

Abusive Behaviour and Sexual Harm (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 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 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: Offence of disclosing, or threatening to disclose, intimate photograph or film – extension to cover intimate voice recording or written communication

3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14

Group 2: Offence of disclosing, or threatening to disclose, intimate photograph or film – defence where intimate situation was in public

29

Group 3: Rights in relation to recovery of documents in sexual offence cases – awareness raising campaign

30

Group 4: Sexual harm prevention orders and sexual risk orders

15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27

Group 5: Section 2 – Special provision in relation to providers of information society services

28

Debate to end no later than 55 minutes after proceedings begin

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Amendments in debating order

Group 1: Offence of disclosing, or threatening to disclose, intimate photograph or film – extension to cover intimate voice recording or written communication

Margaret McDougall

- 3 In section 2, page 2, line 19, leave out from <a> to end of line 20 and insert <an item mentioned in subsection (1A) that involves another person (“B”) in a way mentioned in that subsection,>

Margaret McDougall

- 4 In section 2, page 2, line 23, leave out <photograph or film> and insert <item>

Margaret McDougall

- 5 In section 2, page 2, line 24, at end insert—

<(1A) The items are—

- (a) a photograph or film which shows, or appears to show, B in an intimate situation,
- (b) a sound recording of—
 - (i) an intimate situation which B was in,
 - (ii) an intimate conversation to which B was a party, or
 - (iii) an intimate message left by or for B,
- (c) any intimate written communication to or from B (however recorded, communicated or sent).>

Margaret McDougall

- 6 In section 2, page 2, line 25, leave out <a photograph or film> and insert <an item>

Margaret McDougall

- 7 In section 2, page 2, line 30, leave out <photograph or film> and insert <item>

Margaret McDougall

- 8 In section 2, page 2, line 31, leave out <photograph or film> and insert <item>

Margaret McDougall

- 9 In section 2, page 2, line 32, leave out <photograph or film> and insert <item>

Margaret McDougall

- 10 In section 2, page 2, line 34, leave out <photograph or film> and insert <item>

Margaret McDougall

- 11 In section 2, page 2, line 36, leave out <photograph or film> and insert <item>

Margaret McDougall

- 12 In section 2, page 3, line 3, after <(1)> insert <involving an item of the kind mentioned in subsection (1A)(a),>

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Margaret McDougall

- 13 In section 3, page 3, line 20, leave out <section 2> and insert<—
() section 2(1A)(a) and (b)(i) and (5),>

Margaret McDougall

- 14* In section 3, page 3, line 25, at end insert <,
() section 2(1A)(b)(ii) and (iii) and (c), a conversation, message or communication is intimate if—
(i) it consists of or includes—
(A) references to an act which a reasonable person would consider to be a sexual act, or
(B) content that, taken as a whole, a reasonable person would consider to be sexual in nature, and
(ii) it is of a nature which a reasonable person would expect to be—
(A) not distributed beyond the partners in an intimate personal relationship, or
(B) otherwise kept private.>

Group 2: Offence of disclosing, or threatening to disclose, intimate photograph or film – defence where intimate situation was in public

Elaine Murray

- 29 In section 2, page 3, line 5, after <film,> insert—
<() B was not in the intimate situation as a result of a deliberate act of another person to which B did not agree,>

Group 3: Rights in relation to recovery of documents in sexual offence cases – awareness raising campaign

Margaret Mitchell

Supported by: Alison McInnes

- 30 After section 6, insert—

<CHAPTER

RIGHTS IN RELATION TO RECOVERY OF DOCUMENTS IN SEXUAL OFFENCE CASES

Rights in relation to recovery of documents in sexual offence cases: awareness raising campaign

In section 301A (recovery of documents) of the 1995 Act, after subsection (9) insert—

- “(9A) The Scottish Ministers must take such steps as they consider appropriate to raise public awareness, in relation to cases of the type mentioned in subsection (9B), of complainers’ rights—

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- (a) to be heard before an order of the kind mentioned in subsection (3) is granted,
 - (b) to be represented in any proceedings in relation to an application for such an order, and
 - (b) to apply for assistance from the Scottish Legal Aid Fund in connection with such proceedings.
- (9B) The type of cases referred to in subsection (9A) are cases where—
- (a) an application is made, in the sheriff court or the High Court, for an order of a kind referred to in subsection (3), and
 - (b) the application—
 - (i) is made in connection with the trial of a person charged with an offence to which section 288C of this Act applies, and
 - (ii) seeks the recovery of any psychiatric, psychological or medical records of the complainer.
- (9C) In subsections (9A) and (9B), “complainer” means the person against whom the offence which is the subject of the criminal proceedings to which the application for the order relates is alleged to have been committed.”.>

Group 4: Sexual harm prevention orders and sexual risk orders

Michael Matheson

- 15 In section 17, page 16, line 33, at end insert <while the order has effect>

Michael Matheson

- 16 In section 19, page 18, line 21, leave out <sheriff> and insert <court>

Michael Matheson

- 17 In section 19, page 18, line 34, leave out <sheriff> and insert <court>

Michael Matheson

- 18 In section 19, page 18, line 34, at end insert—

<() In subsections (7) and (8), “court” includes “sheriff” (except in “rules of court”).>

Michael Matheson

- 19 In section 20, page 19, line 12, leave out <by separate application> and insert <in such way as rules of court may provide>

Michael Matheson

- 20 In section 21, page 19, line 34, at end insert—

<() An order under section 10 made on appeal is to be regarded for the purposes of section 19(3) as having been made by the court which dealt with the question of whether an order under that section should be made at first instance.>

THIS IS NOT THE MARSHALLED LIST

Michael Matheson

- 21 In section 21, page 20, line 2, at end insert—
<() An order under section 11 made on appeal is to be regarded for the purposes of section 19(3) as having been made by the sheriff who determined the application for the order at first instance.>

Michael Matheson

- 22 In section 30, page 25, line 21, leave out <by separate application> and insert <in such way as rules of court may provide>

Michael Matheson

- 23 In section 31, page 26, line 9, at end insert—
<() An order under section 26 made on appeal is to be regarded for the purposes of section 29(1) as having been made by the sheriff who determined the application for the order at first instance.>

Michael Matheson

- 24 In section 31A, page 26, line 12, leave out <sheriff> and insert <court>

Michael Matheson

- 25 In section 31A, page 26, line 15, leave out <sheriff> and insert <court>

Michael Matheson

- 26 In section 31A, page 26, line 17, at end insert—
<() In this section, “court” includes “sheriff”.>

Michael Matheson

- 27 In section 36, page 29, line 32, at end insert <while the relevant order has effect>

Group 5: Section 2 – Special provision in relation to providers of information society services

Michael Matheson

- 28 In schedule 1, page 35, leave out lines 21 and 22

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