Status: *Point in time view as at 11/10/2019.*
Changes to legislation: *Custodial Sentences and Weapons (Scotland) Act 2007, SCHEDULE 6 is up to date with all changes known to be in force on or before 10 July 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)*

[[F1]SCHEDULE 6

(introduced by section 66(3))

TRANSITORY AMENDMENTS

Textual Amendments

F1 Sch. 6 substituted (28.3.2011) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 19**, 206(1); S.S.I. 2011/178, art. 2, Sch.

1 Until the coming into force of the repeal by this Act of Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9), that Part has effect in accordance with paragraphs 2 to 4.

2 In section 1 (release of short-term and long-term prisoners), subsection (3) has effect as if for paragraphs (a) and (b) there were substituted " must, "

3 Section 9 (persons liable to removal from the United Kingdom) has effect as if—

(a) subsection (1) were repealed, and

(b) in subsection (3), after "section", where it first occurs, there were inserted " and sections 9A and 9B " .

4 That Part has effect as if after section 9 there were inserted—

"**Persons eligible for removal from the United Kingdom**

(1) For the purposes of this Part, to be "eligible for removal from the United Kingdom" a person must show, to the satisfaction of the Scottish Ministers, that the condition in subsection (2) is met.

(2) The condition is that the person has the settled intention of residing permanently outside the United Kingdom if removed from prison under section 9B.

(3) The person must not be one who is liable to removal from the United Kingdom.

Early removal of certain short-term prisoners from the United Kingdom

(1) Subject to subsection (2), where a short-term prisoner is liable to, or eligible for, removal from the United Kingdom, the Scottish Ministers may remove the prisoner from prison under this section at any time during the period of 180 days ending with the day on which the prisoner will have served one-half of the prisoner's sentence.

(2) Subsection (1) does not apply in relation to a prisoner unless the prisoner has served one-quarter of the sentence.

(3) A prisoner removed from prison under this section—

(a) if liable to removal from the United Kingdom, is so removed only for the purpose of enabling the Secretary of State to remove the prisoner from the United Kingdom under powers conferred by—

(i) Schedule 2 or 3 to the Immigration Act 1971 (c.77), or

(ii) section 10 of the Immigration and Asylum Act 1999 (c.33),

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(b) if eligible for removal from the United Kingdom, is so removed only for the purpose of enabling the prisoner to leave the United Kingdom in order to reside permanently outside the United Kingdom, and

(c) in either case, so long as remaining in the United Kingdom, remains liable to be detained in pursuance of the prisoner's sentence until the prisoner has served one-half of the sentence.

(4) So long as a prisoner removed from prison under this section remains in the United Kingdom but has not been returned to prison, any duty or power of the Scottish Ministers under section 1(1), 1AA or 3 is exercisable in relation to the prisoner as if the prisoner were in prison.

(5) The Scottish Ministers may by order amend the number of days for the time being specified in subsection (1).

(6) A statutory instrument containing an order under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Re-entry into United Kingdom of prisoner removed from prison early

(1) This section applies in relation to a person (referred to in this section as " the removed person ") who, after being removed from prison under section 9B, has been removed from the United Kingdom before serving one-half of the sentence.

(2) Where the removed person re-enters the United Kingdom at any time before the date on which the person would have served the person's sentence in full (but for the person's removal from prison under section 9B), the person is liable to be detained in pursuance of the person's sentence until the earlier of the following—

(a) the date of the expiry of the outstanding custodial period,

(b) the date on which the person would have served the person's sentence in full (but for the person's removal from prison under section 9B).

(3) In the case of a person liable to be detained under subsection (2), the duty to release the person under section 1(1) or 1AA(1) applies only after the expiry of the outstanding custodial period.

(4) A person who is liable to be detained by virtue of subsection (2) is, if at large, to be taken [F2]... to be unlawfully at large.

(5) Subsection (2) does not prevent—

(a) the further removal from prison under section 9B(1) of a person falling within that subsection, or

(b) the further removal from the United Kingdom of such a person.

(6) In this section, the " outstanding custodial period " means, in relation to a removed person, a period of time equal to the period beginning with the date of removal from the United Kingdom and ending with the date on which the person would, but for the removal, have served one-half of the sentence. ".

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Textual Amendments

F2 Words in sch. 6 para. 4 repealed (11.10.2019) by Management of Offenders (Scotland) Act 2019 (asp 14), **ss. 60(5)**, 63(2); S.S.I. 2019/309, reg. 2, sch.

5 Until the coming into force of the repeal by this Act of Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9), paragraph (c) of section 24 of the International Criminal Court (Scotland) Act 2001 (asp 13) (limited disapplication of certain provisions relating to sentences) has effect as if—

(a) after “9” there were inserted “, 9A, 9B, 9C” , and

(b) after “transfer” there were inserted “, removal”. **]**

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