



# Bail and Release from Custody (Scotland) Act 2023

2023 asp 4

## PART 1

### BAIL

PROSPECTIVE

#### **4 Decisions on bail: duty to state and record reasons**

(1) Section 24 of the 1995 Act (bail and bail conditions) is amended as follows.

(2) After subsection (2A) insert—

“(2AA) Where the court refuses bail in any proceedings in which a person is accused of an offence, it must—

(a) state in particular—

(i) the grounds on which it determines, in accordance with section 23B(1A), that there is good reason for refusing bail,

(ii) if refusing bail solely on the ground specified in section 23C(1)(a) (substantial risk of absconding or failing to appear), its reasons for considering under section 23B(1A)(b) that it is necessary to do so, and

(iii) its reasons for considering under section 23B(1A)(b) and (2) that either it would not be appropriate to impose on the accused bail conditions subject to a requirement to submit to monitoring in accordance with Part 1 of the Management of Offenders (Scotland) Act 2019 (electronic monitoring) or that doing so would not adequately safeguard the interests of public safety or justice as mentioned in section 23B(1A)(b)(i) or (ii), and

(b) have the grounds mentioned in paragraph (a)(i) entered in the record of the proceedings.”.

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*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 4. (See end of Document for details)*

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(3) In subsection (2B)(a), for the words from “a sexual offence” to “Act)” substitute “an offence falling within subsection (2C)”.

(4) After subsection (2B) insert—

“(2C) An offence falls within this subsection if it is—

- (a) a sexual offence (having the meaning given by section 210A(10) and (11)),
- (b) an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018,
- (c) an offence that is aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016,
- (d) an offence under section 39 of the Criminal Justice and Licensing (Scotland) Act 2010 (offence of stalking),
- (e) an attempt, conspiracy or incitement to commit an offence mentioned in paragraph (b), (c) or (d),
- (f) aiding, abetting, counselling or procuring the commission of an offence mentioned in paragraph (b), (c) or (d).”.

(5) In subsection (8), after “this section” insert “(other than subsection (2AA))”.

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#### **Commencement Information**

**II** S. 4 not in force at Royal Assent, see [s. 18\(2\)](#)

**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 4.