (1) must be published—
 - (a) before the end of the period of 12 months beginning with the day on which the fund is established, and
 - (b) as soon as practicable following—
 - (i) the expiry of the period of 12 months beginning with the day on which a report is published under paragraph (a), and
 - (ii) each subsequent period of a year.
- (3) The matters are—
 - (a) the sum paid into the fund,
 - (b) the sum still due to be paid into the fund by persons who the court has ordered to make payment of a victim surcharge,
 - (c) a list of those persons ordered to make payment of a victim surcharge who are yet to make that payment,
 - (d) the sum paid out of the fund,
 - (e) an account and assessment of how the sum paid out of the fund has been used.
- (4) The Scottish Ministers may by regulations prescribe information (in addition to that required under subsection (3)) that reports prepared under subsection (1) must contain.
- (5) Regulations under subsection (4) are subject to the negative procedure.”.>

Right to release information about offender

Margaret Mitchell

- 92 In section 23, page 18, line 21, at end insert—

<() in subsection (1), after paragraph (c), insert—

“(ca) to any period of imprisonment or detention and the following conditions apply—

THIS IS NOT THE MARSHALLED LIST

- (i) the person was subject to an indefinite notification period under or by virtue of the Sexual Offences Act 2003, and
- (ii) has ceased to be subject to such a notification period.”>

Graeme Pearson

- 93 In section 23, page 18, line 22, after <(3),> insert—
<() before paragraph (a) insert—
“(za) at the time of sentencing, the date on which the convicted person is, under or by virtue of the 1993 Act, eligible for release;”,
()>

Graeme Pearson

- 94* In section 23, page 18, line 25, at end insert—
<() in subsection (4), after paragraph (a), insert—
“(ab) specify the minimum period of time before the date on which the convicted person is released, under or by virtue of the 1989 Act or the 1993 Act, (other than by being granted temporary release) by which time a person must be notified of that release; or”.>

Right to make oral representations

Graeme Pearson

- 95 In section 24, page 18, line 33, leave out from <if> to <imprisonment,>

Margaret Mitchell

- 96 In section 24, page 18, line 33, after <imprisonment,> insert <or is, or has at any time been, subject to an indefinite notification period under or by virtue of the Sexual Offences Act 2003 (c.42)>

Graeme Pearson

- 97 In section 24, page 18, line 34, after <to> where it second occurs insert—
<() the convicted person by way of video link as respects such release and as to the conditions which might be specified in the licence in question,
()>

Graeme Pearson

- 98 In section 24, page 18, line 37, at end insert—
<() be afforded an opportunity to make oral representations to the convicted person by way of video link as respects such release and as to the conditions which might be specified in the licence in question.”>

THIS IS NOT THE MARSHALLED LIST

Graeme Pearson

- 99 In section 24, page 19, line 2, after <made> insert <, including how such representations to the offender may be made by way of video link>

Graeme Pearson

- 100 In section 24, page 19, line 7, leave out lines 7 to 9

Communication with victims and witnesses

Graeme Pearson

- 101 After section 25, insert—

<Communications with victims and witnesses

- (1) Any communication providing information by a relevant person to a person who is or appears to be a victim or witness in relation to a criminal investigation or criminal proceedings must be in such form as the person reasonably requires.
- (2) For the purposes of subsection (1)—
 - (a) the relevant person must take steps to ascertain the views and wishes of the victim or witness in relation to the form that such communications should take,
 - (b) a communication includes notification to a victim in respect of the release of an offender.
- (3) In this section—

“relevant person” means a—

 - (a) a constable,
 - (b) a prosecutor (as defined in section 307(1) of the 1995 Act),
 - (c) a prescribed person providing support services to victims and witnesses,

“victim” includes a prescribed relative of a victim.
- (4) In subsection (3), “prescribed” means prescribed by the Scottish Ministers by order.
- (5) An order under subsection (4) is subject to the negative procedure.>

Commencement

Kenny MacAskill

- 54 In section 30, page 27, line 33, after <sections> insert <26 so far as it inserts the new section 4ZA, 27(1), 27(2) so far as it inserts paragraphs 1, 2 and 5 of the new schedule 1A, 27(3),>

