

2014 No. 210 (C. 17)

CRIMINAL LAW

**The Victims and Witnesses (Scotland) Act 2014
(Commencement No. 2 and Transitional Provision) Order 2014**

<i>Made</i> - - - -	<i>22nd July 2014</i>
<i>Laid before the Scottish Parliament</i>	<i>24th July 2014</i>
<i>Coming into force</i> - -	<i>13th August 2014</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 34(2) and (3) of the Victims and Witnesses (Scotland) Act 2014(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Victims and Witnesses (Scotland) Act 2014 (Commencement No. 2 and Transitional Provision) Order 2014 and comes into force on 13th August 2014.

(2) In this Order—

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(b);

“the 2003 Act” means the Criminal Justice (Scotland) Act 2003(c);

“the 2014 Act” means the Victims and Witnesses (Scotland) Act 2014.

Appointed day

2.—(1) 13th August 2014 is the day appointed for the coming into force of the provisions of the 2014 Act specified in column 1 of the Schedule (the subject matter of which is described in column 2 of the Schedule).

(2) Where a purpose is specified in column 3 of the Schedule in relation to any provision, that provision comes into force on 13th August 2014 for that purpose only.

Transitional provision: sections 23, 27, 28 and 29 of the 2014 Act (victim’s rights in relation to release etc. of offender)

3.—(1) Paragraph (2) applies where, immediately before 13th August 2014, a person is entitled to receive information under either of the following provisions of section 16 of the 2003 Act (victim’s right to receive information concerning release etc. of offender) on behalf of a child who has not attained the age of 14 years—

(a) subsection (1), by virtue of subsection (5)(b)(ii); or

(a) 2014 asp 1.
(b) 1995 c.46.
(c) 2003 asp 7.

(b) subsection (7).

(2) Despite the specified amendments, the person is to be given (where applicable) the information described in section 16(3) of the 2003 Act, as amended by section 27 of the 2014 Act, for the duration of the transitional period.

(3) Where, immediately before 13th August 2014, a person (other than a person mentioned in paragraph (1)) is entitled to receive information under section 16(1) of the 2003 Act, the person is, on and after that date, to be given (where applicable) the information mentioned in paragraph (2).

(4) Paragraph (5) applies where, immediately before 13th August 2014, a person is entitled to be afforded an opportunity to make written representations under section 17(1) of the 2003 Act (release on licence: right of victim to receive information and make representations) on behalf of a child who has not attained the age of 14 years.

(5) Despite the specified amendments, the person is to be afforded (where applicable) an opportunity to make the following representations for the duration of the transitional period—

- (a) written or (as the case may be) oral representations under section 17(1) of the 2003 Act, as amended by section 28 of the 2014 Act; or
- (b) written representations under section 17A(2) of the 2003 Act, as inserted by section 29 of the 2014 Act.

(6) Where, immediately before 13th August 2014, a person (other than a person mentioned in paragraph (4)) is entitled to make written representations under section 17(1) of the 2003 Act, the person is, on and after that date, to be afforded (where applicable) an opportunity to make the representations mentioned in paragraph (5)(a) or (b).

(7) But, for the purposes of paragraphs (5) and (6), the person may be afforded an opportunity to make oral representations under section 17(1)(b) of the 2003 Act only if the decision to release the convicted person on licence is to be taken on or after 13th September 2014.

(8) In this article—

“specified amendments” means the amendments made—

- (a) by section 23(1) and (4) of the 2014 Act to section 14 of the 2003 Act (victim statements), so far as they apply in relation to section 16(5)(a) of the 2003 Act; and
- (b) by section 23(8) to (12) of the 2014 Act to section 16 of the 2003 Act;

“transitional period” means the period—

- (a) beginning with 13th August 2014; and
- (b) ending with the earlier of—
 - (i) the day on which the child attains the age of 14 years; or
 - (ii) the day on which the child (by virtue of the specified amendments and having attained the age of 12 or 13 years) intimates to the Scottish Ministers that the child wishes to receive information under section 16(1) of the 2003 Act or, as the case may be, to be afforded an opportunity to make representations under section 17(1) or 17A(2) of that Act.

KENNY MACASKILL

A member of the Scottish Government

St Andrew's House,
Edinburgh
22nd July 2014

SCHEDULE

Article 2

<i>Column 1</i> <i>Provisions of the 2014 Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 2	Standards of service	For the purpose of making an order under section 2(6) of the 2014 Act.
Section 6	Disclosure of information about criminal proceedings	For the purpose of making an order under section 6(2)(b) of the 2014 Act.
Section 8	Certain offences: victim's right to specify gender of interviewer	
Section 23(1) to (6)	Victim statements	For the purposes of criminal proceedings commenced on or after 13th August 2014, with proceedings being taken to have commenced when a report of the case is received by the procurator fiscal (as defined by section 307(1) of the 1995 Act ^(a)). Section 23(1) (but only in relation to subsections (3) and (4)), (3) and (4) of the 2014 Act is commenced also for the purposes of section 16(5)(b)(i) and (6) of the 2003 Act.
Section 23(8) to (13)	Victim's right to receive information concerning release etc. of offender	
Section 26	Victim surcharge	For the purpose of inserting sections 253F and 253G into the 1995 Act, but only for the purposes of making regulations under section 253F, and an order and regulations under section 253G, of that Act.
Section 27	Victim's right to receive information about release of offender etc.	
Section 28	Life prisoners: victim's right to make oral representations before release on licence	
Section 29	Temporary release: victim's right to make representations	

(a) There are amendments to section 307(1) which are not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force, on 13th August 2014, the following sections of the Victims and Witnesses (Scotland) Act 2014 (“the 2014 Act”): sections 2, 6, 8, 23 (except subsections (7) and (14)), 26, 27, 28 and 29 (article 2(1)). Some of the provisions are brought partially into force for restricted purposes only (article 2(2)).

The Order makes transitional provision in relation to sections 23, 27, 28 and 29 of the 2014 Act (article 3). Sections 23, 27 and 28 modify the rights conferred by sections 16 (victim’s right to receive information concerning release etc. of offender) and 17 (release on licence: right of victim to receive information and make representations) of the Criminal Justice (Scotland) Act 2003 (“the 2003 Act”). Section 29 adds to those rights, by inserting into the 2003 Act new section 17A (temporary release: victim’s right to make representations about conditions). Article 3 of this Order sets out how these amendments affect the rights of persons who, immediately before 13th August 2014, are entitled to receive information under section 16 of the 2003 Act, or to be afforded an opportunity to make representations under section 17 of the 2003 Act.

The Bill for the 2014 Act received Royal Assent on 17th January 2014. The following sections of the 2014 Act came into force on the following day: sections 30 (in part), 31 (in part), 32, 33, 34 and 35.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the 2014 Act have been brought into force by commencement order made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 30 (in so far as not already in force)	1st July 2014	2014/117
Section 31(2) (in part)	16th May 2014	2014/117
Section 31 (in so far as not already in force)	1st July 2014	2014/117

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