



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 4

#### PRISONERS ETC.

##### *Release of prisoners*

#### **35 Suspension of licence conditions under 1993 Act**

- (1) The 1993 Act is amended as follows.
- (2) In section 12 (which requires a person released on licence under Part I of that Act to comply with the conditions specified in the licence), in subsection (1), after the word “shall” there is inserted “, subject to section 12A below,”.
- (3) After that section there is inserted—

##### **“12A Suspension of licence conditions**

- (1) Where a prisoner, who has been released on licence under this Part of this Act as respects a sentence of imprisonment—
  - (a) continues, by virtue of any enactment or rule of law, to be detained in prison notwithstanding such release; or
  - (b) is, by virtue of any enactment or rule of law, detained in prison subsequent to the date of such release but while the licence remains in force,the conditions in the licence, other than those mentioned in subsection (3) below, shall by virtue of such detention be suspended.
- (2) The suspension of the conditions shall have effect for so long as—
  - (a) the prisoner is so detained; and
  - (b) the licence remains in force.
- (3) The conditions are any conditions, however expressed, requiring the prisoner—
  - (a) to be of good behaviour and to keep the peace; or

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**Changes to legislation:** *Criminal Justice (Scotland) Act 2003, Section 35 is up to date with all changes known to be in force on or before 01 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*

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- (b) not to contact a named person or class of persons (or not to do so unless with the approval of the person specified in the licence by virtue of section 12(2)(a) of this Act).
- (4) The Scottish Ministers may by order amend subsection (3) above by—
- (a) adding to the conditions mentioned in that subsection such other condition as they consider appropriate; or
  - (b) cancelling or varying a condition for the time being mentioned in that subsection.

### **12B Certain licences to be replaced by one**

- (1) Subsection (2) below applies where a prisoner—
- (a) has been released on licence under this Part of this Act or under the 1989 Act as respects any sentence of imprisonment (“the original sentence”); and
  - (b) while so released, receives another sentence of imprisonment (whether for life or for a term) (“the subsequent sentence”),
- and the licence as respects the original sentence has not been revoked.
- (2) Where—
- (a) this subsection applies; and
  - (b) the prisoner is to be released on licence under this Part of this Act as respects the subsequent sentence,
- he shall instead be released on a single licence under this Part of this Act as respects both the original sentence and the subsequent sentence.
- (3) The single licence—
- (a) shall have effect in place of—
    - (i) the licence as respects the original sentence; and
    - (ii) any licence on which the prisoner would, apart from this section, be released as respects the subsequent sentence;
  - (b) shall be subject to such conditions as were in the licence as respects the original sentence immediately before that licence was replaced by the single licence; and
  - (c) shall (unless revoked) remain in force for so long as any licence as respects the original sentence or as respects the subsequent sentence would, apart from this section (and if not revoked), have remained in force.”.

**Changes to legislation:**

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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\(8\)\(b\)](#)