

**THIS IS NOT THE MARSHALLED LIST**

## **Age of Criminal Responsibility (Scotland) Bill**

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### **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 on the at 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 limit indicated is that 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 the 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: Further increase in the age of criminal responsibility (and of prosecution): age and timescale for increase**

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 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, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 145, 155, 78, 79, 80, 81, 82, 83, 84, 86, 87, 88, 89

#### *Notes on amendments in this group*

Each of the following pairs of amendments are direct alternatives: 1 and 2; 14 and 15; 16 and 17; 18 and 19; 20 and 21; 22 and 23; 24 and 25; 26 and 27; 28 and 29; 30 and 31; 32 and 33; 34 and 35; 36 and 37; 38 and 39; 40 and 41; 42 and 43; 44 and 45; 46 and 47; 48 and 49; 50 and 51; 52 and 53; 54 and 55; 56 and 57; 58 and 59; 60 and 61; 62 and 63; 64 and 65; 66 and 67; 68 and 69; 70 and 71; 72 and 73; 74 and 75; 76 and 77; 88 and 89

#### **Group 2: Disclosure of information: pre-12 convictions**

98, 99, 100, 101, 102, 103, 147

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**Debate to end no later than 40 minutes after proceedings begin**

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**Group 3: Places of safety: use of police stations and police cells within police stations etc.**

148, 149, 149A, 104, 105, 90, 91, 92, 93, 94, 157, 106, 107, 108, 150, 95, 151, 152, 109, 109A, 109B, 153, 139, 141, 96, 156

**Group 4: Appeal processes**

110, 111, 112, 114, 116, 117, 118, 134, 135, 136, 142

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**Debate to end no later than 1 hour 20 minutes after proceedings begin**

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**Group 5: Questioning of certain children: child interview rights practitioner**

113, 115, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 137, 138, 140, 146

**Group 6: Children's hearings: duty to consider need for further reports**

154, 143

*Notes on amendments in this group*

Amendment 154 pre-empts amendment 143

**Group 7: Commencement**

85, 97

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**Debate to end no later than 2 hours after proceedings begin**

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### Amendments in debating order

#### **Group 1: Further increase in the age of criminal responsibility (and of prosecution): age and timescale for increase**

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

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

**Alex Cole-Hamilton**

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

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

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

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

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

- 4 After section 1, insert—

**<Raising the age of criminal responsibility to 14**

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

**“41 Raising the age of criminal responsibility**

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

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

**Alex Cole-Hamilton**

- 5 After section 1, insert—

**<Raising the age of criminal responsibility to 16**

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

**“41 Raising the age of criminal responsibility**

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

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

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**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

**6** After section 1, insert—

**<Raising the age of criminal responsibility to 14**

- (1) The Scottish Ministers must lay regulations before the Parliament to provide that a child under 14 years cannot commit an offence.
- (2) A motion recommending approval of regulations under subsection (1) must be debated by the Parliament by no later than 31 January 2021.
- (3) Regulations under subsection (1)—
  - (a) may modify any enactment (including this Act),
  - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.>

**Alex Cole-Hamilton**

**7** After section 1, insert—

**<Raising the age of criminal responsibility to 16**

- (1) The Scottish Ministers must lay regulations before the Parliament to provide that a child under 16 years cannot commit an offence.
- (2) A motion recommending approval of regulations under subsection (1) must be debated by the Parliament by no later than 31 January 2021.
- (3) Regulations under subsection (1)—
  - (a) may modify any enactment (including this Act),
  - (b) may make incidental, supplementary, consequential, transitional, transitory or saving provision.>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

**8** After section 1, insert—

**<Raising the age of criminal responsibility: further increase**

- (1) The Scottish Ministers must as soon as practicable after the day that the Bill for this Act receives Royal Assent confer on such person as they determine appropriate consideration of the matter referred to in subsection (2).
- (2) The matter referred to in subsection (1) is whether to increase the age at which a child cannot commit an offence to an age higher than 12 years.
- (3) The person on whom this consideration is conferred must—
  - (a) make a report to the Scottish Ministers,
  - (b) make a recommendation within that report as to whether the age at which a child cannot commit an offence should be increased and if so, to what age,
  - (c) make that report to the Scottish Ministers by no later than 31 October 2020.
- (4) The Scottish Ministers must—

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

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

9 After section 1, insert—

**<Raising the age of criminal prosecution**

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

**Alex Cole-Hamilton**

10 After section 1, insert—

**<Raising the age of criminal prosecution**

- (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 41A for “12” in each place it occurs substitute “16”.
- (3) The section title of section 41A becomes “**Prosecution of children under 16**”.
- (4) In section 42 (prosecution of children), in subsection (1), the words “12 years or more but” are repealed.>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

11 After section 1, insert—

**<Prosecution of children under 14**

- (1) In section 41A of the Criminal Procedure (Scotland) Act 1995, for “12” substitute “14” wherever it occurs.

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

### **Alex Cole-Hamilton**

12 After section 1, insert—

#### **<Prosecution of children under 16**

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

### **Alex Cole-Hamilton**

13 Leave out section 2

### **Alex Cole-Hamilton**

**Supported by: Mark McDonald**

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

### **Alex Cole-Hamilton**

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

### **Alex Cole-Hamilton**

**Supported by: Mark McDonald**

16 In section 4A, page 2, line 13, leave out <12> and insert <14>

### **Alex Cole-Hamilton**

17 In section 4A, page 2, line 13, leave out <12> and insert <16>

### **Alex Cole-Hamilton**

**Supported by: Mark McDonald**

18 In section 4A, page 2, line 19, leave out <12> and insert <14>

### **Alex Cole-Hamilton**

19 In section 4A, page 2, line 19, leave out <12> and insert <16>

### **Alex Cole-Hamilton**

**Supported by: Mark McDonald**

20 In section 4A, page 2, line 24, leave out <12> and insert <14>

### **Alex Cole-Hamilton**

21 In section 4A, page 2, line 24, leave out <12> and insert <16>

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**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

22 In section 4A, page 2, line 29, leave out <12> and insert <14>

**Alex Cole-Hamilton**

23 In section 4A, page 2, line 29, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

24 In section 4B, page 2, line 35, leave out <12> and insert <14>

**Alex Cole-Hamilton**

25 In section 4B, page 2, line 35, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

26 In section 5, page 5, line 35, leave out <12> and insert <14>

**Alex Cole-Hamilton**

27 In section 5, page 5, line 35, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

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

**Alex Cole-Hamilton**

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

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

30 In section 6, page 6, line 29, leave out <12> and insert <14>

**Alex Cole-Hamilton**

31 In section 6, page 6, line 29, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

32 In section 9, page 8, line 6, leave out <12> and insert <14>

**Alex Cole-Hamilton**

33 In section 9, page 8, line 6, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

34 In section 9, page 8, line 11, leave out <12> and insert <14>

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**Alex Cole-Hamilton**

35 In section 9, page 8, line 11, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

36 In section 22, page 13, line 30, leave out <12> and insert <14>

**Alex Cole-Hamilton**

37 In section 22, page 13, line 30, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

38 In section 23, page 16, line 6, leave out <12> and insert <14>

**Alex Cole-Hamilton**

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

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

40 In section 25, page 17, line 18, leave out first <12> and insert <14>

**Alex Cole-Hamilton**

41 In section 25, page 17, line 18, leave out first <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

42 In section 25, page 17, line 18, leave out second <12> and insert <14>

**Alex Cole-Hamilton**

43 In section 25, page 17, line 18, leave out second <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

44 In section 25, page 17, line 20, leave out <12> and insert <14>

**Alex Cole-Hamilton**

45 In section 25, page 17, line 20, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

46 In section 26, page 17, line 36, leave out <12> and insert <14>

**Alex Cole-Hamilton**

47 In section 26, page 17, line 36, leave out <12> and insert <16>



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**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

48 In section 31, page 20, line 6, leave out <12> and insert <14>

**Alex Cole-Hamilton**

49 In section 31, page 20, line 6, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

50 In section 31A, page 21, line 4, leave out <12> and insert <14>

**Alex Cole-Hamilton**

51 In section 31A, page 21, line 4, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

52 In section 34, page 23, line 23, leave out <12> and insert <14>

**Alex Cole-Hamilton**

53 In section 34, page 23, line 23, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

54 In section 44, page 29, line 25, leave out <12> and insert <14>

**Alex Cole-Hamilton**

55 In section 44, page 29, line 25, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

56 In section 44, page 29, line 33, leave out <12> and insert <14>

**Alex Cole-Hamilton**

57 In section 44, page 29, line 33, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

58 In section 47, page 31, line 26, leave out <12> and insert <14>

**Alex Cole-Hamilton**

59 In section 47, page 31, line 26, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

60 In section 47, page 31, line 33, leave out <12> and insert <14>

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**Alex Cole-Hamilton**

61 In section 47, page 31, line 33, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

62 In section 47, page 32, line 6, leave out <12> and insert <14>

**Alex Cole-Hamilton**

63 In section 47, page 32, line 6, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

64 In section 47, page 32, line 15, leave out <12> and insert <14>

**Alex Cole-Hamilton**

65 In section 47, page 32, line 15, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

66 In section 48, page 32, line 28, leave out <12> and insert <14>

**Alex Cole-Hamilton**

67 In section 48, page 32, line 28, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

68 In section 48, page 32, line 35, leave out <12> and insert <14>

**Alex Cole-Hamilton**

69 In section 48, page 32, line 35, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

70 In section 61, page 41, line 29, leave out <12> and insert <14>

**Alex Cole-Hamilton**

71 In section 61, page 41, line 29, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

72 In section 61, page 41, line 31, leave out <12> and insert <14>

**Alex Cole-Hamilton**

73 In section 61, page 41, line 31, leave out <12> and insert <16>

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**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

74 In section 61, page 41, line 33, leave out <12> and insert <14>

**Alex Cole-Hamilton**

75 In section 61, page 41, line 33, leave out <12> and insert <16>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

76 In section 62, page 42, line 5, leave out <12> and insert <14>

**Alex Cole-Hamilton**

77 In section 62, page 42, line 5, leave out <12> and insert <16>

**Maree Todd**

145 After section 63A, insert—

### <PART

#### REVIEW OF AGE OF CRIMINAL RESPONSIBILITY

##### **Review of age of criminal responsibility**

- (1) The Scottish Ministers must—
  - (a) during the review period, review the operation of this Act—
    - (i) generally, and
    - (ii) with a view to considering the future age of criminal responsibility, and
  - (b) prepare and publish a report on that review.
- (2) The Scottish Ministers must lay a copy of the report before the Scottish Parliament.
- (3) In carrying out the review, the Scottish Ministers must consult such persons as they consider appropriate.
- (4) The report on the review must be prepared, published and laid before the Scottish Parliament no later than 12 months after the end of the review period.
- (5) The “review period” is the period of 3 years beginning with the day on which section 1 comes into force.>

**Maree Todd**

155 After section 63A, insert—

##### **<Provision of information**

- (1) The Scottish Ministers may, for a purpose mentioned in subsection (2), require a person mentioned in subsection (3) to provide them with such information as the person holds in relation to the exercise of functions under Part 4 of this Act as they consider appropriate.
- (2) The purposes are—
  - (a) the carrying out of the review mentioned in section (*Review of age of criminal responsibility*),

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- (b) the monitoring of the exercise of functions under Part 4 following the end of the review period mentioned in that section.
- (3) The persons are—
  - (a) the chief constable of the Police Service of Scotland,
  - (b) the Scottish Courts and Tribunals Service,
  - (c) a local authority,
  - (c) Children’s Hearings Scotland,
  - (d) the Scottish Children’s Reporter Administration,
  - (e) the Scottish Legal Aid Board,
  - (f) the Crown Office and Procurator Fiscal Service.>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

**78** In section 66, page 44, line 13, at end insert—

<( ) section (*Raising the age of criminal responsibility to 14*)(1),>

**Alex Cole-Hamilton**

**79** In section 66, page 44, line 13, at end insert—

<( ) section (*Raising the age of criminal responsibility to 16*)(1),>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

**80** In section 66, page 44, line 13, at end insert—

<( ) section (*Raising the age of criminal responsibility: further increase*)(5),>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

**81** In section 66, page 44, line 20, after second <section> insert <1(3), (*Prosecution of children under 14*)(3) or>

**Alex Cole-Hamilton**

**82** In section 66, page 44, line 20, after second <section> insert <1(3), (*Prosecution of children under 16*)(3) or>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

**83** In section 68, page 44, line 28, at beginning insert <Sections 1, (*Prosecution of children under 14*), 3,>

**Alex Cole-Hamilton**

**84** In section 68, page 44, line 28, at beginning insert <Sections 1, (*Prosecution of children under 16*), 3,>

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**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

**86** In section 68, page 44, line 28, at end insert—

<( ) Sections (*Raising the age of criminal responsibility to 14*) and 2 come into force 18 months after the day that the Bill for this Act receives Royal Assent.>

**Alex Cole-Hamilton**

**87** In section 68, page 44, line 28, at end insert—

<( ) Sections (*Raising the age of criminal responsibility to 16*) and 2 come into force 18 months after the day that the Bill for this Act receives Royal Assent.>

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

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

**Alex Cole-Hamilton**

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

**Group 2: Disclosure of information: pre-12 convictions**

**Maree Todd**

**98** In section 4A, page 2, line 10, leave out <(1)> and insert <(1C)>

**Maree Todd**

**99** In section 4B, page 3, line 4, at end insert—

<( ) the person was interviewed by virtue of section 31A(2),>

**Maree Todd**

**100** In section 4C, page 4, line 12, leave out <section 4D> and insert <sections 4D and (*Further limitations on sections 4C and 4D*)>

**Maree Todd**

**101** In section 4E, page 5, line 21, at end insert—

<( ) In subsection (4)(a)—

(a) the purpose for which an enhanced criminal record certificate is provided means the prescribed purpose mentioned in section 113B(2) of the 1997 Act, and

(b) the purpose for which a scheme record is provided means the purpose mentioned in disclosure condition C in section 55 of the 2007 Act.>

**Maree Todd**

**102** After section 4E, insert—

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### <Further limitations on sections 4C and 4D

- (1) Section 4C does not apply to the determination of any issue, or to the admission or requirement of any evidence, relating to relevant behaviour of a person, or to circumstances ancillary to such behaviour, in any proceedings for the time being mentioned in subsection (2).
- (2) Those proceedings are—
  - (a) any criminal proceedings (including any appeal or reference in a criminal matter),
  - (b) any proceedings under Part 2 of the Sexual Offences Act 2003, or on appeal from any such proceedings,
  - (c) any proceedings on an application under section 2, 4 or 5 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 or in any appeal under section 6 of that Act,
  - (d) any proceedings relating to parental responsibilities or parental rights (within the meaning of section 1(3) and section 2(4) respectively of the Children (Scotland) Act 1995), guardianship, adoption or the provision by any person of accommodation, care or schooling for children under the age of 18 years,
  - (e) any proceedings under Part II of the Children (Scotland) Act 1995 or under the Children's Hearings (Scotland) Act 2011,
  - (f) any proceedings in which the person is a party or a witness, provided that, on the occasion when the issue or the admission or requirement of the evidence falls to be determined, the person consents to the determination of the issue or, as the case may be, the admission or requirement of the evidence despite the provisions of section 4C,
  - (g) in any proceedings brought under Part 7 of the Coroners and Justice Act 2009 (criminal memoirs etc.).
- (3) Despite the provisions of section 4C, a judicial authority in judicial proceedings (not being proceedings mentioned in subsection (2))—
  - (a) may admit or, as the case may be, require evidence relating to relevant behaviour of a person or to circumstances ancillary to such behaviour, and
  - (b) may determine any issue to which that evidence relates,if the judicial authority is satisfied, in the light of any considerations which appear to it to be relevant (including any evidence which has been or may subsequently be put before it), that justice cannot be done in the case except by admitting or requiring that evidence.
- (4) The Scottish Ministers may by regulations—
  - (a) modify subsection (2) to—
    - (i) add proceedings to those mentioned in that subsection,
    - (ii) vary a description of such proceedings,
    - (iii) remove proceedings from that subsection,
  - (b) make provision excluding the application of section 4C in relation to such other proceedings as may be specified in the regulations to such extent and for such purposes as may be so specified,

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- (c) make provision excluding or modifying the application of section 4D(1) in relation to questions put in such circumstances as may be specified in the regulations,
- (d) provide for such exceptions from the provisions of section 4D(2) and (3) as seem to them appropriate, in such cases or classes of case, and in relation to relevant behaviour of such a description, as may be specified in the regulations.>

### Maree Todd

103 In section 5, page 6, line 8, at end insert—

<( ) In section 113B (enhanced criminal record certificates) of the 1997 Act, after subsection (4) insert—

“(4A) For the avoidance of doubt, information such as is mentioned in subsection (4) may include information with respect to relevant behaviour (within the meaning of section 4B(1)(a) of the Age of Criminal Responsibility (Scotland) Act 2019).”.

( ) In section 49 (vetting information) of the 2007 Act, after subsection (1) insert—

“(1A) For the avoidance of doubt, information such as is mentioned in subsection (1)(c) may include information with respect to relevant behaviour (within the meaning of section 4B(1)(a) of the Age of Criminal Responsibility (Scotland) Act 2019).”.>

### Maree Todd

147 In section 66, page 44, line 14, at end insert—

<( ) section (*Further limitations on sections 4C and 4D*)(4),>

### **Group 3: Places of safety: use of police stations and police cells within police stations etc.**

#### Daniel Johnson

148 In section 23, page 16, line 10, leave out from <it> to end of line 11 and insert <the circumstances set out in guidance under section (*section 23:guidance*) apply.>

#### Daniel Johnson

149 In section 23, page 16, line 20, after <if> insert <—

- (a) the child is behaving in a violent manner that is causing or risks causing significant harm to another person, and
- (b) a constable of the rank of inspector or above considers that>

### Maree Todd

149A As an amendment to amendment 149, leave out lines 2 and 3

### Maree Todd

104 In section 23, page 16, line 21, at end insert—

<(5A) But a child must not be kept in a cell within a police station.

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(5B) Subsection (5A) does not apply if (and only for as long as) a constable of the rank of inspector or above considers that it is not reasonably practicable for the child to be kept elsewhere within the police station.>

**Maree Todd**

**105** In section 23, page 16, line 22, after <station> insert <(whether in a cell or elsewhere)>

**Alex Cole-Hamilton**

**90** In section 23, page 16, line 25, at end insert—

<( ) For the avoidance of doubt, where a child is kept in a place of safety that is a police station, that child must not be kept in a police cell.>

**Alex Cole-Hamilton**

**91** In section 23, page 16, line 25, at end insert—

<( ) Where a child under 14 years of age is kept in a place of safety that is a police station, that child must not be kept in a police cell.>

**Alex Cole-Hamilton**

**92** In section 23, page 16, line 25, at end insert—

<( ) Where a child under 16 years of age is kept in a place of safety that is a police station, that child must not be kept in a police cell.>

**Alex Cole-Hamilton**

**93** In section 23, page 16, line 25, at end insert—

<( ) Where a child is kept in a place of safety that is a police station, that child may only be kept in a police cell if a constable in that police station has received authorisation to do so in accordance with section (*Application to keep a child under 12 years of age in a police cell*).>

**Alex Cole-Hamilton**

**94** In section 23, page 16, line 25, at end insert—

<( ) Where a child is kept in a place of safety that is a police station, that child may only be kept in a police cell if—

- (a) a constable who is of, or above, the rank of inspector makes an application to a sheriff to keep that child in a police cell, and
- (b) the sheriff determining the application makes an order authorising the keeping of that child in a police cell.>

**Maree Todd**

**157** In section 23, page 16, line 25, at end insert—

<( ) This section does not affect any other power by virtue of which a constable may take a child to a place of safety.>

**Maree Todd**

**106** In section 23, page 16, line 28, leave out <, in relation to a child,>



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**Maree Todd**

107 In section 23, page 16, line 36, leave out from beginning to <available,> in line 37

**Maree Todd**

108 In section 23, page 16, line 37, at end insert <(but see subsections (5) to (6))>

**Daniel Johnson**

150 In section 23, page 16, line 37, at end insert <(but see subsection (5))>

**Alex Cole-Hamilton**

95 After section 23, insert—

**<Application to keep a child of under 12 years of age in a police cell**

- (1) A constable may apply to—
  - (a) a sheriff,
  - (b) a social worker within the meaning given by section 77(1) of the Regulation of Care (Scotland) Act 2001,
  - (c) such other person as the Scottish Ministers may prescribe by regulations.for authorisation to keep a child under 12 years of age in a police cell.
- (2) An application under subsection (1) must—
  - (a) identify the applicant,
  - (b) identify the child in respect of whom the authorisation is sought,
  - (c) in so far as practicable, identify a parent of the child,
  - (d) state the reasons for making the application,
  - (e) be accompanied by supporting evidence to enable the person to whom the application has been made to determine the application.
- (3) Before determining the application, the person to whom the application has been made must consider whether any of the following persons should be given an opportunity to make representations—
  - (a) the applicant,
  - (b) the child in respect of whom the application is made,
  - (c) a parent of the child,
  - (d) any other person considered to have an interest in the application.
- (4) The person to whom the application has been made may—
  - (a) authorise the application, or
  - (b) refuse the application.
- (5) Where the decision is made to refuse the application, the applicant may be required to identify an alternative—
  - (a) suitable place within the police station, or
  - (b) place of safety.

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- (6) For the purposes of this section, authorisation may only be sought by a constable who is of, or above, the rank of inspector.>

### Daniel Johnson

151 After section 23, insert—

#### <Section 23: list of places of safety

- (1) The Scottish Ministers must compile and maintain a list of places of safety.
- (2) For the purposes of compiling this list the Scottish Ministers must consult—
  - (a) the chief constable,
  - (b) each local authority,
  - (c) such other persons as they consider appropriate.
- (3) The Scottish Ministers may modify the list compiled and maintained under subsection (1) by—
  - (a) including a place of safety in the list,
  - (b) removing a place of safety from the list.
- (4) The list must include information on the times at which each place of safety listed will be available for use.
- (5) The Scottish Ministers must—
  - (a) make the list compiled and maintained under subsection (1) available to the persons mentioned at subsection (2),
  - (b) publish the list in such manner as they consider appropriate.>

### Ruth Maguire

152 In section 24, page 17, line 10, at end insert <

- ( ) the information to be recorded in relation to the taking and keeping of the child in a place of safety, including requiring records to be kept as to—
- (i) the nature of the incident in connection with which the child was taken to and kept in the place of safety,
  - (ii) the nature and location of each place of safety to which the child was taken or transferred,
  - (iii) the length of time the child was kept at each such location,
  - (iv) whether the child was at any time kept in a police station and, if so, the reasons why it was not reasonably practicable to keep the child in a place of safety other than a police station for the time the child was so kept,
  - (v) whether the child was at any time kept in a cell within a police station and, if so, the length of time the child was so kept and the reasons why it was not reasonably practicable to keep the child elsewhere within the police station for that time.>

### Maree Todd

109 After section 24, insert—

#### <Section 23: guidance

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- (1) The Scottish Ministers—
  - (a) must issue guidance to the persons mentioned in subsection (3) about such matters relating to the exercise of the power conferred by section 23 as they consider appropriate, and
  - (b) may, from time to time, issue revised guidance.
- (2) Guidance under subsection (1) may in particular cover—
  - (a) co-operation between the persons mentioned in subsection (3) with a view to identifying (including in advance of any exercise of the power conferred by section 23) places within a particular area which are suitable for use as a place of safety for the purposes of section 23,
  - (b) processes to be put in place by those persons—
    - (i) to minimise the number of occasions on which it is not reasonably practicable to keep a child in a place of safety other than a police station,
    - (ii) to ensure that the need to safeguard and promote the wellbeing of the child being kept in a place of safety is treated as a primary consideration in accordance with section 59(2),
  - (c) the keeping of a child who is being kept in a place of safety that is a police station in a cell.
- (3) The persons are—
  - (a) the chief constable,
  - (b) local authorities.
- (4) A person mentioned in subsection (3) must have regard to guidance issued under subsection (1).
- (5) Before issuing guidance under subsection (1), the Scottish Ministers must consult—
  - (a) the chief constable,
  - (b) each local authority,
  - (c) such other persons as they consider appropriate.>

### **Daniel Johnson**

**109A** As an amendment to amendment 109, line 8, at end insert—

<(za) what constitutes significant harm,>

### **Daniel Johnson**

**109B** As an amendment to amendment 109, line 8, at end insert—

<(zaa)the circumstances under which a constable may exercise the constable's power to take a child to a place of safety,>

### **Ruth Maguire**

**153** After section 24, insert—

#### **<Section 23: reporting**

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period—

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- (a) prepare a report containing, in relation to that period, such information on the exercise of the power conferred by section 23 as the Scottish Ministers may by regulations specify,
  - (b) lay a copy of the report before the Scottish Parliament, and
  - (c) publish the report in such manner as they consider appropriate.
- (2) In this section, “reporting period” means—
- (a) the year beginning with the day on which section 23 comes into force, and
  - (b) each successive period of one year.
- (3) The Scottish Ministers may by regulations substitute for the number of years for the time being specified in subsection (2)(b) another number of years.>

### **Maree Todd**

- 139 In section 63, page 42, line 22, at end insert <,  
“chief constable” means the chief constable of the Police Service of Scotland,>

### **Maree Todd**

- 141 In section 63, page 42, line 28, at end insert <,  
“place of safety” has the meaning given by section 23(8),>

### **Alex Cole-Hamilton**

- 96 In section 66, page 44, line 8, at end insert—  
<( ) section (*Application to keep a child under 12 years of age in a police cell*)(1)(c),>

### **Ruth Maguire**

- 156 In section 66, page 44, line 15, at end insert—  
<( ) section (*Section 23: reporting*)(1)(a) and (3),>

## **Group 4: Appeal processes**

### **Maree Todd**

- 110 In section 30, page 19, line 27, after <sheriff> insert <, on an application made by a constable or by or on behalf of the child to whom the decision relates,>

### **Maree Todd**

- 111 In section 30, page 19, line 28, leave out subsection (2) and insert—  
<( ) Permission to appeal against such a decision must be applied for—
- (a) where an order is made under section 28, before the end of the period of 3 working days beginning with the day after the day on which the child is provided with a copy of the order under section 29,
  - (b) where the sheriff refuses to make such an order, before the end of the period of 3 working days beginning with the day after the day on which the decision is made.

## THIS IS NOT THE MARSHALLED LIST

- ( ) An appeal against the decision of the sheriff under section 28 must be taken before the end of the period of 3 working days beginning with the day on which permission to appeal is given.>

### Maree Todd

112 In section 30, page 19, line 31, at end insert—

- <(4) Subsection (5) applies where—
  - (a) the Sheriff Appeal Court upholds or varies the order appealed against, and
  - (b) the order as upheld or varied authorises an action mentioned in section 28(4) which, at the time the appeal is determined, has not been carried out.
- (5) The Sheriff Appeal Court may, in substitution for the period mentioned in section 28(5), specify a period for which any such action is authorised.
- (6) Any period specified by virtue of subsection (5) must not exceed 7 days beginning with the day on which the appeal is determined.>

### Maree Todd

114 In section 35, page 24, line 21, leave out <in so far as practicable, explain the information contained in> and insert <explain>

### Maree Todd

116 In section 43, page 24, line 29, after <sheriff> insert <, on an application made by a constable or by or on behalf of the child to whom the decision relates,>

### Maree Todd

117 In section 43, page 24, line 30, leave out subsection (2) and insert—

- <( ) Permission to appeal against such a decision must be applied for—
  - (a) where a child interview order is made, before the end of the period of 3 working days beginning with the day after the day on which the child is provided with a copy of the order under section 35,
  - (b) where the sheriff refuses to make such an order, before the end of the period of 3 working days beginning with the day after the day on which the decision is made.
- ( ) An appeal against the decision of the sheriff under section 34 must be taken before the end of the period of 3 working days beginning with the day on which permission to appeal is given.>

### Maree Todd

118 In section 43, page 24, line 33, at end insert—

- <(4) Subsection (5) applies where—
  - (a) the Sheriff Appeal Court upholds or varies the order appealed against, and
  - (b) the investigative interview authorised by the order has not been completed at the time the appeal is determined.
- (5) The Sheriff Appeal Court may, in substitution for the period mentioned in section 34(7) (or any period specified by virtue of that section), specify—

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- (a) a period (not exceeding 7 days) at the end of which the child interview order is to cease to have effect, and
- (b) the day on which that period is to begin.>

### Maree Todd

- 134 In section 56, page 37, line 18, after <sheriff> insert <, on an application made by a constable or by or on behalf of the child to whom the decision relates,>

### Maree Todd

- 135 In section 56, page 37, line 19, leave out subsection (2) and insert—
- <( ) Permission to appeal against such a decision must be applied for—
    - (a) where an order under section 52 is made, before the end of the period of 3 working days beginning with the day after the day on which the child is provided with a copy of the order under section 53,
    - (b) where the sheriff refuses to make such an order, before the end of the period of 3 working days beginning with the day after the day on which the decision is made.
  - ( ) An appeal against the decision of the sheriff under section 52 must be taken before the end of the period of 3 working days beginning with the day on which permission to appeal is given.>

### Maree Todd

- 136 In section 56, page 37, line 25, at end insert—
- <(4) Subsection (5) applies where—
    - (a) the Sheriff Appeal Court upholds or varies the order appealed against,
    - (b) the order as upheld or varied authorises the taking of relevant physical data or relevant samples which, at the time the appeal is determined, have not been taken.
  - (5) The Sheriff Appeal Court may, in substitution for the period mentioned in subsection (4)(b)(i) of section 52 (or any period specified by virtue of subsection (4)(b)(ii) of that section), specify the period within which that data or those samples may be taken.
  - (6) Any period specified by virtue of subsection (5) must not, except on cause shown, exceed 7 days beginning with the day on which the appeal is determined.>

### Maree Todd

- 142 In section 63, page 42, line 32, at end insert <,  
“working day” means any day other than a Saturday, a Sunday or a day which, under the Banking and Financial Dealings Act 1971, is a bank holiday in Scotland.>

## **Group 5: Questioning of certain children: child interview rights practitioner**

### Maree Todd

- 113 In section 31B, page 22, line 26, leave out <advocacy worker> and insert <child interview rights practitioner>

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**Maree Todd**

- 115 In section 35, page 24, line 24, leave out <advocacy worker> and insert <child interview rights practitioner>

**Maree Todd**

- 119 In section 36, page 25, line 35, leave out <advocacy worker> and insert <child interview rights practitioner>

**Maree Todd**

- 120 In section 38, page 26, line 20, leave out from <(other> to <2016)> in line 21

**Maree Todd**

- 121 In section 40, page 27, line 29, after <receive> insert <advice,>

**Maree Todd**

- 122 In section 40, page 27, line 29, leave out <an advocacy worker> and insert <a child interview rights practitioner>

**Maree Todd**

- 123 In section 40, page 27, line 30, leave out <advocacy worker> and insert <child interview rights practitioner>

**Maree Todd**

- 124 In section 40, page 27, line 32, leave out <advocacy worker> and insert <child interview rights practitioner>

**Maree Todd**

- 125 In section 40, page 27, line 33, at end insert—
- <(5A) A child interview rights practitioner must—
    - (a) so far as reasonably practicable, ascertain the views of the child in relation to—
      - (i) the extent to which the child wishes to receive advice, support and assistance from the practitioner, and
      - (ii) the ways in which advice, support and assistance is to be provided, and
    - (b) have regard to any views ascertained.
  - (5B) In having regard to the views of the child under subsection (5A), the child interview rights practitioner is to take account of the child’s age and maturity.>

**Maree Todd**

- 126 In section 40, page 27, line 34, before <support> insert <advice,>

**Maree Todd**

- 127 In section 40, page 27, line 34, leave out <advocacy worker> and insert <child interview rights practitioner>

**THIS IS NOT THE MARSHALLED LIST**

**Maree Todd**

128 In section 40, page 28, line 1, at end insert—

<( ) making recommendations to the child about the exercise of the child’s rights in relation to the interview,>

**Maree Todd**

129 In section 40, page 28, line 11, leave out subsections (7) to (11) and insert—

<(7) A child interview rights practitioner is a person who is authorised, by virtue of being included in the register established and maintained under section (*Register of child interview rights practitioners*)(1), to provide advice, support and assistance to children in relation to their involvement in investigative interviews authorised by virtue of section 31A(2) or by a child interview order.>

**Maree Todd**

130 In section 41, page 28, line 33, leave out <advocacy worker> and insert <child interview rights practitioner>

**Maree Todd**

131 In section 45, page 30, line 22, leave out <an advocacy worker> and insert <a child interview rights practitioner>

**Maree Todd**

132 After section 45, insert—

*<Register of child interview rights practitioners*

**Register of child interview rights practitioners**

- (1) The Scottish Ministers must establish and maintain a register of persons who are authorised to provide advice, support and assistance to children in relation to their involvement in investigative interviews.
- (2) A person may be included in the register only if the person is a solicitor who is entitled to provide children’s legal assistance under section 28M of the Legal Aid (Scotland) Act 1986.
- (3) The Scottish Ministers may by regulations make further provision in connection with—
  - (a) the register (including the establishment and maintenance of the register),
  - (b) child interview rights practitioners (including provision for the payment of expenses, fees and allowances to such practitioners by the Scottish Ministers).
- (4) Regulations under subsection (3)(b) may in particular include provision—
  - (a) about how child interview rights practitioners are appointed to cases, and
  - (b) requiring, so far as reasonably practicable, the views of the child involved in the case as to the appointment of a particular child interview rights practitioner to be ascertained and, taking account of the child’s age and maturity, had regard to.
- (5) In this section—

“investigative interview” means an investigative interview authorised by virtue of section 31A(2) or by a child interview order,



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“solicitor” means a solicitor enrolled in the roll of solicitors kept under section 7 of the Solicitors (Scotland) Act 1980.>

### Maree Todd

- 133 In section 46, page 31, line 11, leave out <advocacy workers> and insert <child interview rights practitioners>

### Maree Todd

- 137 In section 63, page 42, line 21, at end insert <,  
“advice, support and assistance” has the meaning given by section 40(6),>

### Maree Todd

- 138 In section 63, page 42, leave out line 22

### Maree Todd

- 140 In section 63, page 42, line 24, at end insert <,  
“child interview rights practitioner” has the meaning given by section 40(7),>

### Maree Todd

- 146 In section 66, page 44, line 9, at end insert—  
<( ) section (*Register of child interview rights practitioners*)(3),>

## **Group 6: Children’s hearings: duty to consider need for further reports**

### John Finnie

- 154 Leave out section 63A and insert—  
**<Children’s hearings: duty to consider need for further reports**
- (1) The 2011 Act is amended as follows.
  - (2) In section 91 (grounds accepted: powers of grounds hearing), after subsection (3) insert—  
“(3A) In deciding whether to exercise the power conferred by subsection (2), the grounds hearing must consider whether to require the Principal Reporter to obtain any report, from any person, which the grounds hearing considers relevant to any matter to be determined by the subsequent children’s hearing.”.
  - (3) In section 119 (children’s hearing following deferral or proceedings under Part 10), after subsection (3) insert—  
“(3A) In deciding whether to exercise the power conferred by subsection (2), the children’s hearing must consider whether to require the Principal Reporter to obtain any report, from any person, which the children’s hearing considers relevant to any matter to be determined by the subsequent children’s hearing.”.
  - (4) In section 138 (powers of children’s hearing on review), after subsection (3) insert—

## **THIS IS NOT THE MARSHALLED LIST**

“(3A) In deciding whether to exercise the power conferred by subsection (2), the children’s hearing must consider whether to require the Principal Reporter to obtain any report, from any person, which the children’s hearing considers relevant to any matter to be determined by the subsequent children’s hearing.”.>

**Maree Todd**

**143** Leave out section 63A

### **Group 7: Commencement**

**Alex Cole-Hamilton**

**Supported by: Mark McDonald**

**85** In section 68, page 44, line 28, at beginning insert <Part 1,>

**Alex Cole-Hamilton**

**97** In section 68, page 44, line 28, at beginning insert <Part 4,>

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