

RAILWAY POLICING (SCOTLAND) BILL: STAGE 2 BRIEFING

GROUP 3: Training in relation to policing of railways and railway property

Amendment number(s)	4, 5, 6, 7
Subject	Training in relation to policing of railways and railway property
Government position	4: Resist 5: Resist 6: Resist 7: Resist
Text of amendment(s)	<p>4. Douglas Ross</p> <p>After section 2, insert—</p> <p><2A Training in relation to policing of railways and railway property</p> <p>After section 21 of the Police and Fire Reform (Scotland) Act 2012 (direction and control of the police service), insert—</p> <p>“21A Policing of railways and railway property</p> <p>(1) The chief constable must ensure that all constables and police cadets receive the necessary training to police railways and railway property.</p> <p>(2) Training provided under subsection (1) must include the completion of personal track safety training.</p> <p>(3) The Scottish Ministers must by regulations specify the level of personal track safety training to be completed by constables and police cadets under subsection (2).</p> <p>(4) Prior to making regulations under subsection (3), the Scottish Ministers must consult—</p> <p>(a) the Office of Rail and Road,</p> <p>(b) Network Rail,</p> <p>(c) the Scottish Police Authority,</p> <p>(d) the chief constable of the Police Service of Scotland,</p> <p>(e) such other bodies as the Scottish Ministers may determine.”></p>

5. Douglas Ross

After section 2, insert—

<2B Funding of training under section 2A

After section 21 of the Police of the Police and Fire Reform (Scotland) Act 2012 (direction and control of the Police Service), insert—

“21B Funding of training under section 21A

- (1) As soon as practicable after the end of each yearly period ending on 31 March, the chief constable must prepare an annual report on the cost of training constables and police cadets under section 21A.
- (2) The chief constable must—
 - (a) give a copy of the annual report to the Scottish Ministers and the Authority, and
 - (b) publish the annual report in such a manner as the chief constable considers appropriate (having regard to the desirability of it being accessible to those whom the chief constable considers likely to have an interest in it).
- (3) The Scottish Ministers must lay before the Scottish Parliament a copy of each annual report given to them under this section.”>

Section 3

6. Margaret Mitchell

In section 3, page 6, line 22, at end insert—

<(1A) A constable must not enter a railway property under subsection (1) unless that constable has completed personal track safety training.>

7. Margaret Mitchell

In section 3, page 6, line 33, at end insert—

<(4A) The Scottish Ministers must by regulations specify the level of personal track safety training to be completed by constables under subsection (1A).

(4B) Prior to making regulations under subsection (4A), the Scottish Ministers must consult—

- (a) the Office of Rail and Road,
- (b) Network Rail,
- (c) the Scottish Police Authority,
- (d) the Police Service of Scotland,
- (e) such other bodies as the Scottish Ministers may determine.”>

<p>Purpose and effect</p>	<p>Amendments 4, 5, 6, and 7 proposed by the Scottish Conservatives all relate to training provision.</p> <p>Amendment 4 submitted by Douglas Ross is intended to ensure that all constables of Police Scotland receive training on the policing of railways and railway property to a level determined by the Scottish Ministers (but to a level that is sufficient to allow them to police the railways). All constables would in particular require to complete personal track safety training.</p> <p>To this end, the amendment would:</p> <ul style="list-style-type: none"> • create an obligation on the Chief Constable of Police Scotland to ensure that all constables and police cadets receive the necessary training to police the railways, including completion of personal track safety training; and • create an obligation on Scottish Ministers to specify in regulations the level of personal track safety training required, following consultation with a number of specified bodies. <p>Amendment 5 lodged by Douglas Ross is intended to ensure monitoring of the costs of the training provided under proposed amendment 4. Its effect would be to create an obligation on the Chief Constable to prepare an annual report on the cost of this training, to be laid before Parliament (as well as being published).</p> <p>The purpose of amendments 6 and 7 submitted by Margaret Mitchell is to place an operational restriction on the exercise of railway policing functions by constables who have not undergone a level of personal track safety training specified by the Scottish Ministers. It would accordingly:</p> <ul style="list-style-type: none"> • prevent a constable from exercising the new power of entry to railway property unless they have completed personal track safety training; and • oblige Scottish Ministers to specify in regulations the level of personal track safety training to be completed in order to exercise the power of entry, following consultation with a number of specified bodies.
<p>Background notes</p>	<p>These amendments follow the Stage 1 evidence and debate during which the Scottish Conservatives and Labour asked questions on Police Scotland training provision for railway policing officers.</p> <p>Police Scotland has written three times to the Justice Committee Convener in response to questions on training from the Committee. Copies of the three letters are in your</p>

background briefing pack.

The 3rd letter from ACC Higgins to the Justice Committee, dated 23rd May, confirms:

- Once the Training Needs Analysis (TNA) has been completed, we will be in a better position to understand the requirements of the training programme for Police Scotland Officers after 1 April 2019 and the costs associated with that.
- The TNA will encompass all of the current Police Scotland 11 week training programme as well as all training currently undertaken by BTP Officers, including refresher training.
- The new training programme will see the BTP elements woven through it.
- Existing Police Scotland Officers will be up-skilled by means of awareness training.
- Those transferring to the dedicated Railway Policing specialism will be provided with the necessary additional specialist training, including Track Safety Certification and ongoing refresher training.
- It is not the intention for Police Scotland to provide 17,234 Officers with a Personal Track Safety Certificate (PTSC).
- It is expected therefore, that the training will be delivered within existing structures and at a relatively low cost.
- The Police Scotland 'Safety and Policing of the Railways' Standard Operating Procedures document explicitly states that Police Officers should not go onto the tracks. Should there be a requirement to do so then the nationally agreed process demands that a competent and trained member of the rail industry is available and present at the scene to advise. *(ACC Higgins has previously assured the Committee that the wider resources of Police Scotland will be available to support railway policing as a matter of course not by special request.)*

The Stage 1 Report asked for updates from the Joint Programme Board every six months and Ministers have assured Parliament that these will be provided. These reports will also be an opportunity to update the Committee on the TNA, specialist training including PTSC and training costs. Details of Personal Track Safety Certificate (PTSC) training are in your background information briefing pack.

The implications of making the changes proposed by the amendments are significant as the Chief Constable is responsible for operational policing, including the training of Police Scotland constables, and is accountable for those operational policing matters through the Scottish Police Authority (SPA) to the Scottish Parliament.

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	<p>A separate but related amendment from Douglas Ross (amendment 12) will be considered under Group 5 (Commencement provisions). That amendment seeks to insert a condition for commencement of the Bill that Scottish Ministers must have laid before Parliament a report showing that all constables and police cadets have received the necessary training to police the railways, and stating how the costs of this will be met.</p>
Contact	[redacted – Section 38(1)(b) – Personal data relating to a third party]

Group: Training in relation to policing of railways and railway property

SG Amendments: None

Non-SG Amendments: Douglas Ross MSP: 4, 5

Margaret Mitchell MSP: 6, 7

SPEAKING NOTE

Convener, all of the amendments here seek to dictate to the Chief Constable of Police Scotland the nature and level of training that officers working in a specific area of operational policing should have.

We are not aware of any precedent for Parliament prescribing requirements on the Chief Constable in this way, and the Scottish Government cannot support it. The Chief Constable is responsible for operational policing. His responsibilities include ensuring that officers across Police Scotland have the specialist training they need to carry out their duties, and that this is continually kept under review to meet operational requirements.

Neither the Scottish Parliament nor the Scottish Government should seek to intervene in the business of operational policing by dictating a fixed set of training requirements for railway police officers. We do not prescribe what firearms qualifications, driving qualifications, and so on they should have – those are rightly operational policing matters. Neither should we be constraining specialist railway police in that way.

Furthermore, the Government's view is that both sets of amendments have misunderstood the information Police Scotland has provided to the Committee on the different levels of railway policing training that they propose to provide to officers in different parts of Police Scotland, which reflect different operational needs.

Committee members will be able to see for themselves, from the letter Police Scotland provided last week to the Committee in response to its Stage 1 report, that it is not Police Scotland's intention for Police Scotland to provide all of its 17 thousand officers with a Personal Track Safety Certificate. That will be for the officers who work within the Railway Policing specialism, in similar numbers to that provided currently to BTP officers in Scotland. If members choose to move these amendments, they will be seeking to override the professional view of Police Scotland.

Police Scotland's recent letter also makes clear that it has clear operating procedures, which are currently under review in conjunction with the BTP, stating that its Police Officers should not go onto the tracks when they attend an incident related to the railway. Should there be a requirement to do so, then a nationally agreed process demands that a competent and trained member of the rail industry is present at the scene to advise.

Police Scotland is currently working with the BTP on a Training Needs Analysis, and we should allow them to continue to do that.

If amendment 4 from Douglas Ross were to be passed, we would be faced with the substantial cost of providing Personal Track Safety Certificates to around 17,000 officers who would not have an operational requirement for one. If amendments 6 and 7 from Margaret Mitchell were to be passed, a police officer who did not have that certificate would be unable to exercise the power of entry to railway property, even if this was to access an area nowhere near the actual track – a locked station building, for example. I am sure no-one would want us to be in either of those positions.

While amendment 5 is dependent on amendment 4, amendment 5 is not one I can support on its own terms either. The amendment requires separate training plans and costs to be published.

This Bill already places a statutory requirement on the Scottish Police Authority to engage on service, performance and costs with the railway industry and others.

The SPA will of course be accountable for that engagement, as on other matters, to this Parliament. This Committee already has the powers to scrutinise and question the annual reports and accounts laid by the SPA, and has the option to seek further details on training and costs of railway policing by Police Scotland at any time.

In summary, Convener, the Scottish Government strongly opposes these amendments, which would impinge on the role of the Chief Constable in determining the training required to support operational policing.

I therefore ask Douglas Ross and Margaret Mitchell not to press their amendments; and if pressed, I ask the Committee to reject them.

