

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 4 – Prisoners

Release of prisoners

Section 36 – Revocation of licences under 1993 Act

174. **Section 36** amends sections 16 and 17 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) to provide that:
- the making of an order under section 16(2) or (4) of the that Act will no longer have the effect of revoking a person’s licence; and
 - the Scottish Ministers will be required to revoke a person’s licence and recall him or her to prison where the Parole Board has so recommended (under section 17 of the 1993 Act).
175. Subsection (3) repeals section 16(7)(a) of the 1993 Act. This section provides that where a court makes an order under section 16(2) or (4) of that Act in respect of a person released on licence, the making of the order has the effect of revoking the licence. Thus an order under section 16(2) or (4) will no longer automatically have the effect of revoking a licence.
176. Subsection (4) amends section 17 of the 1993 Act to substitute new subsections (1), (1A), (1B), (2) and (3) for the existing subsections (1) to (3). The main effect of the new provisions is that the Scottish Ministers will be obliged to recall a person to prison if recommended to do so by the Parole Board. At present they have a discretion as regards those prisoners sentenced to a term of 10 years or more on or after 1 October 1993. Another effect is that Ministers will only be obliged to revoke a person’s licence but not to recall them to custody where the person is at the time of revocation being detained. Otherwise, the effect of the substituted provisions is substantially preserved in the new provisions.