



# Bail and Release from Custody (Scotland) Act 2023

2023 asp 4

## PART 2

### RELEASE FROM CUSTODY

PROSPECTIVE

#### 12 Duty to engage in release planning

- (1) The Community Justice (Scotland) Act 2016 (“the 2016 Act”) is amended as follows.
- (2) After section 34 (innovation, learning and development activity) insert—

*“Engagement in release planning*

#### **34A Duty to engage in release planning**

- (1) Each person falling within [subsection \(2\)](#) must, so far as reasonably practicable, comply with a request by the Scottish Ministers to engage in the development, management and delivery of a release plan.
- (2) The persons are—
  - (a) a local authority,
  - (b) a health board,
  - (c) the chief constable of the Police Service of Scotland,
  - (d) Skills Development Scotland,
  - (e) an integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014.
- (3) Engagement under [subsection \(1\)](#) must take place within the timescale specified in the request.
- (4) In complying with [subsection \(1\)](#), a person—

*Status: This version of this provision is prospective.*

**Changes to legislation:** *There are currently no known outstanding effects for the Bail and Release from Custody (Scotland) Act 2023, Section 12. (See end of Document for details)*

- (a) must have regard to the role which third sector bodies are able to play in the development, management and delivery of the release plan,
  - (b) may commission services from, or co-ordinate with existing services provided by, third sector bodies as the person considers appropriate to meet the needs of the individual to whom the release plan relates.
- (5) The Scottish Ministers may by regulations—
- (a) make further provision about engagement in the development, management, and delivery of release plans,
  - (b) modify the list in [subsection \(2\)](#).
- (6) Regulations under subsection (5)(a) may, in particular, make provision about—
- (a) engagement in the development, management and delivery of release plans in relation to relevant individuals who, having been remanded in custody, are released from custody immediately on the conclusion of proceedings against them,
  - (b) the appointment of a person to lead the management and delivery of a relevant individual’s release plan following the individual’s release,
  - (c) how the duty of co-operation under section 35 is to operate in relation to the duty to engage in the development, management, and delivery of release plans under this section.
- (7) Regulations under subsection (5)(a)—
- (a) may include incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) may modify enactments (including this Act).
- (8) Regulations under this section are subject to the affirmative procedure.
- (9) In this section—
- “release plan” means a plan to—
- (a) prepare a relevant individual for release,
  - (b) facilitate—
    - (i) the individual’s reintegration into the community,
    - (ii) access by the individual to relevant general services,
- “relevant general services” has the same meaning as in section 1,
- a “relevant individual” is an individual who has been—
- (a) remanded in custody, or
  - (b) convicted of offences and sentenced to imprisonment or detention in a penal institution.

### *Guidance*

#### **34B Guidance**

- (1) The Scottish Ministers must, no later than one year after the day on which section 12(2) of the Bail and Release from Custody (Scotland) Act 2023 comes into force for any purpose, publish guidance about engagement under section 34A(1).

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- (2) Such guidance may, in particular, include provision about—
  - (a) the issuing of a request for engagement,
  - (b) compliance with a request for engagement,
  - (c) how the duty of co-operation under section 35 is to operate in relation to the duty to engage in the development, management, and delivery of release plans under section 34A(1).
- (3) In preparing, reviewing, and revising the guidance, the Scottish Ministers must consult—
  - (a) Community Justice Scotland,
  - (b) each local authority,
  - (c) each health board,
  - (d) the chief constable of the Police Service of Scotland,
  - (e) Skills Development Scotland,
  - (f) the Risk Management Authority,
  - (g) an integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014,
  - (h) each person—
    - (i) of a description prescribed by the Scottish Ministers by regulations, and
    - (ii) who is providing support services to victims in relation to offences perpetrated against or in respect of those victims,
  - (i) such other persons as the Scottish Ministers consider appropriate.
- (4) The Scottish Ministers must keep the guidance under review and may publish revised guidance whenever they consider it appropriate to do so.
- (5) Where revised guidance is published under [subsection \(4\)](#), this section—
  - (a) ceases to apply in relation to the previous guidance,
  - (b) applies instead to the revised guidance (as it applied to the guidance published under [subsection \(1\)](#)).
- (6) In complying with a request to engage under section 34A(1), a person must have regard to guidance published under this section.
- (7) In this section, “support services” has the meaning given by section 34C(8).
- (8) The Scottish Ministers may by regulations modify the definition of “support services” in [subsection \(7\)](#).
- (9) Regulations under [subsection \(3\)\(h\)\(i\)](#) and [\(8\)](#)—
  - (a) may include incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) may modify enactments (including this Act).
- (10) Regulations—
  - (a) under [subsection \(3\)\(h\)\(i\)](#)—
    - (i) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
    - (ii) are otherwise subject to the negative procedure,
  - (b) under [subsection \(8\)](#) are subject to the affirmative procedure.”.

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#### Commencement Information

**II** S. 12 not in force at Royal Assent, see [s. 18\(2\)](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Bail and Release from Custody (Scotland) Act 2023, Section 12.