

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 2 – Victims’ Rights

Section 17: Release on licence: right of victim to receive information and make representations

72. *Section 17* confers on victims who are eligible to receive information under section 16 the right to receive certain information relevant to the release of the offender.
73. Subsection (1) gives the victim the right to make written representations to the Scottish Ministers concerning release of their assailant. The rights set out in subsection (1) arise where the victim has indicated to the Scottish Ministers a wish under subsection (2) to make such representations. The right does not exist unless the offender has reached the age of 16 by the date on which the case is referred to the Parole Board by the Scottish Ministers (subsection (3)). Subsection (4) provides that the Scottish Ministers will issue guidance on the form of such representations.
74. Subsection (5) provides that when the Scottish Ministers refer a case to the Parole Board for a decision on release they must fix a time within which written representations must be made to the Board for consideration and advise the victim accordingly. The Scottish Ministers will pass on the victim’s representations to the Parole Board.
75. Subsection (6) lists certain information that the Board must inform the victim, even if representations have not been made, of their decision provided the victim has under subsection (11) intimated that they wish to receive it. The information listed is whether the Board has recommended or directed release. If the Board has recommended release it must inform the victim whether licence conditions have been set and, if any of them relate to contact with the victim or the victim’s family, what those conditions are, together with any additional information which the Board feels it is appropriate to provide.
76. Subsections (7) and (8) deal with the situation where the offender’s release on licence is automatic and the Parole Board’s role is to make recommendations to the Scottish Ministers on licence conditions. Subsection (7) requires the Scottish Ministers to fix a time within which written representations must be made to the Board for consideration and to advise the victim accordingly.
77. Subsection (8) provides that in a case to which subsection (7) applies, even if representations have not been made, the Board is obliged to inform the victim (provided the victim has indicated under subsection (11) that they wish to receive the information) if it has recommended licence conditions and, if any of them relate to contact with the victim or the victim’s family, what those conditions are.
78. Subsections (9) and (10) deal with the circumstances where the offender’s case is not considered by the Parole Board and decisions upon licence conditions are taken by the Scottish Ministers. Subsection (9) provides that the Scottish Ministers are required to

*These notes relate to the Criminal Justice (Scotland) Act
2003 (asp 7) which received Royal Assent on 26 March 2003*

fix a time within which written representations must be made to them for consideration and to advise the victim accordingly.

79. Subsection (10) provides that, in a case to which subsection (9) applies, whether or not representations have been made (and the victim has indicated under subsection (11) that they wish to receive the information), the Scottish Ministers must inform the victim whether licence conditions have been set and, if any of them relate to contact with the victim or the victim's family, what those conditions are.
80. Subsection (12) specifies that section 17 does not apply:
 - if the offender is released on compassionate grounds under the Prisoners and Criminal Proceedings (Scotland) Act 1993; or
 - retrospectively, if the Scottish Ministers use the power contained in section 16(4) (a) to change the length of time for which offenders must be sentenced in order for their victims to become eligible to receive information.