

# **CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON PARTS**

#### **Part 2 - Confinement and Release of Prisoners** **CHAPTER 3**

#### *Community and Life Licences*

#### **Revocation**

#### ***Section 43 - Determination that [section 42\(3\)](#) applicable: consequences for custody and community prisoners***

85. Subsection (1) provides that this section applies where the Parole Board considers under section 42(3) that it is in the public interest that a recalled custody and community prisoner be confined. Subsection (2) requires the Board to provide the prisoner with its reasons for making its determination in writing. Subsection (3) provides that if there is less than 4 months of the prisoner's sentence remaining, the prisoner must remain in custody for the remainder of the sentence. Subsection (4) provides, however, that if there are between 4 months and 2 years of the prisoner's sentence remaining, the Board must fix a date when it will next review the prisoner's case within the period mentioned in subsection (5). Subsection (5) specifies that the period begins 4 months after the date of the determination and ends on the expiry of the prisoner's sentence. Subsection (6) provides that if no date is set under subsection (4) the prisoner must remain in prison to the end of the sentence.
86. Subsection (7) provides that if at least 2 years remain of the prisoner's sentence then the Parole Board must, subject to section 26, fix a date for when it will next hear the prisoner's case within the period mentioned in subsection (8). Subsection (8) provides that the period begins 4 months after the date of the determination and ends immediately before the second anniversary of the determination. Subsection (9) requires Scottish Ministers to refer the case to the Parole Board before any date set by the Parole Board under subsection (4) or (7).