

# **CRIMINAL JUSTICE (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **THE ACT THE ACT IS IN 12 PARTS.**

#### **Part 4 – Prisoners**

##### **Release of prisoners**

##### *Section 39 - Convention rights of certain life prisoners*

186. *Section 39* amends certain provisions of the schedule to the Convention Rights (Compliance) (Scotland) Act 2001 (“the 2001 Act”). The schedule contains transitional provisions in respect of prisoners serving a life sentence in Scotland on 8 October 2001, the date on which the provisions of the 2001 Act relating to life sentence prisoners came into force. Those provisions made changes to the early release provisions in the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”).
187. Paragraph (a) inserts a new paragraph 7A into Part 1 of the schedule to the 2001 Act. This makes it clear that, where a person has waived the right to a punishment part hearing under paragraph 6 of the schedule, the early release provisions in Part 1 of the 1993 Act shall apply as if the person had had a punishment part specified. The length of the part would be the same as the period specified in their certificate.
188. Paragraph (b) makes certain changes to Part 4 of the schedule. This Part applies to life prisoners who had been transferred to Scotland before 8 October 2001 and who were still serving their sentences on that date. A new paragraph 49A is added to the schedule to make clear that Part 4 also applies to two further categories of prisoner in addition to those specified in paragraph 49. These categories are: certain of those who were transferred to Scotland between 1 October 1993 (when section 10 of the 1993 Act came into force) and 8 October 2001, and those who were transferred before 1 October 1993 and who were still in prison as at 8 October 2001.
189. Paragraph (b) also amends paragraph 53 of the schedule so as to extend the classes of prisoner whose cases will not, by virtue of that paragraph, be referred to the High Court for a punishment part hearing. These classes of prisoner are some of those covered by the new paragraph 49A.
190. Additionally, paragraph (b) replaces paragraph 67 of the schedule. The effect is that those prisoners whose cases are not, by virtue of paragraph 53, referred for a punishment part hearing are made subject to the early release provisions in Part 1 of the 1993 Act. They are deemed to have had a punishment part specified, and this is of the same length as the period specified in their certificate.