

# Proposed Post-Mortem Examinations (Defence Time-Limit) (Scotland) Bill

## Page 1: Introduction

A proposal for a Bill to make the right of defence counsel for a person accused of homicide to instruct a post-mortem examination of the alleged victim subject to an extendable time-limit in order to minimise delays and uncertainty for victims' families. The consultation runs from 9 January 2018 to 4 April 2019. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (\*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation document](#) [Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

## Page 2: About you

Are you responding as an individual, or on behalf of an organisation? Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

Please select the category which best describes your organisation

*No Response*

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

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Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

## Page 8: Aim and Approach

Q1. The proposed Bill would set a time-limit for the instruction of a second post-mortem examination (PME), by the defence, in relation to a suspicious death. Which of the following best expresses your view of the proposal?

Fully supportive

Q2. Which of the following best expresses your view of when any time-limit should begin?

On the day after the results of the Crown PME are provided to defence counsel, or when defence counsel is appointed for an accused person, whichever is the later

Q3. How long a time-period do you think should be available to the defence in which to instruct a second PME?

14 days (2 weeks)

Q4. The proposed Bill would allow the defence to apply to the courts for the time limit to be extended by up to the same amount as originally allowed, and on more than one occasion. Which of the following best expresses your view of this element of the proposal?

there should be scope for only a single extension (no longer than the original period)

**Please explain the reasons for your response.**

There may be some delay in evaluating the effects of the original PME, if there is lack of understanding the implications of the first PME findings.

## Page 12: Financial Implications

Q5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

|                                     | Significant increase in cost | Some increase in cost | Broadly cost-neutral | Some reduction in cost | Significant reduction in cost | Unsure |
|-------------------------------------|------------------------------|-----------------------|----------------------|------------------------|-------------------------------|--------|
| (a) prosecuting authorities (COPFS) |                              |                       | X                    |                        |                               |        |
| (b) the courts (SCTS)               |                              |                       | X                    |                        |                               |        |
| (c) victims' families               |                              |                       | X                    |                        |                               |        |
| (d) the accused/defence             |                              | X                     |                      |                        |                               |        |

**Please explain the reasons for your response.**

Any increase in the overall costs should be minimal based on the work carried out during the initial PME. And would be borne by the defence.

Q6. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

This should not be about saving money. Proper controls should be in place to limit unnecessary costs through good working practices, and oversight.

## Page 14: Equalities

Q7. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, race, religion and belief, sex, sexual orientation?

Neutral (neither positive nor negative)

**Please explain the reasons for your response.**

There should be no discrimination for any reason. FULL STOP.

Q8. In what ways could any negative impact of the Bill on equality be minimised or avoided?

It would be very difficult to eliminate all forms of individual preference, with regard to the various groupings mentioned, to remove all bias.

## Page 16: Sustainability

Q9. Do you consider that the proposed Bill can be delivered sustainably i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

**Please explain the reasons for your response.**

The original work carried out by the authorities will always have to be costed. Any additional work carried out may reduce the time taken in court cases. And anyway it is duly covered by the defence, whose costs have to be met.

Q10. Do you have any other comments or suggestions on the proposal?

If it increases the correctness of, and validity of trials results it is to be welcomed.