



Prisoners and Criminal Proceedings (Scotland) Act 1993

1993 CHAPTER 9

PART I

DETENTION, TRANSFER AND RELEASE OF OFFENDERS

Early release

[^{F1}3AA Further powers to release prisoners

- (1) Subject to subsections (2) to (5) below, the Scottish Ministers may release on licence under this section—
 - (a) a short-term prisoner serving a sentence of imprisonment for a term of three months or more; or
 - (b) a long-term prisoner whose release on having served one-half of his sentence has been recommended by the Parole Board.
- (2) The power in subsection (1) above is not to be exercised before the prisoner has served [^{F2}one quarter of the prisoner's sentence].
- (3) Without prejudice to subsection (2) above, the power in subsection (1) above is to be exercised only during that period of [^{F3}166 days] which ends on the day 14 days before that on which the prisoner will have served one half of his sentence.
- (4) In exercising the power conferred by subsection (1) above, the Scottish Ministers must have regard to considerations of—
 - (a) protecting the public at large;
 - (b) preventing re-offending by the prisoner; and
 - (c) securing the successful re-integration of the prisoner into the community.
- (5) Subsection (1) above does not apply where—
 - (a) the prisoner's sentence was imposed under section 210A of the 1995 Act;

Changes to legislation: Prisoners and Criminal Proceedings (Scotland) Act 1993, Section 3AA is up to date with all changes known to be in force on or before 27 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) the prisoner is subject to a supervised release order made under section 209 of that Act;
 - (c) the prisoner is subject to a hospital direction imposed under section 59A of that Act or a transfer for treatment direction made under section 136(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13);
 - (d) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42);
 - (e) the prisoner is liable to removal from the United Kingdom (within the meaning of section 9 of this Act);
 - ^{F4}(f)
 - ^{F4}(g)
- (6) The Scottish Ministers may by order do any or all of the following—
- (a) amend the number of months for the time being specified in subsection (1) (a) above;
 - ^{F5}(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),]
 - (c) amend a number of days for the time being specified in subsection (3) above;
 - (d) amend any paragraph of subsection (5) above, add a further paragraph to that subsection or repeal any of its paragraphs.]
- ^{F6}(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.]
- ^{F7}(8) This section does not apply in relation to a person to whom section 1AB applies.]

Textual Amendments

- F1** S. 3AA inserted after s. 3 (3.7.2006 for specified purposes, otherwise 21.3.2008) by [Management of Offenders etc. \(Scotland\) Act 2005 \(asp 14\), ss. 15\(5\), 24\(2\); S.S.I. 2006/331, art 3\(4\)\(5\); S.S.I. 2008/21, art. 2\(2\)](#)
- F2** Words in s. 3AA(2) substituted (11.10.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\), ss. 48\(2\), 63\(2\); S.S.I. 2019/309, reg. 2](#)
- F3** Words in s. 3AA(3) substituted (21.3.2008) by [The Home Detention Curfew Licence \(Amendment of Specified Days\) \(Scotland\) Order 2008 \(S.S.I. 2008/126\), art. 2](#)
- F4** S. 3AA(5)(f)(g) repealed (14.12.2016) by [The Home Detention Curfew Licence \(Amendment\) \(Scotland\) Order 2016 \(S.S.I. 2016/416\), arts. 1, 2](#)
- F5** S. 3AA(6)(b) substituted (11.10.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\), ss. 48\(3\), 63\(2\); S.S.I. 2019/309, reg. 2](#)
- F6** S. 3AA(7) inserted (11.10.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\), ss. 48\(4\), 63\(2\); S.S.I. 2019/309, reg. 2](#)
- F7** S. 3AA(8) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 4\(4\), 10\(4\)](#)

Changes to legislation:

Prisoners and Criminal Proceedings (Scotland) Act 1993, Section 3AA is up to date with all changes known to be in force on or before 27 October 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- s. 3AA(1)(b) and word repealed by [2023 asp 4 s. 9\(4\)\(a\)](#)
- s. 3AA(4)(a) words inserted by [2023 asp 4 s. 9\(4\)\(b\)\(i\)](#)
- s. 3AA(7) repealed by [2023 asp 4 s. 9\(4\)\(c\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3A(3A) inserted by [2019 asp 14 s. 51\(2\)](#)
- s. 3B inserted by [2019 asp 14 s. 51\(3\)](#)
- s. 3B(1)(a) words inserted by [2021 c. 11 Sch. 13 para. 52\(10\)\(a\)](#)
- s. 3B(1)(b) words inserted by [2021 c. 11 Sch. 13 para. 52\(10\)\(b\)\(i\)](#)
- s. 3B(1)(b) words inserted by [2021 c. 11 Sch. 13 para. 52\(10\)\(b\)\(ii\)](#)
- s. 3B(4)(b) words inserted by [2021 c. 11 Sch. 13 para. 52\(10\)\(c\)](#)
- s. 3C-3E and cross-heading inserted by [2023 asp 4 s. 11\(2\)](#)
- s. 3AA(4)(aa) inserted by [2023 asp 4 s. 9\(4\)\(b\)\(ii\)](#)
- s. 3AA(7A) inserted by [2023 asp 4 s. 9\(4\)\(d\)](#)
- s. 3AB3AC inserted by [2023 asp 4 s. 9\(5\)](#)
- s. 11(3C)(3D) inserted by [2023 asp 4 s. 9\(6\)\(b\)](#)
- s. 12(3A) inserted by [2023 asp 4 s. 11\(3\)](#)
- s. 12AA(7) inserted by [2023 asp 4 s. 9\(8\)\(d\)](#)
- s. 12ZA inserted by [2023 asp 4 s. 11\(4\)](#)
- s. 16(2A) inserted by [2016 asp 1 s. 86\(4\)](#)
- s. 17(2A)(2B) inserted by [2023 asp 4 s. 10\(2\)](#)
- s. 17A(2B)(2C) inserted by [2023 asp 4 s. 10\(3\)\(a\)](#)
- s. 17B inserted by [2023 asp 4 s. 10\(4\)](#)
- s. 27(7A)(7B) inserted by [2023 asp 4 s. 8\(2\)\(b\)](#)