

CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 2 - Confinement and Release of Prisoners Chapter 4

Curfew Licences

Section 47 - Curfew licences

91. Under this section the Scottish Ministers may release, on licence, a custody and community prisoner who is serving a sentence of 3 months or more and is of a description to be specified by the Ministers by order. Such an order is subject to the affirmative resolution procedure. Subsection (3) provides that the licence must include a curfew condition, which is described in section 48.
92. Subsections (2) and (4) specify the period during which a prisoner may be released on a curfew licence. Subsection (2) states that it shall be before the expiry of the custody part of the sentence. Subsection (4) provides that the Scottish Ministers may only release a prisoner after the later of: the day on which the prisoner has served one-quarter or four weeks of the sentence (whichever is the greater), or the day falling 135 days before the expiry of the custody part of the sentence. In addition, release must be before the day falling 14 days before the expiry of the custody part. So the window for release on curfew licence is between 135 days and 14 days before the expiry of the custody so long as the prisoner has served at least one-quarter (or 4 weeks if this is more than one quarter) of his or her sentence at the proposed time of release.
93. Subsection (5) provides that in determining whether to release a prisoner under this section, the Scottish Ministers must have regard to the need to protect the public, prevent re-offending and secure the successful re-integration of the prisoner into the community. Subsections (6) to (8) provide that the Scottish Ministers may include in a curfew licence any other conditions they consider appropriate; that prisoners released on curfew licence must comply with any conditions on it; and that the curfew licence remains in force until the expiry of the custody part of the sentence.
94. Subsection (9) provides that an order made under subsection (1)(b) may apply, with or without modification, relevant provisions of Part 2 of the Act to curfew licences. It may also amend the periods of time mentioned in subsection (4).