

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 4 – Prisoners

Release of prisoners

Section 27 – Release on licence etc. under 1989 Act

126. *Section 27* amends sections 22 and 23 of the Prisons (Scotland) Act 1989 (“the 1989 Act”) which govern the early release on licence of certain prisoners sentenced to determinate terms of imprisonment prior to 1 October 1993. Although these provisions were repealed by the Prisoners and Criminal Proceedings (Scotland) Act 1993, their application to those prisoners was preserved by that Act.
127. By virtue of the amendments contained in this section the Scottish Ministers become obliged to release on licence those serving a sentence of imprisonment of 10 years or more which was imposed before 1 October 1993, if the Parole Board so recommends. Given that the Parole Board has the power to direct the release of those sentenced before 1 October 1993 to less than 10 years and that the release of all life prisoners is now at the direction of the Parole Board, these amendments will remove from the Scottish Ministers any discretion over the release of any prisoner sentenced before 1 October 1993 whose release on licence is recommended by the Parole Board.
128. In addition, section 22(7) of the 1989 Act, which governs the inclusion on release, and subsequent insertion, variation or cancellation of licence conditions, is modified so that the Scottish Ministers may only include licence conditions on release, or subsequently insert, vary or cancel such conditions in accordance with the recommendations of the Board.