



# Bail and Release from Custody (Scotland) Act 2023

2023 asp 4

## PART 2

### RELEASE FROM CUSTODY

#### 13 Throughcare support

- (1) The 2016 Act is amended as follows.
- (2) After section 34B, as inserted by [section 12](#), insert—

*“Throughcare support*

#### **34C Throughcare support standards**

- (1) The Scottish Ministers must, no later than two years after the day on which section 13(2) of the Bail and Release from Custody (Scotland) Act 2023 comes into force, publish standards applicable to throughcare support in Scotland (in this section, the “first standards”).
- (2) The first standards—
  - (a) must make provision for minimum standards and outcomes to be met by all providers of throughcare support in Scotland,
  - (b) may make such further provision in connection with throughcare support as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers must keep the first standards under review and may publish revised standards whenever they consider it appropriate to do so.
- (4) In preparing, reviewing, and revising the first standards, the Scottish Ministers must consult—
  - (a) Community Justice Scotland,
  - (b) each local authority,
  - (c) each health board,

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- (d) the chief constable of the Police Service of Scotland,
  - (e) Skills Development Scotland,
  - (f) the Risk Management Authority,
  - (g) Social Care and Social Work Improvement Scotland,
  - (h) an integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014,
  - (i) third sector bodies—
    - (i) involved in community justice and the provision of throughcare support,
    - (ii) involved in or carrying out work related to the provision of support to children and families affected by imprisonment,
  - (j) 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,
  - (k) such other persons as the Scottish Ministers consider appropriate.
- (5) The Scottish Ministers must, after consulting on the first standards in accordance with subsection (4) but before publishing those standards, publish a draft of the standards for public consultation for such period, of at least 12 weeks, as they consider appropriate.
- (6) The Scottish Ministers must, before or on publication of the first standards, publish a report setting out—
- (a) the consultation process undertaken in order to comply with subsection (5), and
  - (b) the ways in which views expressed during that process have been taken account of in preparing the first standards (or stating that no account has been taken of such views).
- (7) Where revised standards are published under [subsection \(3\)](#), this section—
- (a) ceases to apply in relation to the previous standards,
  - (b) (other than subsections (5) and (6)) applies instead to the revised standards (as it applied to the first standards published under [subsection \(1\)](#)).
- (8) In this section—
- “relevant general services” has the same meaning as in section 1,
- “support services”—
- (a) means any type of service or treatment which is intended to benefit the physical or mental health or wellbeing of the victim, and
  - (b) includes—
    - (i) providing the victim with information (including information provided under section 16ZA(3) of the Criminal Justice (Scotland) Act 2003),
    - (ii) assisting the victim with safety planning,

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- (iii) assisting the victim with the making of representations under Part 2 of the Criminal Justice (Scotland) Act 2003,
- “throughcare support” means in relation to individuals falling within [subsection \(9\)](#)—
- (a) the provision of advice and guidance,
  - (b) the provision of, and facilitation of access to, opportunities to participate in activities designed to eliminate or reduce future offending,
  - (c) the provision of, and facilitation of access to, emotional and practical support,
  - (d) the provision of help, including in particular to—
    - (i) access and make use of relevant general services and any relevant specialist services which are available,
    - (ii) co-operate and comply with any relevant conditions, court orders, and ongoing judicial or court processes,
  - (e) engagement in release planning in accordance with [section 34A](#).
- (9) An individual falls within this subsection if they have been either—
- (a) remanded in custody, or
  - (b) convicted of offences and sentenced to imprisonment or detention in a penal institution.
- (10) The Scottish Ministers may by regulations modify the definition of “support services” in subsection (8).
- (11) Regulations under subsection (4)(j)(i) and (10)—
- (a) may include incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) may modify enactments (including this Act).
- (12) Regulations—
- (a) under subsection (4)(j)(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 (10) are subject to the affirmative procedure.

#### **34D Throughcare support standards: duty to comply**

- (1) Each person falling within [subsection \(2\)](#) must, in exercising functions relating to the provision of throughcare support, comply with the standards published or revised under [section 34C](#).
- (2) The persons are—
- (a) each local authority,
  - (b) each health board,
  - (c) Skills Development Scotland,
  - (d) an integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014,
  - (e) the Scottish Ministers.

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- (3) The Scottish Ministers may by regulations modify the list in [subsection \(2\)](#).
- (4) Regulations under this section are subject to the affirmative procedure.”.