



# Prisoners and Criminal Proceedings (Scotland) Act 1993

## 1993 CHAPTER 9

### PART I

#### DETENTION, TRANSFER AND RELEASE OF OFFENDERS

##### *Early release*

**[<sup>F1</sup>3A Re-release of prisoners serving [<sup>F2</sup>certain terrorism sentences and] extended sentences.**

(1) [<sup>F3</sup>Subject to subsection (1A) below,] this section applies to a prisoner serving [<sup>F4</sup>a sentence mentioned in subsection (1ZA)] [<sup>F5</sup>and in respect of whom a licence has been revoked under section 17(1) to (1B)] of this Act.

[ The sentences are—

- <sup>F6</sup>(1ZA) (a) a sentence imposed under section 205ZA of the 1995 Act (serious terrorism sentence);
- (b) a sentence imposed under section 205ZC of that Act (terrorism sentence with fixed licence period);
- (c) an extended sentence under section 210A of that Act.]

[ This section does not apply to such a prisoner if he has, in addition to the sentence in <sup>F7</sup>(1A) relation to which his recall to prison applies, been sentenced to imprisonment for life and has not been released from that sentence.]

- (2) Subject to subsection (3) below, a prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole Board—
- (a) where his case has previously been referred to the Parole Board under this section or section 17(3) of this Act, not less than one year following the [<sup>F8</sup>Board's disposal of his case];
- (b) in any other case, at any time.

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*Changes to legislation: Prisoners and Criminal Proceedings (Scotland) Act 1993, Section 3A is up to date with all changes known to be in force on or before 04 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- [ Where—
- <sup>F9</sup>(2A) (a) a prisoner's case has been referred to the Parole Board under this section or section 17(3) of this Act; and
- (b) the prisoner receives another sentence of imprisonment before the Board has considered his case,
- the Board shall not consider his case unless there is a further referral of his case to the Board under this section.
- (2B) A case which, by virtue of subsection (2A) above, is not considered by the Parole Board shall not, for the purposes of subsection (2)(a) above, be treated as having been disposed of.]
- (3) Where a prisoner to whom this section applies is subject to another sentence which is not treated as a single [<sup>F10</sup>term] with [<sup>F11</sup>the sentence under section 205ZA or, as the case may be, section 205ZC or] the extended sentence, the Secretary of State shall not be required to refer his case to the Parole Board before he [<sup>F12</sup>would be eligible to be released, or considered for release, from] that other sentence.
- (4) Where the case of a prisoner to whom this section applies is referred to the Parole Board under this section or section 17(3) of this Act, the Board shall,
- [<sup>F13</sup>(a) where—
- (i) the prisoner is serving a sentence imposed under section 205ZA or 205ZC of the 1995 Act or an extended sentence under section 210A of that Act in respect of a terrorism offence, and
- (ii) the Board is satisfied that the condition in subsection (4A) is met (but not otherwise),
- direct that the prisoner should be released;
- (b) where—
- (i) the prisoner is serving an extended sentence under section 210A of that Act in respect of a sexual or violent offence, and
- (ii) the Board is satisfied that the condition in subsection (4B) is met (but not otherwise),
- direct that the prisoner should be released.]
- [ The condition is that it is no longer necessary for the protection of the public that the
- <sup>F14</sup>(4A) prisoner should be confined.
- (4B) The condition is that it is no longer necessary for the protection of the public from serious harm that the prisoner should be confined.]
- (5) If the Parole Board gives a direction under subsection (4) above, the Secretary of State shall release the prisoner on licence.]

#### Textual Amendments

- F1** S. 3A inserted (30.9.1998) by 1998 c. 37, s. 88; S.I. 1998/2327, art. 2(1)(s) (subject to arts. 5-8)
- F2** Words in s. 3A heading inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 52(9)(a)
- F3** Words in s. 3A(1) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 31(a)(i), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F4** Words in s. 3A(1) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 52(9)(b)

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- F5** Words in s. 3A(1) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 31(a)(ii)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F6** S. 3A(1ZA) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 52(9)(c)**
- F7** S. 3A(1A) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 31(b)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F8** Words in s. 3A(2)(a) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 31(c)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F9** S. 3A(2A)(2B) inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 31(d)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F10** Word in s. 3A(3) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 31(e)(i)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F11** Words in s. 3A(3) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 52(9)(d)**
- F12** Words in s. 3A(3) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), **ss. 31(e)(ii)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F13** S. 3A(4)(a)(b) substituted for words (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 52(9)(e)**
- F14** S. 3A(4A)(4B) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 52(9)(f)**

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**Modifications etc. (not altering text)**

- C1** Ss. 1, 1A, 2(4), 3A, 5, 6(1)(a)(b)(i)(iii), 7, 9, 16, 20, 21, 26A, 27, Schs. 2, 6 extended (30.9.1998) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 10(2)(a)(5)(a)(6)(7), **11(2)(a)(4)(a)(6)** (subject to art. 5) (as amended (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 paras. 135(5)(a)(d)(f)(6)(a)(b)**; S.I. 1998/2327, **art. 2(1)(y)(2)(oo)** (subject to arts. 5-8))

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3A(3A) inserted by [2019 asp 14 s. 51\(2\)](#)
- s. 3B inserted by [2019 asp 14 s. 51\(3\)](#)
- s. 3B(1)(a) words inserted by [2021 c. 11 Sch. 13 para. 52\(10\)\(a\)](#)
- s. 3B(1)(b) words inserted by [2021 c. 11 Sch. 13 para. 52\(10\)\(b\)\(i\)](#)
- s. 3B(1)(b) words inserted by [2021 c. 11 Sch. 13 para. 52\(10\)\(b\)\(ii\)](#)
- s. 3B(4)(b) words inserted by [2021 c. 11 Sch. 13 para. 52\(10\)\(c\)](#)
- s. 3C-3E and cross-heading inserted by [2023 asp 4 s. 11\(2\)](#)
- s. 3AA(4)(aa) inserted by [2023 asp 4 s. 9\(4\)\(b\)\(ii\)](#)
- s. 3AA(7A) inserted by [2023 asp 4 s. 9\(4\)\(d\)](#)
- s. 3AB3AC inserted by [2023 asp 4 s. 9\(5\)](#)
- s. 11(3C)(3D) inserted by [2023 asp 4 s. 9\(6\)\(b\)](#)
- s. 12(3A) inserted by [2023 asp 4 s. 11\(3\)](#)
- s. 12AA(7) inserted by [2023 asp 4 s. 9\(8\)\(d\)](#)
- s. 12ZA inserted by [2023 asp 4 s. 11\(4\)](#)
- s. 16(2A) inserted by [2016 asp 1 s. 86\(4\)](#)
- s. 17(2A)(2B) inserted by [2023 asp 4 s. 10\(2\)](#)
- s. 17A(2B)(2C) inserted by [2023 asp 4 s. 10\(3\)\(a\)](#)
- s. 17B inserted by [2023 asp 4 s. 10\(4\)](#)
- s. 27(7A)(7B) inserted by [2023 asp 4 s. 8\(2\)\(b\)](#)