



Management of Offenders (Scotland) Act 2019 2019 asp 14

PART 4

PRISONERS: CONTROL OF RELEASE, BEING UNLAWFULLY AT LARGE, ETC.

Control of release, etc.

48 Release on licence under section 3AA of the 1993 Act

- (1) The 1993 Act is amended as follows.
- (2) In section 3AA, in subsection (2), for the words from “whichever” to the end there is substituted “one quarter of the prisoner's sentence”.
- (3) In section 3AA, for subsection (6)(b) there is substituted—

“(b) amend a period for the time being specified in subsection (2) above (which may be done by amending the subsection to describe a period as a particular length of time or a proportion of a prisoner's sentence),”.
- (4) In section 3AA, after subsection (6) there is inserted—

“(7) For the avoidance of doubt, nothing in this section requires the Parole Board to make a decision by a particular date about whether to recommend that a long-term prisoner be released having served one-half of the prisoner's sentence.”.

Commencement Information

II S. 48 in force at 11.10.2019 by S.S.I. 2019/309, reg. 2, sch.

49 Release timed to benefit re-integration

- (1) The 1993 Act is amended as follows.

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Changes to legislation: There are currently no known outstanding effects for the Management of Offenders (Scotland) Act 2019, Cross Heading: Control of release, etc.. (See end of Document for details)

- (2) In section 26C, in subsection (3), for the word “days” there is substituted “ working days (that is, days other than a Saturday or Sunday or a public holiday as described in section 27(8)) ”.

Commencement Information

I2 S. 49 in force at 11.10.2019 by S.S.I. 2019/309, reg. 2, sch.

50 Representations by certain recalled prisoners

- (1) The 1993 Act is amended as follows.
- (2) In section 17A, for subsection (1) there is substituted—
- “(1) Where a prisoner has been released on licence under section 3AA, the Scottish Ministers may revoke the licence and recall the person to prison if in their opinion the revocation and recall are expedient in the public interest.”.
- (3) In section 17A, after subsection (2) there is inserted—
- “(2A) Such representations must be made by a person—
- (a) within 6 months from when the person is informed as mentioned in subsection (2)(a), or
- (b) later as allowed by the Parole Board on cause shown by the person.”.
- (4) In section 17A—
- (a) subsection (5) is repealed,
- (b) after subsection (5) there is inserted—
- “(5A) Despite the cancellation of the revocation of a person's licence by virtue of subsection (4), the person's recall to prison remains effective.
- (5B) Where a person's recall to prison remains effective under subsection (5A), the Scottish Ministers must consider whether the person should again be released under section 3AA.”.

Commencement Information

I3 S. 50(1)(2)(4) in force at 11.10.2019 by S.S.I. 2019/309, reg. 2, sch. (with reg. 3)

I4 S. 50(3) in force at 1.10.2020 by S.S.I. 2020/283, reg. 2(m) (with reg. 4)

PROSPECTIVE

51 Frequency of review of particular decisions

- (1) The 1993 Act is amended as follows.
- (2) In section 3A, after subsection (3) there is inserted—

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“(3A) The Parole Board must give a prisoner to whom this section applies written notification of the process for having the prisoner's case referred to it under subsection (2) (including as subject to subsections (2A) to (3)).”.

(3) After section 3A there is inserted—

“3B Review of decisions as to determinate sentences

(1) This section applies to—

- (a) a prisoner serving a determinate sentence (apart from an extended sentence), and
- (b) a prisoner serving an extended sentence (except such a sentence in relation to which a licence has been revoked under section 17(1) to (1B)).

(2) A prisoner to whom this section applies is entitled to have a relevant decision in relation to the sentence reviewed by the Parole Board within 12 months from the date of the relevant decision.

(3) Here, a relevant decision is a decision of the Parole Board not to recommend the release of the prisoner on licence although the prisoner is otherwise eligible for release on licence.

(4) A prisoner—

- (a) to whom this section applies, and
- (b) who has been recalled to prison in respect of the sentence in accordance with the specified provisions (except where the recall relates to an extended sentence),

is entitled to have the prisoner's case reviewed by the Parole Board within 12 months from the date of the prisoner's return to prison.

(5) Here, the specified provisions are those in section 17(1) to (1B).

(6) It is for the Parole Board to fix a date considered by it as appropriate for a review by virtue of subsection (2) or (4).

(7) Neither subsection (2) nor (4) gives rise to an entitlement to a review if—

- (a) the prisoner has less of the sentence to serve than the 12 months mentioned in the particular subsection, or
- (b) the prisoner has received another sentence of imprisonment, and the prisoner is not eligible for release from the other sentence until after the end of the 12 months mentioned in the particular subsection.

(8) The Parole Board must—

- (a) in connection with subsection (2), give the prisoner reasons in writing for the relevant decision, and
- (b) in connection with subsection (2) or (4), inform the prisoner in writing of the entitlement to a review (including as subject to subsections (6) and (7)).”.

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52 Parole Board decisions: consideration of impact on prisoner's family

- (1) The 1993 Act is amended as follows.
- (2) In section 20, after subsection (4A) there is inserted—
 - “(4B) Provision mentioned in subsection (4)(c) may in particular include provision about the taking into account by the Board of the likely impact of its decision on a prisoner's family.”

Commencement Information

I5 S. 52 in force at 1.10.2020 by S.S.I. 2020/283, reg. 2(n)

53 Re-release after revocation of licences generally

- (1) The 1993 Act is amended as follows.
- (2) In subsection (3)(b) of section 10A, the word “immediately” is repealed.
- (3) In section 17—
 - (a) in subsection (2), for the words “revocation of a person's licence” there is substituted “ return to prison of a person whose licence is revoked ”,
 - (b) in subsection (4)—
 - (i) the word “immediate” is repealed,
 - (ii) for the words from “the Secretary of State” to the end there is substituted “ the Scottish Ministers must give effect to the direction without undue delay ”.

Commencement Information

I6 S. 53(1)(3)(a) in force at 11.10.2019 by S.S.I. 2019/309, reg. 2, sch.

I7 S. 53(2)(3)(b) in force at 1.10.2020 by S.S.I. 2020/283, reg. 2(o) (with reg. 5)

54 Long-term prisoners due for removal from the UK

- (1) The 1993 Act is amended as follows.
- (2) In subsection (3) of section 1, for the words from “his” to the end there is substituted “ the prisoner's sentence, the Scottish Ministers must release the prisoner on licence if recommended to do so by the Parole Board ”.
- (3) Subsection (1) of section 9 is repealed.

Commencement Information

I8 S. 54 in force at 1.10.2020 by S.S.I. 2020/283, reg. 2(p)

55 Temporary release on licence under prison rules

- (1) The Prisons (Scotland) Act 1989 is amended as follows.

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- (2) In subsection (6) of section 39, after the word “release” there is inserted “ on licence ”.

Commencement Information

I9 S. 55 in force at 11.10.2019 by S.S.I. 2019/309, reg. 2, sch.

56 Co-operation between public authorities

- (1) The Management of Offenders etc. (Scotland) Act 2005 is amended as follows.
- (2) In subsection (1) of section 1—
- (a) for the words “Scottish Ministers, and local authorities” there is substituted “ following public authorities ”,
 - (b) after “persons” there is inserted “—
 - (a) the Scottish Ministers,
 - (b) local authorities,
 - (c) the Scottish Courts and Tribunals Service,
 - (d) the chief constable of the Police Service of Scotland”.
- (3) In subsection (3) of section 1, after “(c.45)” there is inserted “ and Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c.9) ”.

Commencement Information

I10 S. 56 in force at 11.10.2019 by S.S.I. 2019/309, reg. 2, sch.

57 Operating protocol for release on licence under section 3AA of the 1993 Act

- (1) The 1993 Act is amended as follows.
- (2) After section 21 there is inserted—

“21A Operating protocol for release on licence under section 3AA

- (1) The Scottish Ministers must prepare a document that describes—
- (a) the process of risk assessment that is carried out before a prisoner is released on licence under section 3AA,
 - (b) the factors taken into account in carrying out such risk assessments,
 - (c) the procedures for monitoring a prisoner while released on licence under section 3AA,
 - (d) the process for investigating a suspected failure to comply with a condition included in a licence under section 3AA,
 - (e) the process by which a licence under section 3AA is revoked and a prisoner recalled to prison as a result.
- (2) The Scottish Ministers must—
- (a) keep the document under review, and
 - (b) revise it to reflect any changes in the things it describes.

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- (3) When preparing the first version of the document, or a revised version, the Scottish Ministers must consult—
 - (a) the Scottish Courts and Tribunals Service,
 - (b) the Parole Board,
 - (c) the chief constable of the Police Service of Scotland,
 - (d) local authorities,
 - (e) the Risk Management Authority.
- (4) Having prepared the first version of the document, or a revised version, the Scottish Ministers must—
 - (a) make it publicly available, and
 - (b) lay a copy of it before the Scottish Parliament.
- (5) A copy of the first version of the document must be laid before the Scottish Parliament within 6 months of the Bill for the Management of Offenders (Scotland) Act 2019 receiving Royal Assent.”.

Commencement Information

I11 S. 57 in force at 11.10.2019 by S.S.I. 2019/309, reg. 2, sch.

58 Parole Board recommendations: publication of test

- (1) The 1993 Act is amended as follows.
- (2) In section 1, after subsection (3A) there is inserted—

“(3B) The Parole Board must publish, in such manner as it considers appropriate, the test it will apply in making a recommendation under subsection (3).”.

Commencement Information

I12 S. 58 in force at 3.7.2023 by S.S.I. 2023/182, reg. 2

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Management of Offenders (Scotland) Act 2019, Cross Heading: Control of release, etc..