

Public Records (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 and 2
Sections 3 to 16

Schedule
Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 1

Elizabeth Smith

- 29 In section 1, page 1, line 10, leave out <approval> and insert <agreement>

Elizabeth Smith

- 30 In section 1, page 1, line 12, leave out <approved by> and insert <agreed with>

Fiona Hyslop

- 1 In section 1, page 1, line 24, at end insert—

<() An authority's records management plan may make different provision for the management of different kinds of public records (taking account, for example, of the different levels of risk associated with the management of different kinds of records).>

Ken Macintosh

- 31 In section 1, page 1, line 26, at end insert <including information on how such plans will relate to functions delivered on behalf of authorities by contractors.>

Fiona Hyslop

- 2 In section 1, page 1, line 26, at end insert—

<() The Keeper may issue different guidance under subsection (3) in relation to different authorities.

() Before issuing guidance under subsection (3), the Keeper must—

- 5 (a) consult the following on a draft of the guidance, namely—
- (i) such authorities as the Keeper considers will be affected by the guidance, and
 - (ii) such other persons (if any) as the Keeper considers appropriate, and
- (b) have regard to any views expressed in response to the consultation.>

Ken Macintosh

- 2A As an amendment to amendment 2, line 7, leave out <and> and insert—
<() such bodies representing contractors as the Keeper considers will be affected by the guidance, and>

Elizabeth Smith

- 32 In section 1, page 1, line 28, leave out <the Keeper’s approval> and insert <agreement with the Keeper>

Elizabeth Smith

- 33 In section 1, page 2, line 1, leave out <must, if the Keeper so requires> and insert <may, with the agreement of the Keeper>

Fiona Hyslop

- 3 In section 1, page 2, line 1, after <requires,> insert <or
(b) may, with the Keeper’s approval,>

Elizabeth Smith

- 34 In section 1, page 2, line 4, leave out lines 4 and 5 and insert <may, with the agreement of the Keeper,>

Ken Macintosh

- 35 In section 1, page 2, line 7, at end insert <or separate functions of those authorities if required under subsection (5)>

Section 3

Ken Macintosh

- 36 In section 3, page 3, line 15, leave out <subsection (1)> and insert <this Part>

Elizabeth Smith

- 37 Leave out section 3

Section 4

Elizabeth Smith

- 38 In section 4, page 3, line 20, leave out <approval> and insert <agreement>

Ken Macintosh

- 39 In section 4, page 3, line 21, leave out <the Keeper may determine> and insert <to comply with the guidance issued under section 1(3)>

Elizabeth Smith

40 In section 4, page 3, line 24, leave out <approve> and insert <agree>

Elizabeth Smith

41 In section 4, page 3, line 26, leave out <reject> and insert <return>

Elizabeth Smith

42 In section 4, page 3, line 27, leave out subsection (4)

Ken Macintosh

43 In section 4, page 3, line 27, leave out <for the Keeper to determine> and insert <to be determined in the guidance issued under section 1(3)>

Elizabeth Smith

44 In section 4, page 3, line 28, leave out <approve or reject> and insert <agree or return>

Fiona Hyslop

4 In section 4, page 3, line 31, at end insert—
<() the nature of the authority and its public records, and
() any representations made by the authority.>

Fiona Hyslop

5 In section 4, page 3, line 31, at end insert—
<() Where the Keeper is considering rejecting the proposed plan, before deciding whether to do so, the Keeper must—
(a) notify the authority—
5 (i) that the Keeper is considering rejecting the proposed plan, and
(ii) of the reasons for doing so,
(b) give the authority an opportunity to make representations, and
(c) have regard to any representations made by the authority.>

Elizabeth Smith

5A As an amendment to amendment 5, line 2, leave out <rejecting> and insert <returning>

Elizabeth Smith

5B As an amendment to amendment 5, line 5, leave out <rejecting> and insert <returning>

Elizabeth Smith

45 In section 4, page 3, line 32, leave out <rejects> and insert <returns>

Elizabeth Smith

46 In section 4, page 3, line 34, leave out <rejection> and <return>

Elizabeth Smith

47 In section 4, page 3, line 36, leave out <approval> and insert <agreement>

Section 5

Elizabeth Smith

48 In section 5, page 4, line 6, leave out <approval> and insert <agreement>

Fiona Hyslop

6 In section 5, page 4, line 8, after <determine> insert <in accordance with subsections (1A) to (1C)>

Fiona Hyslop

7 In section 5, page 4, line 8, at end insert—

<(1A) The Keeper must not determine a review date under subsection (1)(b) which is earlier than five years after the date on which the authority’s records management plan was last approved.

5 (1B) In subsection (1A), reference to the plan being approved includes—

(a) approval of the plan under section 4,

(b) if the authority has been required to carry out a review of the plan under subsection (1)(b) of this section or section 6(3)(b), approval of the revised or, as the case may be, resubmitted plan, and

10 (c) if the authority has submitted a revised plan under subsection (3) of this section, approval of the revised plan.

(1C) If—

(a) the Keeper has determined a review date under subsection (1)(b) in relation to a plan, and

15 (b) before that date, the Keeper approves—

(i) a revised plan submitted by the authority under subsection (3), or

(ii) if the authority has been required to carry out a review of the plan under section 6(3)(b), a revised or, as the case may be, resubmitted plan,

20 the Keeper must determine a new review date and inform the authority of the new review date.>

Elizabeth Smith

7A As an amendment to amendment 7, line 4, leave out <approved> and insert <agreed>

Elizabeth Smith

7B As an amendment to amendment 7, line 6, leave out <approval> and insert <agreement>

Elizabeth Smith

7C As an amendment to amendment 7, line 8, leave out <approval> and insert <agreement>

Elizabeth Smith

7D As an amendment to amendment 7, line 11, leave out <approval> and insert <agreement>

Elizabeth Smith

7E* As an amendment to amendment 7, line 15, leave out <approves> and insert <agrees>

Elizabeth Smith

49 In section 5, page 4, line 11, leave out <approval> and insert <agreement>

Elizabeth Smith

50 In section 5, page 4, line 13, leave out <approval> and insert <agreement>

Elizabeth Smith

51 In section 5, page 4, line 15, leave out <approval> and insert <agreement>

Elizabeth Smith

52 In section 5, page 4, line 17, leave out <approval> and insert <agreement>

Elizabeth Smith

53 In section 5, page 4, line 18, leave out <approval> and insert <agreement>

Elizabeth Smith

54 In section 5, page 4, line 20, leave out <approval> and insert <agreement>

Section 6

Fiona Hyslop

8 In section 6, page 4, line 25, leave out <compliance> and insert <records management>

Ken Macintosh

55 In section 6, page 4, line 27, leave out <the Keeper may require> and insert <is reasonable>

Fiona Hyslop

9 In section 6, page 4, line 28, leave out <compliance> and insert <records management>

Fiona Hyslop

- 10 In section 6, page 4, line 29, leave out <compliance> and insert <records management>

Fiona Hyslop

- 11 In section 6, page 4, line 39, leave out <compliance> and insert <records management>

Section 7

Fiona Hyslop

- 12 In section 7, page 5, line 7, leave out <a “warning”> and insert <an “action”>

Fiona Hyslop

- 13 In section 7, page 5, line 9, at end insert—

<() Where the Keeper is considering issuing an action notice to an authority, before deciding whether to do so, the Keeper must—

(a) notify the authority—

- 5 (i) that the Keeper is considering issuing an action notice, and
(ii) of the reasons for doing so,

(b) give the authority an opportunity to make representations, and

(c) have regard to any representations made by the authority.>

Fiona Hyslop

- 14 In section 7, page 5, line 10, leave out <warning> and insert <action>

Fiona Hyslop

- 15 In section 7, page 5, line 11, leave out <warning> and insert <action>

Section 8

Ken Macintosh

- 56 In section 8, page 5, line 14, at end insert <which must cover the relationship between an authority’s records management plan and that of a contractor carrying out the authority’s functions.>

Fiona Hyslop

- 16 In section 8, page 5, line 14, at end insert—

<() Before publishing the model records management plan under subsection (1), the Keeper must—

(a) consult the following on a draft of the plan, namely—

- 5 (i) each authority, and

- (ii) such other persons (if any) as the Keeper considers appropriate, and
- (b) have regard to any views expressed in response to the consultation.>

Ken Macintosh

- 16A** As an amendment to amendment 16, line 5, leave out <and> and insert—
<() bodies representing contractors, and>

Elizabeth Smith

- 57** In section 8, page 5, line 16, leave out <approval> and insert <agreement>

Fiona Hyslop

- 17** In section 8, page 5, line 19, at end insert—
<() Before publishing a revised model plan under subsection (3), the Keeper must—
- (a) consult the following on a draft of the plan, namely—
 - (i) such authorities as the Keeper considers will be affected by the revisions to the plan, and
 - (ii) such other persons (if any) as the Keeper considers appropriate, and
 - (b) have regard to any views expressed in response to the consultation.>

Ken Macintosh

- 17A** As an amendment to amendment 17, line 5, leave out <and> and insert—
<() such bodies representing contractors as the Keeper considers will be affected by the revisions to the plan, and>

Section 9

Fiona Hyslop

- 18** In section 9, page 5, line 23, at end insert—
<() The Keeper may issue different guidance under subsection (1) in relation to different authorities.
() Before issuing guidance under subsection (1), the Keeper must—
- (a) consult the following on a draft of the guidance, namely—
 - (i) such authorities as the Keeper considers will be affected by the guidance, and
 - (ii) such other persons (if any) as the Keeper considers appropriate, and
 - (b) have regard to any views expressed in response to the consultation.>

Ken Macintosh

- 58** Leave out section 9

After section 9

Fiona Hyslop

19 After section 9, insert—

<Application of Part 1 in relation to sheriff court records and JP court records

- (1) This section applies in relation to the public records of a sheriff court or a justice of the peace court.
- (2) The Sheriff Principal of the sheriffdom in which the court is located is responsible for carrying out the authority's functions under this Part in relation to such public records.
- (3) Accordingly, in relation to such public records, a reference in this Part to an authority (other than in section 3) is to be read as a reference to the Sheriff Principal.>

Section 11

Elizabeth Smith

59 In section 11, page 6, line 7, leave out <approved by> and insert <agreed with>

Fiona Hyslop

20 In section 11, page 6, line 8, leave out <compliance> and insert <records management>

Fiona Hyslop

21 In section 11, page 6, line 10, leave out <warning> and insert <action>

Fiona Hyslop

22 In section 11, page 6, line 12, leave out <a warning> and insert <an action>

Section 12

Fiona Hyslop

23 In section 12, page 6, line 21, leave out <compliance> and insert <records management>

Fiona Hyslop

24 In section 12, page 6, line 31, leave out <warning> and insert <action>

Section 13

Fiona Hyslop

25 In section 13, page 6, line 35, at end insert—

<() sections 2(3) and 2A(4) of the Public Records (Scotland) Act 1937 (c.43) (care and preservation of sheriff court and JP court records),>

Section 14

Fiona Hyslop

- 26** In section 14, page 7, leave out lines 17 to 22 and insert—
<() in subsection (4), for “subsections (1) and (3)” substitute “subsection (1)”.>

Fiona Hyslop

- 27** In section 14, page 7, leave out lines 28 to 33

Long Title

Fiona Hyslop

- 28** In the long title, page 1, line 2, leave out <court records> and insert <the transmission of court records to the Keeper of the Records of Scotland>

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