

PRISONERS (CONTROL OF RELEASE) (SCOTLAND) ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2 – Release timed to benefit re-integration

13. Section 2(2) of the 2015 Act inserts new section 26C into the 1993 Act. New section 26C provides limited discretion to the Scottish Ministers to adjust a prisoner's release date from imprisonment.
14. New section 26C(1) provides that where a prisoner is to be released by the Scottish Ministers, such as under section 1(1) or section 1(2) of the 1993 Act, the Scottish Ministers may release the prisoner on a day that is earlier than the day the prisoner would otherwise be released.
15. New section 26C(2) provides that the release of a prisoner can only be brought forward if the Scottish Ministers consider that it would be better for the prisoner's reintegration into the community for the prisoner to be released on the earlier day than the day the prisoner would have been released. The 2015 Act does not define what is meant by reintegration into the community, but examples could include the prisoner obtaining access to drug or alcohol treatment services or the prisoner obtaining access to the provision of housing services.
16. It will be an operational matter for the Scottish Prison Service, on behalf of the Scottish Ministers, to consider the use of this discretion to bring forward a release date for individual prisoners.
17. New section 26C(3) provides that the date of release of the prisoner under new section 26C(1) can be brought forward by up to two days. There is no equivalent discretion to delay release by up to two days. For example, if a prisoner was due to be released under section 1(1) of the 1993 Act on a Thursday, new section 26C(1) would permit release up to two days before i.e. release on the Tuesday or Wednesday, but it would not permit release any later than the scheduled date of release of Thursday.
18. Existing section 27(7) of the 1993 Act provides that where a prisoner's release under the 1993 Act or the Criminal Procedure (Scotland) Act 1995 Act is scheduled to fall on a Saturday, Sunday or a public holiday, the prisoner shall be released on the last working day preceding the weekend or public holiday. For example, if a prisoner was due to be released under section 1(2) of the 1993 Act on a Saturday, section 27(7) of the 1993 Act provides that the release of the prisoner shall take place on the Friday.
19. New section 26C(4) provides that references in new section 26C referring to a day when a prisoner would be released should be read as the day they fall to be released by virtue of section 27(7) of the 1993 Act. For example, new section 26C would operate so that a prisoner initially due for release on Saturday, who would become due for release on the Friday as a result of existing section 27(7) of the 1993 Act, will be able to be released up to two days before the Friday i.e. release on the Wednesday or Thursday.

*These notes relate to the Prisoners (Control of Release) (Scotland)
Act 2015 (asp 8) which received Royal Assent on 4 August 2015*

20. New section 26C(5) provides that discretion to adjust a prisoner's release date does not apply where the prisoner is serving a sentence of imprisonment of less than 15 days. This would also not apply to any young offender serving a period of detention of less than 15 days. Due to the operation of section 5(1) of the 1993 Act, the discretion will also not be available to adjust release dates for those receiving a period in custody of less than 15 days for non-payment of a fine or for contempt of court. Similarly, the discretion will not be available to adjust the release date for any young offender receiving a period of less than 15 days detention in a young offender's institution for non-payment of a fine or for contempt of court.