



Criminal Justice (Scotland) Act 2016

2016 asp 1

PART 4

SENTENCING

Maximum term for weapons offences

84 Maximum term for weapons offences

- (1) The Criminal Law (Consolidation) (Scotland) Act 1995 is amended as follows.
- (2) In subsection (1)(b) of section 47 (prohibition of the carrying of offensive weapons), for the word “four” there is substituted “5”.
- (3) In subsection (1)(b) of section 49 (offence of having in public place article with blade or point), for the word “four” there is substituted “5”.
- (4) In subsection (5) of section 49A (offence of having article with blade or point (or offensive weapon) on school premises)—
 - (a) in paragraph (a)(ii), for the word “four” there is substituted “5”,
 - (b) in paragraph (b)(ii), for the word “four” there is substituted “5”.
- (5) In subsection (6)(b) of section 49C (offence of having offensive weapon etc. in prison), for the word “4” there is substituted “5”.

Prisoners on early release

85 Sentencing under the 1995 Act

After section 200 of the 1995 Act there is inserted—

“200A Sentencing prisoners on early release

- (1) Before sentencing or otherwise dealing with a person who has been found by the court to have committed an offence punishable with imprisonment (other than an offence in respect of which life imprisonment is mandatory), the court

must so far as is reasonably practicable ascertain whether the person was on early release at the time the offence was committed.

- (2) Where the court ascertains that the person was on early release at the time the offence was committed, the court must consider making an order, or as the case may be a reference, under section 16(2) of the Prisoners and Criminal Proceedings (Scotland) Act 1993.
- (3) For the purposes of this section a person is on early release if, by virtue of one of the following enactments, the person is not in custody—
 - (a) Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993,
 - (b) Part II of the Criminal Justice Act 1991, or
 - (c) Part 12 of the Criminal Justice Act 2003.”.

86 Sentencing under the 1993 Act

- (1) Section 16 (commission of offence by released prisoner) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 is amended as follows.
- (2) In subsection (1), for the words “or Part II of the Criminal Justice Act 1991” there is substituted “, Part II of the Criminal Justice Act 1991 or Part 12 of the Criminal Justice Act 2003”.
- (3) In subsection (2)—
 - (a) in paragraph (a), for the words from “other” to “below” there is substituted “to which subsection (2A) does not apply”,
 - (b) in paragraph (b), for the words from “where” to “subsection (1)(a)” there is substituted “to which subsection (2A) applies”.
- (4) After subsection (2) there is inserted—

“(2A) This subsection applies to a case if—

 - (a) the court mentioned in subsection (1)(b) is inferior to the court which imposed the original sentence, and
 - (b) the whole of the period described in subsection (2)(a) exceeds—
 - (i) if the court mentioned in subsection (1)(b) is a justice of the peace court (however constituted), 60 days,
 - (ii) if the court is the sheriff court sitting in summary proceedings, 12 months,
 - (iii) if the court is the sheriff court sitting in solemn proceedings, 5 years.”.