SCOTTISH STATUTORY INSTRUMENTS

2025 No. 52 (C. 6)

CRIMINAL PROCEDURE

The Bail and Release from Custody (Scotland) Act 2023 (Commencement No. 2) Regulations 2025

Made - - - -	*25th February 2025*
Laid before the Scottish Parliament	*27th February 2025*
Coming into force - -	*14th May 2025*

The Scottish Ministers make the following Regulations in exercise of the power conferred on them by section 18(2) of the Bail and Release from Custody (Scotland) Act 2023(**a**).

Citation and commencement

1. These Regulations may be cited as the Bail and Release from Custody (Scotland) Act 2023 (Commencement No. 2) Regulations 2025 and come into force on 14 May 2025.

Day appointed

2. 14 May 2025 is the day appointed for the coming into force of the following provisions of the Bail and Release from Custody (Scotland) Act 2023—

(a) section 1 (decisions on bail: relevant information),

(b) section 2 (determination of good reason for refusing bail),

(c) section 3 (removal of restriction on bail in certain solemn cases),

(d) section 4 (decisions on bail: duty to state and record reasons).

ANGELA CONSTANCE
A member of the Scottish Government

St Andrew's House,
Edinburgh
25th February 2025

(**a**) 2023 asp 4.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force sections 1 (decisions on bail: relevant information), 2 (determination of good reason for refusing bail), 3 (removal of restriction on bail in certain solemn cases), and 4 (decisions on bail: duty to state and record reasons) of the Bail and Release from Custody (Scotland) Act 2023 ("the 2023 Act"). These sections will come into force on 14 May 2025.

Section 1 of the 2023 Act amends sections 22A and 23B of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act") to enable the court to receive information from a justice social worker (referred to as "an officer of a local authority") to assist in determining the outcome of a decision on bail. Further, it amends section 27 of the Social Work (Scotland) Act 1968 to confer a function on local authorities enabling them to provide such information.

Section 2 of the 2023 Act inserts new section 23B(1) and 23B(1A) of the 1995 Act, in place of the existing section 23B(1), which together set out the test which the court must apply when considering whether to grant bail to a person accused of or charged with an offence. Accordingly, if the court is to refuse bail it must consider that at least one of the grounds specified in section 23C(1) of the 1995 Act applies, and determine that, having regard to the public interest, and having considered whether the imposition of bail conditions could safeguard the public interest, it is necessary either in the interests of public safety or to prevent significant risk of prejudice to the interests of justice.

Section 3 of the 2023 Act repeals section 23D of the 1995 Act so that the general bail test in new section 23B(1) will replace the special provisions contained in section 23D for the purposes of decisions on bail in certain solemn cases.

Section 4 of the 2023 Act inserts new section 24(2AA) into the 1995 Act which makes further provisions relative to the court's general duty under section 24(2A) to state its reasons whenever it grants or refuses bail. Section 4 of the 2023 Act further amends section 24 of the 1995 Act to list further offences, in relation to which the court is required to state why it has granted bail without imposing such further conditions as it thinks necessary to secure that the standard conditions of bail are observed.

The Bill for the 2023 Act received Royal Assent on 1 August 2023 and sections 6, 7, and 15 to 19 came into force on the following day.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

Provision	*Date of Commencement*	*Instrument number*
Sections 11 and 14	26 May 2024	S.S.I. 2024/145
Section 5	1 July 2024	S.S.I. 2024/145

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