

**2008 No. 185**

**CRIMINAL LAW**

**The Victim Notification Scheme (Scotland) Order 2008**

*Made* - - - - *12th May 2008*

*Coming into force* *15th May 2008*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 16(4)(a) and (b) of the Criminal Justice (Scotland) Act 2003<sup>(a)</sup> and all other powers enabling them to do so.

In accordance with section 88(2)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation and commencement**

1. This Order may be cited as the Victim Notification Scheme (Scotland) Order 2008 and comes into force on 15th May 2008.

**Amendment of section 16 of the Criminal Justice (Scotland) Act 2003**

2. In section 16 of the Criminal Justice (Scotland) Act 2003 (victim's right to receive information concerning release etc. of offender)–

- (a) in subsection 1(a) for “four or more years” substitute “18 months or more”; and
- (b) in subsection (3)–
  - (i) the word “and” where it appears at the end of paragraph (d) is repealed; and
  - (ii) after paragraph (e) there is inserted–
    - “; and
- (f) where the convicted person–
  - (i) was released as described in paragraph (a) or was unlawfully at large as described in paragraph (e), and

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<sup>(a)</sup> 2003 asp 7. Section 16 was amended by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), section 36.

(ii) subsequently has been returned to a prison or young offenders institution to continue serving the sentence, the date of the person's return.”

St Andrew's House,  
Edinburgh  
12th May 2008

*KENNY MACASKILL*  
A member of the Scottish Executive

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends section 16(1) and (3) of the Criminal Justice (Scotland) Act 2003 (“the 2003 Act”).

Under section 16(1) of the 2003 Act, a victim of a prescribed offence (as prescribed by virtue of the Victim Notification (Prescribed Offences) (Scotland) Order 2004 (S.S.I. 2004/411)) which has resulted in a sentence of imprisonment or detention for a period of 4 or more years or life imprisonment or detention for life, is entitled to receive information about the convicted person as specified in section 16(3), unless the Scottish Ministers consider that there are exceptional circumstances which make it inappropriate to provide this information. The information which a victim is entitled to receive includes information about the release, temporary release, transfer, death in custody or escape of that person.

Article 2(1) amends section 16(1)(a) of the 2003 Act to reduce from 4 years to 18 months the minimum period of imprisonment or detention which, by virtue of section 16(1) of the 2003 Act, triggers the victim’s right to receive the information specified in section 16(3).

Article 2(2) amends section 16(3) of the 2003 Act to also give the victim a right to receive information about the date on which a convicted person has subsequently returned to custody during the currency of the original sentence. This might occur, for example, where the person has been re-arrested after being unlawfully at large or has had any release licence revoked, or following an order of the court.

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