

Community Justice (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 and 2	Schedule 1
Sections 3 to 33	Schedule 2
Sections 34 to 37	Long Title

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

Section 1

Paul Wheelhouse

- 1 In section 1, page 1, line 8, after <to> insert <bail conditions,>

Paul Wheelhouse

- 2 In section 1, page 1, line 9, leave out <offenders in the community> and insert <persons falling within subsection (2A), (2D) or (2E)>

Paul Wheelhouse

- 3 In section 1, page 1, line 9, after <to> insert <them not offending in future or, if that is not realistic,>

Paul Wheelhouse

- 4 In section 1, page 1, line 10, leave out <reoffending> and insert <future offending>

Paul Wheelhouse

- 5 In section 1, page 1, line 11, leave out <offenders in the community> and insert <persons falling within subsection (2A), (2D) or (2E)>

Paul Wheelhouse

- 6 In section 1, page 1, line 13, leave out from <offenders> to end of line 14 and insert <persons who have been convicted of offences and sentenced to imprisonment or detention in penal institutions for release.>

Alison McInnes

- 94 In section 1, page 1, line 14, at end insert—

<() designing, managing and arranging general services for persons identified as at serious risk of first time offending.>

Margaret McDougall

95 In section 1, page 1, line 14, at end insert—

<() managing and supporting persons who—

(i) fall within subsection (2A), (2D) or (2E),

(ii) are being prepared for release, having been convicted of offences and sentenced to imprisonment or detention in penal institutions,

in ways which take into account the safety of other persons in the community, including victims of offences and their families.>

Alison McInnes

66 In section 1, page 1, line 17, after <providing> insert <—

()>

Paul Wheelhouse

7 In section 1, page 1, line 17, after second <to> insert <eliminate or>

Paul Wheelhouse

8 In section 1, page 1, line 17, leave out <reoffending> and insert <future offending>

Alison McInnes

67 In section 1, page 1, line 17, at end insert—

<() emotional and practical support designed to eliminate or reduce future offending,>

Paul Wheelhouse

9 In section 1, page 1, line 19, after third <to> insert <eliminate or>

Paul Wheelhouse

10 In section 1, page 1, line 20, leave out <reoffending> and insert <future offending>

Alison McInnes

96 In section 1, page 1, line 21, at end insert—

<() In subsection (1)(d), “preparing” includes assisting such persons by facilitating continuity of health care, including mental health care.>

Paul Wheelhouse

11 In section 1, page 1, line 21, at end insert—

<(2A) A person falls within this subsection if the person—

(a) has, whether before or after this section comes into force, been the subject of an act mentioned in subsection (2B), and

- (b) is not for the time being imprisoned or detained in a penal institution (whether in consequence of the act or otherwise).
- (2B) The acts referred to in subsection (2A)(a) are—
 - (a) conviction for an offence,
 - (b) the making, in respect of an offence, of a relevant finding (see subsection (4)(b)),
 - (c) being given an alternative to prosecution in respect of an offence,
 - (d) arrest on suspicion of having committed an offence by any person having power to do so in respect of the offence.
- (2C) Subsection (2B) includes acts occurring anywhere in the world.
- (2D) A person falls within this subsection if the person is the subject of a recognised EU supervision measure.
- (2E) A person falls within this subsection if the person—
 - (a) is aged 16 or 17, and
 - (b) is subject to a compulsory supervision order made by virtue of the ground mentioned in section 67(2)(j) of the Children’s Hearings (Scotland) Act 2011.>

Paul Wheelhouse

- 12 In section 1, page 1, line 22, at end insert—
 - <“bail conditions” means—
 - (a) conditions imposed by courts in relation to grants of bail,
 - (b) recognised EU supervision measures,>

Paul Wheelhouse

- 13 In section 1, page 1, line 26, after <227A> insert <or 227M>

Paul Wheelhouse

- 14 In section 1, page 1, line 26, leave out <Criminal Procedure (Scotland) Act 1995> and insert <1995 Act>

Paul Wheelhouse

- 15 In section 1, page 2, line 2, leave out <Criminal Procedure (Scotland) Act 1995> and insert <1995 Act>

Alison McInnes

- 68 In section 1, page 2, line 3, at end insert <including services and support in relation to—
 - (a) housing,
 - (b) employment,
 - (c) education,
 - (d) looked-after children,
 - (e) alcohol and drug dependency,

- (f) physical and emotional childhood and adolescent trauma,>

Alison McInnes

- 69* In section 1, page 2, line 3, at end insert <including services and support in relation to housing,>

Paul Wheelhouse

- 16 In section 1, page 2, leave out lines 4 to 7

Paul Wheelhouse

- 17 In section 1, page 2, line 9, after <institution> insert <in consequence of conviction of offences>

Paul Wheelhouse

- 18 In section 1, page 2, line 14, at end insert—

<“recognised EU supervision measure” means a measure imposed in another member State of the European Union which is recognised in Scotland (with or without adaptation) under Schedule 2 to the Mutual Recognition of Supervision Measures in the European Union (Scotland) Regulations 2014 (S.S.I. 2014/337).>

Paul Wheelhouse

- 19 In section 1, page 2, line 14, at end insert—

<(4) For the purposes of subsection (2B)—

- (a) an act punishable under the law in force in a country outside the United Kingdom constitutes an offence under that law however it is described in that law,
- (b) a person is the subject of the making, in respect of an offence, of a relevant finding, if the person—
 - (i) is acquitted by reason of the special defence set out in section 51A of the 1995 Act,
 - (ii) is acquitted by reason of insanity,
 - (iii) is found by a court to be unfit for trial under section 53F of the 1995 Act but to have done the act constituting the offence,
 - (iv) is found by a court to be under a disability but to have done the act constituting the offence, or
 - (v) under the law of a country other than Scotland, is the subject of something which is equivalent to any of the things described in sub-paragraphs (i) to (iv),
- (c) a person is given an alternative to prosecution in respect of an offence if the person—
 - (i) accepts, or is deemed to have accepted, a conditional offer in respect of the offence under section 302 of the 1995 Act,
 - (ii) accepts, or is deemed to have accepted, a compensation offer issued in respect of the offence under section 302A of the 1995 Act,

- (iii) has a work order made against the person in respect of the offence under section 303ZA of the 1995 Act,
- (iv) has accepted an offer made by the procurator fiscal in respect of the offence to undertake an activity or treatment or to receive services or do any other thing as an alternative to prosecution, or
- (v) under the law of a country other than Scotland, is the subject of something which is equivalent to any of the things described in sub-paragraphs (i) to (iv).

(5) In this section, “the 1995 Act” means the Criminal Procedure (Scotland) Act 1995.>

Paul Wheelhouse

- 20 Divide section 1 into two sections, the first (*Meaning of “community justice”*) to consist of subsections (1) to (2E) and the second (*Interpretation of section (Meaning of “community justice”)*) to consist of subsections (3) to (5)

Section 3

Paul Wheelhouse

- 21 In section 3, page 2, line 23, leave out <oversee> and insert <monitor, promote and support improvement in,>

Paul Wheelhouse

- 22 In section 3, page 2, line 28, leave out <offenders> and insert <persons mentioned in subsection (2A)>

Paul Wheelhouse

- 23 In section 3, page 2, line 32, leave out <offenders> and insert <persons who are convicted of offences>

Paul Wheelhouse

- 24 In section 3, page 2, line 34, leave out <offenders in the community> and insert <persons falling within section 1(2A), (2D) or (2E)>

Paul Wheelhouse

- 25 In section 3, page 2, line 34, after <to> insert <them not offending in future or, if that is not realistic,>

Paul Wheelhouse

- 26 In section 3, page 2, line 35, leave out <reoffending> and insert <future offending>

Paul Wheelhouse

- 27 In section 3, page 2, line 36, leave out subsection (2) and insert—
<(2A) The persons referred to in subsection (1)(c)(i) are persons who—

- (a) fall within section 1(2A), (2D) or (2E), or
- (b) are being prepared for release, having been convicted of offences and sentenced to imprisonment or detention in penal institutions.

(2B) In subsection (1)(d)(i), “community disposals” has the same meaning as in section 1.>

Paul Wheelhouse

28 In section 3, page 3, line 14, after <Scotland,> insert—

<() each of the other community justice partners (see section 12(1)),>

Section 9

Paul Wheelhouse

29 In section 9, page 4, line 24, after <partners,> insert—

<() such third sector bodies involved in community justice (see section (*Third sector bodies involved in community justice*)(1)) as it considers appropriate,>

Section 10

Elaine Murray

70 In section 10, page 5, line 12, after <to> insert <—

(i)>

Elaine Murray

71 In section 10, page 5, line 12, at end insert—

<(ii) each local authority.>

Paul Wheelhouse

30 In section 10, page 5, line 16, after <partners,> insert—

<() such third sector bodies involved in community justice as it considers appropriate,>

After section 12

Paul Wheelhouse

31 After section 12, insert—

<Third sector bodies involved in community justice

Third sector bodies involved in community justice

(1) A third sector body is involved in community justice for the purposes of this Act if it—

- 5 (a) provides a service in relation to community justice, or

- (b) represents or promotes the interests of—
 - (i) persons mentioned in subsection (2), or
 - (ii) other persons who are or may be affected by community justice.
- (2) The persons referred to in subsection (1)(b)(i) are persons who—
 - 10 (a) fall within section 1(2A), (2D) or (2E), or
 - (b) are being prepared for release, having been convicted of offences and sentenced to imprisonment or detention in penal institutions.
- (3) A third sector body is involved in community justice in relation to the area of a local authority for the purposes of this Act if it does a thing mentioned in subsection (1) in, or
15 in relation to, the area.>

Margaret McDougall

- 31A** As an amendment to amendment 31, line 8, after <justice> insert <, including victims of offences and their families>

Elaine Murray

- 72** After section 12, insert—

<Local community justice partnerships

- (1) Each of the community justice partners for the area of a local authority must collectively establish a local community justice partnership.
- (2) Each local community justice partnership must—
 - (a) prepare a community justice outcomes improvement plan in accordance with sections 17 to 22,
 - (b) collectively plan and co-ordinate the delivery of community justice services in relation to the area of the local authority.
- (3) A local community justice partnership may co-opt other partners into the partnership according to the needs of the area.
- (4) The Scottish Ministers may by regulations make further provision about the constitution and governance arrangements of local community justice partnerships, including—
 - (a) the status of such partnerships in relation to—
 - (i) community planning arrangements,
 - (ii) other governance structures,
 - (b) the appointment of a person—
 - (i) to chair meetings of the partnership,
 - (ii) to act as a primary contact in relation to Community Justice Scotland.
- (5) Regulations under subsection (4) are subject to the affirmative procedure.>

Section 13

Alison McInnes

97 In section 13, page 6, line 30, at end insert—

<() information about the action that the Scottish Ministers are taking, or propose to take, or consider that others should take in relation to—

- (i) early intervention to prevent offending,
- (ii) diversion from prosecution,
- (iii) youth offending,

which supports, or co-ordinates with, the achievement of those aims.>

Alison McInnes

73* In section 13, page 6, line 30, at end insert—

<() action that the Scottish Ministers consider that others should take to facilitate access to housing services by persons who have been convicted of an offence following the release of such persons from imprisonment or detention in a penal institution.>

Paul Wheelhouse

32 In section 13, page 6, line 32, after <partners,> insert—

<() such third sector bodies involved in community justice as they consider appropriate,>

Section 14

Paul Wheelhouse

33 In section 14, page 7, line 11, after <partners,> insert—

<() such third sector bodies involved in community justice as they consider appropriate,>

Section 15

Elaine Murray

74 In section 15, page 7, line 28, leave out subsection (3)

Alison McInnes

75 In section 15, page 7, line 32, at end insert <including indicators in relation to access to and use of housing services,>

Paul Wheelhouse

34 In section 15, page 7, line 38, after <partners,> insert—

<() such third sector bodies involved in community justice as they consider appropriate,>

Section 16

Paul Wheelhouse

35 In section 16, page 8, line 14, after <Ministers),> insert—

<() such third sector bodies involved in community justice as it considers appropriate,>

Elaine Murray

76 In section 16, page 8, line 27, leave out <Subsections (2) and (3) of section apply> and insert <Subsection (2) of section 15 applies>

Elaine Murray

77 In section 16, page 8, line 27, leave out <they apply> and insert <it applies>

Section 17

Elaine Murray

78 In section 17, page 9, line 2, leave out from <and> to end of line 9 and insert—

<() Community Justice Scotland must assist community justice partners in measuring progress toward achieving the national outcomes.>

Elaine Murray

79 In section 17, page 9, line 13, leave out from <(being> to <outcomes)>

Elaine Murray

80 In section 17, page 9, line 16, leave out subsections (6) and (7)

Section 18

Paul Wheelhouse

36 In section 18, page 9, line 26, leave out subsection (1) and insert—

<(1A) This section applies in relation to preparing the plan for the area of a local authority under section 17.

(1B) The community justice partners for the area must have regard to—

(a) the national strategy,

(b) the national performance framework, and

(c) the local outcomes improvement plan in relation to the area.>

Paul Wheelhouse

- 37 In section 18, page 9, line 37, leave out <(1)(a)(iii)> and insert <(1B)(c)>

Paul Wheelhouse

- 38 In section 18, page 9, line 39, leave out <5(1)> and insert <6(1)>

Paul Wheelhouse

- 39 In section 18, page 10, line 1, leave out <6(2)(b)> and insert <7(2)(b)>

Paul Wheelhouse

- 40 In section 18, page 10, line 3, after <partners> insert <for the area>

Paul Wheelhouse

- 41 In section 18, page 10, line 4, leave out <community bodies> insert <bodies falling within subsection (4)>

Paul Wheelhouse

- 42 In section 18, page 10, line 9, at end insert—
- <(4) A body falls within this subsection if it is—
 - (a) a third sector body involved in community justice in relation to the area, or
 - (b) a community body in relation to the area.
 - (5) The community justice partners for the area must consult—
 - (a) Community Justice Scotland,
 - (b) each body falling within subsection (4) which is not participating in the preparation of the plan by virtue of subsection (3), and
 - (c) such other persons as they consider appropriate.>

After section 18

Margaret McDougall

- 98 After section 18, insert—
- Report on engagement with third sector bodies in preparation of plan**
- (1) The community justice partners for the area of a local authority must, as soon as reasonably practicable after the publication of the plan for the area under section 17(1), provide a report to Community Justice Scotland on the matters mentioned in subsection (2).
 - (2) Those matters are—
 - (a) how the community justice partners for the area of the local authority identified the third sector bodies likely to be able to contribute to the preparation of the plan,
 - (b) the reasonable efforts made to secure the participation of those third sector bodies in the preparation of the plan,

- (c) the steps that were reasonably taken to enable those third sector bodies wishing to participate in the preparation of the plan to do so,
 - (d) the third sector bodies which contributed to the preparation of the plan,
 - (e) how and to what extent the participation of those third sector bodies influenced the process of preparation and the content of the final plan,
 - (f) where no third sector bodies were able to participate in the preparation of the plan, the reasons why,
 - (g) the third sector bodies that did not participate in the preparation of the plan which were consulted under section 18(5)(b).
- (3) The community justice partners for the area of the local authority must publish the report provided to Community Justice Scotland under subsection (1).
 - (4) The Scottish Ministers may by regulations make further provision about reports provided under subsection (1), including the information (in addition to that required under that subsection) that reports must contain.
 - (5) Regulations under subsection (4) are subject to the negative procedure.>

Section 19

Paul Wheelhouse

- 43** In section 19, page 10, line 20, leave out <6(5)> and insert <7(5)>

Elaine Murray

- 81** In section 19, page 10, line 26, leave out <(7)> and insert <(5)>

Section 20

Paul Wheelhouse

- 44** In section 20, page 10, line 39, leave out <their assessment of> and insert <, in relation to each nationally determined outcome and each locally determined outcome (if any),>

Elaine Murray

- 82** In section 20, page 10, line 39, leave out from <the> to end of line 13 on page 11 and insert <progress toward achieving the national outcomes.>

Paul Wheelhouse

- 45** In section 20, page 11, line 2, leave out from beginning to <made> in line 11 and insert—
- <(a) the action taken by the community justice partners (individually or jointly) in the period concerned to achieve the outcome or, as the case may be, maintain the achievement of the outcome, and
 - (b) the community justice partners' assessment of—
 - (i) whether, at the end of the period concerned, the outcome was being achieved in the area, and

(ii) in so far as it was not being achieved, progress in the period concerned>

Paul Wheelhouse

46 In section 20, page 11, line 12, leave out <for the purpose of subsection (1)> and insert <as mentioned in subsection (2)(b)>

Paul Wheelhouse

47 In section 20, page 11, line 15, at end insert—
<() each third sector body involved in community justice in relation to the area,>

Elaine Murray

83 In section 20, page 11, line 20, leave out subsection (6)

Section 23

Elaine Murray

84 In section 23, page 12, line 15, leave out <relevant> and insert <national>

Paul Wheelhouse

48 In section 23, page 12, line 16, leave out subsection (3)

Elaine Murray

85 In section 23, page 12, line 26, leave out from <or> to end of line 31

Elaine Murray

86 In section 23, page 12, leave out line 33

Section 24

Paul Wheelhouse

49 Leave out section 24

Section 25

Paul Wheelhouse

50 In section 25, page 13, line 16, leave out subsection (3)

Paul Wheelhouse

51 In section 25, page 13, line 24, after <partners,> insert—
<() such third sector bodies involved in community justice as it considers appropriate,>

Elaine Murray

87 In section 25, page 13, line 27, at end insert—

- <(6) The Scottish Ministers must, from time to time, convene a meeting of the persons falling within subsection (7) to consider the most recent report published under subsection (1) and the assessment made by Community Justice Scotland of the performance in Scotland as a whole in relation to the achievement of nationally determined outcomes.
- (7) Those persons are—
 - (a) any person who appears to the Scottish Ministers to be representative of the interests of local authorities,
 - (b) such others persons as they consider appropriate. >

After section 25

Paul Wheelhouse

52 After section 25, insert—

<Performance improvement activity

- (1) The powers conferred on Community Justice Scotland by section 4 include, in particular, power to do any of the things mentioned in subsection (2) in pursuance of section 3(1)(b).
- (2) Those things are—
 - (a) identifying, establishing or promoting good practice in relation to community justice outcomes improvement planning and reporting,
 - (b) providing advice, guidance or assistance to the community justice partners for the area of a local authority in relation to community justice outcomes improvement planning and reporting,
 - (c) identifying, establishing or promoting good practice in relation to the provision of community justice,
 - (d) providing advice, guidance or assistance to the community justice partners for the area of a local authority in relation to the provision of community justice,
 - (e) making local improvement recommendations (see section (*Local improvement recommendations*)),
 - (f) making national improvement recommendations (see section (*National improvement recommendations*)).
- (3) In subsection (2), “community justice outcomes improvement planning and reporting” means the exercise of the functions conferred on the community justice partners for the areas of local authorities by sections 17 to 20.>

Paul Wheelhouse

53 After section 25, insert—

<Local improvement recommendations

- (1) A local improvement recommendation is a recommendation addressed to the community justice partners for the area of a local authority which sets out action which Community Justice Scotland considers—
 - (a) is necessary to enable the achievement of a nationally determined outcome or a locally determined outcome in the area of the authority, or
 - (b) would or might help to improve performance in achieving such an outcome in that area, or otherwise in relation to community justice in that area.
- (2) Community justice partners to whom a local improvement recommendation has been made must comply with any direction issued by Community Justice Scotland—
 - (a) to arrange for the publication (in such manner as may be specified) of—
 - (i) the recommendation, or
 - (ii) specified information in relation to the recommendation, or
 - (b) to notify Community Justice Scotland (within such period as may be specified) of—
 - (i) the action the community justice partners have taken or propose to take in response to the recommendation, or
 - (ii) their intention not to take any action in response to the recommendation.
- (3) In subsection (2), “specified” means specified in the direction.>

Paul Wheelhouse

54 After section 25, insert—

<National improvement recommendations

- (1) A national improvement recommendation is a recommendation addressed to the Scottish Ministers which sets out action which Community Justice Scotland considers—
 - (a) is necessary to enable the achievement of a nationally determined outcome in Scotland as a whole or in the area of a particular local authority, or
 - (b) would or might help to improve performance in achieving such an outcome in that area, or otherwise in relation to community justice, in Scotland as a whole or in the area of a particular local authority.
- (2) As soon as reasonably practicable after making a national improvement recommendation, Community Justice Scotland must publish it.>

Section 26

Elaine Murray

88 In section 26, page 13, line 37, leave out <encouraging or assisting, or>

Elaine Murray

89 In section 26, page 14, line 3, at end insert <, with the agreement of those local authorities.>

Elaine Murray

90 In section 26, page 14, line 8, after <with> insert <—

- A. the local authority for the area,
- B.>

Paul Wheelhouse

- 55 In section 26, page 14, line 10, after <partners,> insert—
<() such third sector bodies involved in community justice as it considers appropriate,>

Elaine Murray

- 91 In section 26, page 14, line 14, leave out subsections (6) and (7)

Paul Wheelhouse

- 56 In section 26, page 14, line 19, after <partners,> insert—
<() such third sector bodies involved in community justice as they consider appropriate,>

Paul Wheelhouse

- 57 In section 26, page 14, line 22, leave out <itself> and insert <(either itself or in collaboration with others)>

Section 27

Paul Wheelhouse

- 58 In section 27, page 15, line 1, after <partners,> insert—
<() such third sector bodies involved in community justice as it considers appropriate,>

Section 28

Paul Wheelhouse

- 59 In section 28, page 15, line 18, after <partners,> insert—
<() such third sector bodies involved in community justice as it considers appropriate,>

After section 28

Elaine Murray

- 92 After section 28, insert—
<Report on strategy for innovation, learning and development
Community Justice Scotland must, from time to time, report on the delivery of the strategy published under section 27(1) to—

- (a) the Scottish Ministers,
- (b) each local authority,
- (c) such others persons as it considers appropriate.>

Section 29

Paul Wheelhouse

- 60** In section 29, page 16, line 12, leave out <materials>

Paul Wheelhouse

- 61** In section 29, page 16, line 13, after <provided> insert <by it>

Paul Wheelhouse

- 62** In section 29, page 16, line 24, at end insert—
- <() the references to education include educational materials,
 - () the references to training include training materials.>

Section 30

Elaine Murray

- 93** In section 30, page 16, line 34, at end insert—
- <() Each community justice partner for the area of a local authority must be able to demonstrate such co-operation with each other community justice partner for that area.>

After section 30

Alison McInnes

- 99** After section 30, insert—
- <Duty of co-operation: community planning partnership**
- (1) The community justice partners for the area of a local authority must co-operate, in the exercise of their functions in relation to community justice, with the community planning partnership for the area.
 - (2) Such co-operation may include—
 - (a) sharing information,
 - (b) providing advice and assistance,
 - (c) co-ordinating activities (and seeking to prevent unnecessary duplication),
 - (d) funding activities together.
 - (3) In this section, “community planning partnership” has the same meaning as in section 4 of the Community Empowerment (Scotland) Act 2015.>

Section 32

Paul Wheelhouse

63 In section 32, page 18, line 13, at end insert—

<“third sector body” means a body (whether or not formally constituted) established for purposes which consist of, or consist mainly of, providing benefits for society (but does not include a body established under an enactment).>

Schedule 2

Paul Wheelhouse

64 In schedule 2, page 25, line 26, leave out from second <in> to end of line 28 and insert <paragraph (c) is repealed,>

Paul Wheelhouse

65 In schedule 2, page 26, leave out lines 4 to 6

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