

Abusive Behaviour and Sexual Harm (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 44
Long title

Schedules 1 and 2

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 2

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),>

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,>

Section 3

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.>

After section 6

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—

- (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.”.>

Section 17

Michael Matheson

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

Section 19

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”).>

Section 20

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>

Section 21

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.>

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.>

Section 30

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>

Section 31

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.>

Section 31A

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”.>

Section 36

Michael Matheson

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

Schedule 1

Michael Matheson

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

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