



Prisons (Scotland) Act 1989

1989 CHAPTER 45

^{F1}Remaining unlawfully at large

Textual Amendments

- F1** Ss. 32A-32D and cross-heading inserted (11.10.2019) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), ss. 59(2), 63(2); S.S.I. 2019/309, reg. 2, sch. (with reg. 4)

32A Offence where unlawfully at large

- (1) A person commits an offence if, having been deemed to be unlawfully at large by virtue of—
- section 17(5) or 17A(6) of the Prisoners and Criminal Proceedings (Scotland) Act 1993,
 - section 28(7) of this Act, or
 - section 40(4) of this Act,
- the person remains unlawfully at large.
- (2) A person who commits an offence under subsection (1) is liable—
- on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
 - on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).

32B Certification of being unlawfully at large

- Subsections (2) and (3) relate to proceedings for an offence under section 32A(1).
- A qualifying document is sufficient evidence of the fact that a person has been deemed to be unlawfully at large by virtue of a particular section mentioned in section 32A(1).
- A document is a qualifying document if it—

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- (a) certifies with respect to the person, by reference to the particular section mentioned in section 32A(1)—
 - (i) the matter of being deemed to be unlawfully at large, and
 - (ii) the date from which the deeming took effect, and
- (b) bears to be signed and dated by or on behalf of the Scottish Ministers.

32C Meaning of remaining unlawfully at large

- (1) Section 32A(1) is to be construed as provided for in (as applicable)—
 - (a) subsection (2), or
 - (b) subsection (3) (as read with subsections (4) to (7)).
- (2) In a case of a person to whom section 32A(1)(c) relates, the person remains unlawfully at large if the person—
 - (a) has been, orally or in writing—
 - (i) informed of the period of temporary release that is the subject of the person's licence, and
 - (ii) warned of the requirement to return to prison after the expiry of the period and of the offence and punishment available for failing to do so, and
 - (b) without reasonable excuse, fails to take all necessary steps in order to return to prison as soon as possible after the period of temporary release expires.
- (3) In a case of a person to whom section 32A(1)(a), (b) or (c) relates, the person remains unlawfully at large if the person—
 - (a) is given notification of the matter of being deemed to be unlawfully at large, and
 - (b) without reasonable excuse, fails to take all necessary steps in order to return to prison as soon as possible after notification of the matter is given to the person.
- (4) Notification of the matter to a person is to, as far as practicable—
 - (a) state the date from which the matter has arisen,
 - (b) state that the person has been recalled to prison (and record the reason for recall), and
 - (c) state—
 - (i) that the person must take all necessary steps in order to return to prison at the relevant time (as described in accompanying words), and
 - (ii) that prosecution for an offence punishable by imprisonment or a fine (or both) could result if the person fails to do so.
- (5) Notification of the matter is given to a person where the person—
 - (a) is actually notified of the matter orally or in writing, or
 - (b) is to be regarded as notified of the matter.
- (6) A person is to be regarded as notified of the matter if—
 - (a) written notice of the matter—
 - (i) is sent or delivered to an appropriate address,
 - (ii) prescribes a specific period for the purposes of this subsection, and
 - (iii) bears to be signed and dated by or on behalf of the Scottish Ministers, and

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- (b) the specific period so prescribed in the notice expires.
- (7) An appropriate address is—
- (a) an address at which the person is, in accordance with the person's licence, permitted to reside or stay, or
 - (b) an address nominated, in accordance with the person's licence, for the purposes of this section.

32D Definition of associated expressions

- (1) This section defines certain expressions used in section 32C.
- (2) A reference to a licence is to a licence under which a person is released from prison under the licence provisions.
- (3) A reference to prison is to such prison or other institution from which a person can be released on licence under the licence provisions.
- (4) Here, the licence provisions are—
 - (a) section 22 of this Act,
 - (b) rules for temporary release made under section 39 of this Act, or
 - (c) Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.]

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