

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 4 – Prisoners

Release of prisoners

Section 34 – Suspension of conditions and revocation of licences under 1989 Act

153. [Section 34](#) amends section 22 of the Prisons (Scotland) Act 1989 (“the 1989 Act”) and inserts a new section 22A so as to suspend certain conditions in a prisoner’s licence when the prisoner is being lawfully detained before the expiry of the licence. It also amends section 28 of that Act, to provide that the Scottish Ministers must revoke a person’s licence and recall him or her to prison if the Parole Board so recommends.
154. [Section 34\(2\)](#) provides that section 22(6) of the 1989 Act, which obliges a licence holder to comply with the conditions in the licence, is to be subject to section 22A.
155. [Section 34\(3\)](#) inserts a new section 22A into the 1989 Act.
156. Subsection (1) of the new section 22A provides that where a prisoner is detained in custody, having been previously released on licence and while the licence is still in force, the effect of certain conditions of the licence is to be suspended. This is because, in such a case, some of the licence conditions will either be impossible to fulfil or will no longer be appropriate, because of the prisoner’s detention in prison.
157. Subsection (2) of the new section provides that the suspension of the conditions will take effect when the prisoner is detained and will continue throughout the period for which he or she is liable to be detained or remanded. Immediately upon release, all the conditions will come back into force, provided that the licence has not already expired.
158. Subsection (3) of the new section specifies the conditions which will not be suspended and which will still remain in force while the prisoner is detained. These are, that the offender shall be of good behaviour and keep the peace, and – if such a condition has been imposed – shall not have contact with any named person or class of person from whom he or she is prohibited from having contact by virtue of his or her licence.
159. Subsection (4) of the new section provides that the Scottish Ministers may by order add to the conditions referred to in subsection (3) as they consider appropriate or remove or vary them.
160. [Section 34\(4\)](#) amends section 28 of the 1989 Act (revocation of licences) so that the Scottish Ministers are obliged to accept a recommendation from the Parole Board to recall a person to custody. As a consequence, section 28(1A) of the 1989 Act is rendered redundant, and is repealed.