



Criminal Justice (Scotland) Act 2003

2003 asp 7

PART 2 **S**

VICTIMS' RIGHTS

16 **Victim's right to receive information concerning release etc. of offender** **S**

- (1) Subject to subsection (2), the Scottish Ministers must, unless they consider that there are exceptional circumstances which make it inappropriate to do so, give any natural person against whom [^{F1}an offence] has been perpetrated such information as is described in subsection (3), being information in relation to any person who has been convicted of that offence and sentenced in respect of it—
- (a) to imprisonment or detention for a period of [^{F2}18 months or more];
 - (b) to life imprisonment or detention for life; or
 - (c) under section 205(2) (punishment for murder where convicted person under 18) or 208 (detention of children convicted on indictment) of the 1995 Act, to detention without limit of time,
- provided that the person to be given the information wishes to receive it and has so intimated.
- (2) Subsection (1) does not apply where the convicted person is released before attaining the age of sixteen years.
- (3) The information mentioned in subsection (1) is—
- (a) the date on which the convicted person is, under or by virtue of the 1989 Act or the 1993 Act, released (other than by being granted temporary release);
 - [^{F3}(aa) the date on which the convicted person is released under or by virtue of regulations made under paragraph 19(1) of schedule 4 of the Coronavirus (Scotland) Act 2020;]
 - (b) if the convicted person dies before that date, the date of death;
 - (c) that the convicted person has been transferred to a place outwith Scotland;
 - [^{F4}(d) that the convicted person is for the first time entitled to be considered for temporary release by virtue of rules under section 39(6) of the 1989 Act,]
 - (e) that the convicted person is unlawfully at large from a prison[^{F5}, young] offenders institution [^{F6}or hospital][^{F7}, ^{F8}...

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- (f) where the convicted person—
- (i) was released as described in paragraph (a) or was unlawfully at large as described in paragraph (e), and
 - (ii) subsequently has been returned to a prison^[F9], young offenders institution ^[F10] or hospital] to continue serving the sentence, the date of the person's return.]
- ^[F11](g) where the convicted person is liable to be detained in a hospital under a hospital direction or transfer for treatment direction—
- (i) that a certificate has been granted, for the first time, under the Mental Health Act which suspends the person's detention and does not impose a supervision requirement,
 - (ii) that the certificate mentioned in sub-paragraph (i) has been revoked.]
- (4) The Scottish Ministers may by order—
- (a) amend subsection (1)(a) by substituting, for the period for the time being specified there, a different period; ^{F12} ...
 - (b) amend subsection (3) by adding descriptions of information ^[F13]; or
 - (c) modify section 18A, by adding, amending or repealing definitions of terms used in the descriptions of information in subsection (3) of this section.]
- (5) Where information would fall to be given to a person under subsection (1) but that person—
- (a) has died, that subsection applies as if references in it to the person ^[F14]to be given the information] were to be construed as mentioned in sub-paragraphs (i) and (ii) of paragraph (a) of section 14(6) of this Act ^[F15](except that, in the case where a qualifying person is a child who has not attained the age of 12 years, paragraph (a)(i) of the said section 14(6) is to be construed as if the reference to the qualifying person were to a person who cares for the child)]; or
 - (b) in a case other than is mentioned in paragraph (a)—
 - (i) is incapable as mentioned in sub-paragraph (i) of paragraph (b) of the said section 14(6), that subsection applies as if references in it to the person were to be construed as mentioned in that sub-paragraph ^[F16](taking him to be the person “afforded an opportunity”)]; or
 - (ii) is a child ^[F17]who has not attained the age of 12 years^[F18] ... , that subsection applies as if references in it to the person ^[F19]to be given the information] were to be construed as ^[F20]references to the person who cares for the child]
- ^{F21}
- (6) Subsections (7) ^[F22]to (11)] of section 14 apply in relation to ^[F23]paragraphs (a) and (b) (i) of] subsection (5) as they apply in relation to subsection (6) of that section.
- ^{F24}(7)
- (8) In subsection ^[F25](5)(a) and (b)(ii)], the reference to a person who cares for the child is to be construed in accordance with ^[F26]paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010] (asp 8).
- ^[F27](9) The Scottish Ministers may by order amend this section by substituting for—
- (a) the person for the time being specified in any part of this section to whom information may be made available such other person as they think fit,

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- (b) the age for the time being specified in any part of this section such other age as they think fit.]

Textual Amendments

- F1** Words in s. 16(1) substituted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), [ss. 23\(9\)\(a\)](#), 34; [S.S.I. 2014/210](#), [art. 2](#), [sch.](#) (with [art. 3](#))
- F2** Words in s. 16(1)(a) substituted (15.5.2008) by [The Victim Notification Scheme \(Scotland\) Order 2008 \(S.S.I. 2008/185\)](#), [art. 2\(a\)](#)
- F3** [S. 16\(3\)\(aa\)](#) inserted (temp.) (4.5.2020 at 10.15 a.m.) by virtue of [The Criminal Justice \(Miscellaneous Temporary Modifications\) \(Coronavirus\) \(Scotland\) Regulations 2020 \(S.S.I. 2020/137\)](#), [regs. 1\(1\)](#), [2](#)
- F4** [S. 16\(3\)\(d\)](#) substituted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), [ss. 27\(b\)](#), 34; [S.S.I. 2014/210](#), [art. 2](#), [sch.](#) (with [art. 3](#))
- F5** Word in [s. 16\(3\)\(e\)](#) substituted (5.5.2017 for specified purposes, 15.9.2017 for specified purposes, 30.9.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), [ss. 54\(2\)\(a\)\(i\)](#), 61(2); [S.S.I. 2017/126](#), [art. 2](#), [sch.](#); [S.S.I. 2017/234](#), [art. 2\(1\)\(a\)\(2\)\(a\)](#) (with [arts. 3](#), 4)
- F6** Words in [s. 16\(3\)\(e\)](#) inserted (5.5.2017 for specified purposes, 15.9.2017 for specified purposes, 30.9.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), [ss. 54\(2\)\(a\)\(ii\)](#), 61(2); [S.S.I. 2017/126](#), [art. 2](#), [sch.](#); [S.S.I. 2017/234](#), [art. 2\(1\)\(a\)\(2\)\(a\)](#) (with [arts. 3](#), 4)
- F7** [S. 16\(f\)](#) and preceding word inserted (15.5.2008) by [The Victim Notification Scheme \(Scotland\) Order 2008 \(S.S.I. 2008/185\)](#), [art. 2\(b\)\(ii\)](#)
- F8** Word in [s. 16\(3\)](#) repealed (5.5.2017 for specified purposes, 15.9.2017 for specified purposes, 30.9.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), [ss. 54\(2\)\(b\)](#), 61(2); [S.S.I. 2017/126](#), [art. 2](#), [sch.](#); [S.S.I. 2017/234](#), [art. 2\(1\)\(a\)\(2\)\(a\)](#) (with [arts. 3](#), 4)
- F9** Word in [s. 16\(3\)\(f\)](#) substituted (5.5.2017 for specified purposes, 15.9.2017 for specified purposes, 30.9.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), [ss. 54\(2\)\(c\)\(i\)](#), 61(2); [S.S.I. 2017/126](#), [art. 2](#), [sch.](#); [S.S.I. 2017/234](#), [art. 2\(1\)\(a\)\(2\)\(a\)](#) (with [arts. 3](#), 4)
- F10** Words in [s. 16\(3\)\(f\)](#) inserted (5.5.2017 for specified purposes, 15.9.2017 for specified purposes, 30.9.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), [ss. 54\(2\)\(c\)\(ii\)](#), 61(2); [S.S.I. 2017/126](#), [art. 2](#), [sch.](#); [S.S.I. 2017/234](#), [art. 2\(1\)\(a\)\(2\)\(a\)](#) (with [arts. 3](#), 4)
- F11** [S. 16\(3\)\(g\)](#) inserted (5.5.2017 for specified purposes, 15.9.2017 for specified purposes, 30.9.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), [ss. 54\(2\)\(d\)](#), 61(2); [S.S.I. 2017/126](#), [art. 2](#), [sch.](#); [S.S.I. 2017/234](#), [art. 2\(1\)\(a\)\(2\)\(a\)](#) (with [arts. 3](#), 4)
- F12** Word in [s. 16\(4\)](#) repealed (5.5.2017 for specified purposes, 15.9.2017 for specified purposes, 30.9.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), [ss. 54\(3\)\(a\)](#), 61(2); [S.S.I. 2017/126](#), [art. 2](#), [sch.](#); [S.S.I. 2017/234](#), [art. 2\(1\)\(a\)\(2\)\(a\)](#) (with [arts. 3](#), 4)
- F13** [S. 16\(4\)\(c\)](#) and word inserted (5.5.2017 for specified purposes, 15.9.2017 for specified purposes, 30.9.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), [ss. 54\(3\)\(b\)](#), 61(2); [S.S.I. 2017/126](#), [art. 2](#), [sch.](#); [S.S.I. 2017/234](#), [art. 2\(1\)\(a\)\(2\)\(a\)](#) (with [arts. 3](#), 4)
- F14** Words in [s. 16\(5\)\(a\)](#) inserted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), [ss. 23\(9\)\(a\)\(i\)](#), 34; [S.S.I. 2014/210](#), [art. 2](#), [sch.](#) (with [art. 3](#))
- F15** Words in [s. 16\(5\)\(a\)](#) inserted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), [ss. 23\(9\)\(a\)\(ii\)](#), 34; [S.S.I. 2014/210](#), [art. 2](#), [sch.](#) (with [art. 3](#))
- F16** Words in [s. 16\(5\)\(b\)\(i\)](#) inserted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), [ss. 23\(9\)\(c\)](#), 34; [S.S.I. 2014/210](#), [art. 2](#), [sch.](#) (with [art. 3](#))
- F17** Words in [s. 16\(5\)\(b\)\(ii\)](#) inserted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), [ss. 23\(9\)\(b\)\(i\)](#), 34; [S.S.I. 2014/210](#), [art. 2](#), [sch.](#) (with [art. 3](#))
- F18** Words in [s. 16\(5\)\(b\)\(ii\)](#) repealed (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), [ss. 23\(9\)\(b\)\(ii\)](#), 34; [S.S.I. 2014/210](#), [art. 2](#), [sch.](#) (with [art. 3](#))
- F19** Words in [s. 16\(5\)\(b\)\(ii\)](#) inserted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), [ss. 23\(9\)\(b\)\(iii\)](#), 34; [S.S.I. 2014/210](#), [art. 2](#), [sch.](#) (with [art. 3](#))

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- F20** Words in s. 16(5)(b)(ii) substituted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 23(9)(b)(iv)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)
- F21** Words in s. 16(5)(b) repealed (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 23(9)(d)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)
- F22** Words in s. 16(6) substituted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 23(10)(a)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)
- F23** Words in s. 16(6) inserted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 23(10)(b)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)
- F24** S. 16(7) repealed (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 23(11)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)
- F25** Words in s. 16(8) substituted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 23(12)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)
- F26** Words in s. 16(8) substituted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, **sch. 1 para. 12(b)**
- F27** S. 16(9) added (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 23(13)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)

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Changes and effects yet to be applied to :

- specified provision(s) and purposes Appointed Day(s) by [S.S.I. 2003/439 art. 23Sch.](#) (Effect not applied to [legislation.gov.uk](#). This S.S.I. is revoked (1.10.2003) by S.S.I. 2003/475, art. 4)

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. 16D inserted by [2023 asp 4 s. 14\(3\)](#)
- s. 16ZA inserted by [2023 asp 4 s. 14\(2\)](#)
- s. 17E(6) inserted by [2023 asp 4 s. 14\(7\)\(d\)](#)
- s. 17DA inserted by [2023 asp 4 s. 14\(6\)](#)
- s. 17ZA inserted by [2023 asp 4 s. 14\(4\)](#)
- s. 18A(5) inserted by [2023 asp 4 s. 14\(8\)\(b\)](#)