



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 2

#### VICTIMS' RIGHTS

#### 17 **Release on licence: right of victim to receive information and make representations**

- (1) Subject to subsections (2), (3) and (12), a person entitled to receive information under section 16 of this Act (the “victim”) as respects a convicted person must in accordance with this section, before any decision is taken to release the convicted person on licence,
  - [<sup>F1</sup>(a)] be afforded an opportunity to make written representations to the Scottish Ministers as respects such release and as to conditions which might be specified in the licence in question.
  - [<sup>F2</sup>(b)] if the convicted person is serving a sentence of life imprisonment, be afforded an opportunity to make oral representations to a member of the Parole Board for Scotland who is not dealing with the convicted person's case as respects such release and as to conditions which might be specified in the licence in question.]
- (2) Subsection (1) applies only where the victim wishes to be afforded the opportunity and has so intimated.
- (3) Subsection (1) does not apply where the convicted person has not attained the age of sixteen years by the date on which the case is referred to the Parole Board for Scotland by the Scottish Ministers.
- (4) The Scottish Ministers are to issue guidance as to how [<sup>F3</sup>written] representations under subsection (1) should be framed [<sup>F4</sup>and how oral representations under that subsection should be made].
- (5) Where it falls to the Board to recommend whether, or direct that, the convicted person be released, the Scottish Ministers must, as soon as practicable after they commence a review of the case for the purposes of referring it to the Board for the Board to consider what recommendation to make or whether to make such a direction, fix a time within which any representations under subsection (1) require to be made to them if they are to be considered by the Board; and they must notify the victim accordingly.

*Changes to legislation: Criminal Justice (Scotland) Act 2003, Section 17 is up to date with all changes known to be in force on or before 19 April 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*

- (6) Whether or not representations are made under subsection (1), in a case to which subsection (5) applies the Board must, subject to subsection (11)—
- (a) inform the victim as to whether or not it has recommended or directed release;
  - (b) if it has recommended or directed release, inform the victim as to whether it has also recommended that the person released comply with conditions; and
  - (c) inform the victim of the terms of any such conditions which relate to contact with the victim or with members of the victim's family,
- and the Board may provide the victim with such other information as it considers appropriate having regard to the circumstances of the case.
- (7) Where subsection (5) does not apply but it falls to that Board to recommend conditions to be included in the licence, the Scottish Ministers are under the same duties as they are under that subsection.
- (8) Whether or not representations are made under subsection (1), in a case to which subsection (7) applies the Board must inform the victim, subject to subsection (11)—
- (a) as to whether it has recommended that the person released comply with conditions; and
  - (b) as is mentioned in subsection (6)(c).
- (9) Where neither subsection (5) nor (7) applies, the Scottish Ministers must fix a time within which any representations under subsection (1) require to be made to them if they are to be considered by them; and they must notify the victim accordingly.
- (10) Whether or not representations are made under subsection (1), in a case to which subsection (9) applies the Scottish Ministers must inform the victim, subject to subsection (11)—
- (a) as to whether the person released is to comply with conditions; and
  - (b) as is mentioned in subsection (6)(c).
- [<sup>F5</sup>(10A) In complying with the duty imposed on them by subsection (5), the Scottish Ministers may fix different times in relation to written and oral representations respectively.]
- (11) Subsections (6), (8) and (10) apply only where the victim has intimated a desire to receive the information in question.
- (12) This section does not apply—
- (a) as respects release under section 3 of the 1993 Act (release on compassionate grounds); or
  - (b) where the entitlement mentioned in subsection (1) arises by virtue of section 16(4)(a).
- [<sup>F6</sup>(13) The Scottish Ministers may by order modify the description or descriptions of convicted person for the time being specified in subsection (1)(b).]

#### Textual Amendments

- F1** S. 17(1)(a): words in s. 17(1) renumbered as s. 17(1)(a) (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 28(a)(i)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)
- F2** S. 17(1)(b) added (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 28(a)(ii)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)
- F3** Word in s. 17(4) inserted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 28(b)(i)**, 34; S.S.I. 2014/210, art. 2, sch. (with art. 3)

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- F4** Words in s. 17(4) added (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 28(b)(ii)**, 34; [S.S.I. 2014/210](#), art. 2, sch. (with art. 3)
- F5** S. 17(10A) inserted (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 28(c)**, 34; [S.S.I. 2014/210](#), art. 2, sch. (with art. 3)
- F6** S. 17(13) added (13.8.2014) by [Victims and Witnesses \(Scotland\) Act 2014 \(asp 1\)](#), **ss. 28(d)**, 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\(8\)\(b\)](#)