

# **BAIL AND RELEASE FROM CUSTODY (SCOTLAND) ACT 2023**

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## **EXPLANATORY NOTES**

### **THE ACT: SECTION BY SECTION**

#### **Part 2: Release from custody**

##### ***Section 13—Throughcare support***

74. Section 13 amends the 2016 Act by inserting new sections 34C and 34D which deal with throughcare support. Throughcare support is defined in new section 34C(6) as the provision of certain types of support in relation to individuals who have been remanded in custody or sentenced to imprisonment or detention in penal institutions, from the point they are imprisoned or detained (whether on remand or after sentencing) until after their release, and the engagement in release planning under section 34A. The types of support are listed in paragraphs (a) to (e) of the definition.
75. Section 34C(1) requires the Scottish Ministers to publish standards applicable to throughcare support within two years of section 13(2) of this Act<sup>1</sup> coming into force. Subsection (2) sets out the type of provision to be included in the standards. They must make provision for minimum standards and outcomes to be met by providers of throughcare support. Subsection (3) provides that the Scottish Ministers must keep the standards under review and may publish amended standards. Subsection (4) requires the Scottish Ministers to consult the persons listed in subsection (4) in preparing, reviewing and revising the standards. This includes persons providing support services to victims. A definition of support services is included in subsection (6), and the Scottish Ministers have the power, under subsection (8), to amend that definition. In the case of the first standards prepared under section 34C, the Scottish Ministers must publish a draft of those standards for public consultation and thereafter publish a report detailing the consultation process followed and the ways in which views expressed during the consultation have (or have not) been taken into account in preparing the published version of the first standards.
76. Section 34D creates a duty to comply with the standards published or revised under section 34B. The duty is imposed on the persons listed in subsection (2) and the duty applies when they exercise functions relating to the provision of throughcare support. Subsection (3) provides that the list of persons in subsection (2) may be modified by regulations made by the Scottish Ministers.

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<sup>1</sup> Which inserts new section 34C into the 2016 Act.