



# Prisoners and Criminal Proceedings (Scotland) Act 1993

## CHAPTER 9

### PRISONERS AND CRIMINAL PROCEEDINGS (SCOTLAND) ACT 1993

#### PART I

##### DETENTION, TRANSFER AND RELEASE OF OFFENDERS

###### *Early release*

- 1 Release of short-term, long-term and life prisoners.
- 1AA Release of certain sexual offenders
- 1AB Restricted eligibility for release on licence of terrorist prisoners
  - 1A Application to certain persons serving more than one sentence.
  - 1B Prisoners serving consecutive sentences including at least one terrorism sentence
- 2 Duty to release discretionary life prisoners.
- 2A Rules for section 2(2)(d) cases
- 2B Assessment under section 2A(1)(a) and (b)
- 3 Power to release prisoners on compassionate grounds.
- 3AA Further powers to release prisoners
  - 3A Re-release of prisoners serving certain terrorism sentences and extended sentences.
- 4 Persons detained under Mental Health (Scotland) Act 1984.
- 5 Fine defaulters and persons in contempt of court.
- 6 Application to young offenders and to children detained without limit of time.
- 7 Children detained in solemn proceedings.
- 8 Detention, Transfer and Release of Offenders

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- 9 Persons liable to removal from the United Kingdom.
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- 10A Transfer of supervision of life prisoners
- 11 Duration of licence.
- 12 Conditions in licence.
- 12AA Conditions for persons released on licence under section 3AA
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- 12A Suspension of licence conditions
- 12B Certain licences to be replaced by one
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- 17A Recall of prisoners released under section 3AA
- 18 Breach of supervised release order.
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- 21 Parole advisers.
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- 26 Further amendment of Mental Health (Scotland) Act 1984.

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- 28A Prints, samples etc. in criminal investigations: supplementary provisions.
- 28B Use of prints, samples etc.
- 29 Evidence from documents.

- 30 Admissibility of audio and video records.
- 31 Transcript of customs interview sufficient evidence.
- 32 Evidence from abroad through television links in solemn proceedings.
- 33 Evidence of children on commission.
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- 38 Adjournment for inquiry in summary proceedings at first calling.
- 39 New circumstances on notice of which preliminary diet may be ordered.
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### **SCHEDULES**

#### **SCHEDULE 1 — Consecutive and Concurrent Terms of Imprisonment**

##### *General*

- 1 This Schedule applies as respects the release of a person...

##### *Consecutive terms of imprisonment*

- 2 (1) Where his offence term and his non-offence term are...

##### *Concurrent terms of imprisonment*

- 2A Where his offence term and his non-offence term are wholly...

##### *Wholly concurrent terms of imprisonment*

- 3 Where his offence term and his non-offence term are wholly...

##### *Partly concurrent terms of imprisonment*

- 4 Where his offence term and his non-offence term are partly...

#### **SCHEDULE 1A — Offences carrying restricted eligibility of terrorist prisoners for release on licence**

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PART 1 — TERRORISM OFFENCES PUNISHABLE WITH IMPRISONMENT FOR LIFE

1 An offence under any of the following provisions of the...

2 An offence under any of the following provisions of the...

3 (1) An attempt to commit an offence specified in a...

4 An offence that— (a) was abolished before the coming into...

PART 2 — TERRORISM OFFENCES PUNISHABLE WITH IMPRISONMENT FOR MORE THAN TWO YEARS (BUT NOT LIFE)

5 An offence under any of the following provisions of the...

6 An offence under section 113 of the Anti-terrorism, Crime and...

7 An offence under any of the following provisions of the...

8 An offence under section 54 of the Counter-Terrorism Act 2008...

9 An offence under section 23 of the Terrorism Prevention and...

10 An offence under section 10 of the Counter-Terrorism and Security...

11 (1) An attempt to commit an offence specified in a...

12 An offence that— (a) was abolished before the coming into...

PART 3 — OTHER OFFENCES PUNISHABLE WITH IMPRISONMENT FOR LIFE

13 Culpable homicide.

14 Manslaughter (under the law of England and Wales or Northern...

15 Abduction.

16 Assault by explosive device.

17 Assault to severe injury.

18 Assault and poisoning.

19 Poisoning.

20 Robbery.

21 Assault with intent to rob.

22 Wilful fire-raising.

23 Malicious mischief.

24 Kidnapping (under the law of England and Wales or Northern...

25 False imprisonment (under the law of England and Wales or...

26 Riot (under the law of Northern Ireland).

27 Affray (under the law of Northern Ireland).

28 An offence under any of the following provisions of the...

29 An offence under any of the following provisions of the...

30 An offence under section 1 of the Infant Life (Preservation)...

31 An offence under section 1 of the Infanticide Act 1938...

32 An offence under section 1 of the Infanticide Act (Northern...

33 An offence under section 25 of the Criminal Justice Act...

34 An offence under any of the following provisions of the...

35 An offence under either of the following provisions of the...

36 An offence under either of the following provisions of the...

37 (1) An offence of arson under section 1 of the...

38 An offence under section 1 of the Biological Weapons Act...

39 (1) An offence of arson under Article 3 of the...

40 An offence under section 1 of the Taking of Hostages...

41 An offence under any of the following provisions of the...

42 An offence under either of the following provisions of the...

43 An offence under section 134 of the Criminal Justice Act...

44 An offence under any of the following provisions of the...

45 An offence under Part 2 of the Channel Tunnel (Security)...

46 An offence under either of the following provisions of the...

47 An offence under any of the following provisions of the...

48 An offence under either of the following provisions of the...

- 49 An offence under section 1 or 2 of the International...
- 50 An offence under any of the following provisions of the...
- 51 An offence under either of the following provisions of the...
- 52 An offence under either of the following provisions of the...
- 53 An offence under either of the following provisions of the...
- 54 An offence under any of the following provisions of Schedule...
- 55 (1) An attempt to commit an offence specified in a...
- 56 (1) An attempt to commit murder. (2) Conspiracy to commit...
- 57 An offence that— (a) was abolished before the coming into...

## SCHEDULE 2 — The Parole Board

### *Membership*

- 1 The Parole Board shall consist of a chairperson and not...
- 1A In making those appointments, the Scottish Ministers shall comply with...
- 1B In making regulations under paragraph 1A above, the Scottish Ministers...
- 2 The Parole Board shall include among its members—

### *Limitation, termination etc. of appointment of members*

- 2A An appointment as a member of the Parole Board shall,...
- 2B A member of the Parole Board may resign at any...
- 2C An appointment of a person as a member of the...
- 2D The appointment of a member of the Parole Board shall...
- 2DA (1) A person who has been a member of the...
- 2E A person may be reappointed to be a member of...
- 2F A person whose membership of the Parole Board came to...
- 2G A person whose membership of the Parole Board came to...
- 2H The provisions of paragraphs 1 to 2D above apply to...

### *Automatic reappointment*

- 2HA (1) A member of the Parole Board is to be...
- 2HB (1) Sub-paragraphs (2) and (3) apply in connection with paragraph...

### *Performance of duties*

- 2J The chairperson of the Parole Board shall have regard to...

### *Exercise of chairperson's functions by other members*

- 2K (1) A function conferred on the chairperson of the Parole...
- 2L (1) The Chairman of the Parole Board may make arrangements...

### *Removal of members from office*

- 3 A member of the Parole Board may be removed from...
- 3A The tribunal may order the removal from office of a...
- 3B The tribunal shall consist of the following three members, who...
- 3C For the purposes of paragraph 3B above, a person is...
- 3D Regulations, made by the Scottish Ministers— (a) may make provision...

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### *Remuneration and allowances*

- 4 There shall be paid to the members of the Board...
- 5 The expenses of the Board under paragraph 4 above and...

### *Reports*

- 6 The Board shall as soon as practicable after the end...

### *Regulations*

- 6A Regulations under paragraphs 1A and 3D above shall be made...
- 6B No such regulations shall be made unless laid in draft...

## SCHEDULE 3 —

### *Production of copy documents*

- 1 (1) For the purposes of any criminal proceedings a copy...

### *Statements in business documents*

- 2 (1) Except where it is a statement such as is...
- 3 A statement in a document shall be admissible in criminal...

### *Documents kept by businesses etc.*

- 4 Unless the court otherwise directs, a document may in any...

### *Statements not contained in business documents*

- 5 (1) In any criminal proceedings, the evidence of an authorised...

### *Additional evidence where evidence from business documents challenged*

- 6 (1) This sub-paragraph applies where— (a) evidence has been admitted...

### *General*

- 7 (1) Nothing in this Schedule— (a) shall prejudice the admissibility...
- 8 In this Schedule— “business” includes trade, profession or other occupation;...

## SCHEDULE 4 —

- 1 Schedule 1 to the 1980 Act (which makes provision as...
- 2 For the entry relating to the Wireless Telegraphy Act 1949,...
- 3 After the entry relating to the Immigration Act 1971, there...
- 4 For the entry relating to the Supplementary Benefits Act 1976,...
- 5 After the entry relating to the Customs and Excise Management...
- 6 After the entry relating to the Forgery and Counterfeiting Act...
- 7 At the end there shall be added the following entry—...

## SCHEDULE 5 — Minor and Consequential Amendments

### *Criminal Procedure (Scotland) Act 1975 (c. 21)*

- 1 (1) The Criminal Procedure (Scotland) Act 1975 shall be amended...

*Mental Health (Scotland) Act 1984 (c. 36)*

2 (1) Section 65 of the Mental Health (Scotland) Act 1984...

*Repatriation of Prisoners Act 1984 (c. 47)*

3 (1) The Repatriation of Prisoners Act 1984 shall be amended...

*Legal Aid (Scotland) Act 1986 (c. 47)*

4 In section 21(1) of the Legal Aid (Scotland) Act 1986...

*Road Traffic Offenders Act 1988 (c. 53)*

5 In section 12(4) of the Road Traffic Offenders Act 1988,...

*Prisons (Scotland) Act 1989 (c. 45)*

6 (1) The Prisons (Scotland) Act 1989 shall be amended as...

SCHEDULE 6 — Transitional Provisions and Savings

1 In this Schedule— “existing provisions” means such provisions as relate...

2 (1) Subject to sub-paragraph (2) and to section 10(4) of...

3 An existing prisoner whose sentence is for a term of...

4 (1) An existing child detainee whose sentence under section 206...

5 (1) An existing child detainee who, by the relevant date,...

6 (1) This paragraph applies where, in the case of an...

6A (1) This paragraph applies where a prisoner sentenced before the...

6B (1) This paragraph applies where— (a) an existing prisoner was,...

6C (1) This paragraph applies where— (a) an existing prisoner was,...

6D Where a prisoner released on licence is treated by virtue...

7 .....

8 Unless revoked by virtue of paragraph 10 of this Schedule,...

9 Section 12 of this Act shall apply in respect of...

10 Section 17 of this Act shall apply in respect of...

SCHEDULE 7 — Repeals and Revocations

Part I — REPEALS

Part II — REVOCATIONS

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**Changes and effects yet to be applied to :**

- Pt. 1 repealed by [2007 asp 17 sch. 5](#)
- s. 3AA heading word inserted by [2023 asp 4 s. 9\(4\)\(e\)](#)
- s. 12AA heading words inserted by [2023 asp 4 s. 9\(8\)\(e\)](#)
- s. 17A heading words inserted by [2023 asp 4 s. 9\(11\)\(c\)](#)
- s. 21A heading words inserted by [2023 asp 4 s. 9\(12\)\(b\)](#)
- s. 1 modified (temp.) by [2007 asp 17 sch. 6 para. 2](#) (Effect superseded by substitution of [2007 asp 17, sch. 6](#) by [2010 asp 13, s. 19](#))
- s. 1A(1)(c) words inserted by [2023 asp 4 s. 9\(2\)](#)
- s. 1B(11) words inserted by [2023 asp 4 s. 9\(3\)](#)
- 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\(4\)\(c\)](#)
- s. 9 modified (temp.) by [2007 asp 17 sch. 6 para. 3](#) (Effect superseded by substitution of [2007 asp 17, sch. 6](#) by [2010 asp 13, s. 19](#))
- s. 11(3A) words inserted by [2023 asp 4 s. 9\(6\)\(a\)](#)
- s. 12(4A) word substituted by [2023 asp 4 s. 9\(7\)\(a\)](#)
- s. 12(4A) words substituted by [2023 asp 4 s. 9\(7\)\(b\)](#)
- s. 12B(4) words inserted by [2023 asp 4 s. 9\(9\)](#)
- s. 12AA(1)(a)(b) substituted for words in s. 12AA(1) by [2023 asp 4 s. 9\(8\)\(a\)](#)
- s. 12AA(5) words inserted by [2023 asp 4 s. 9\(8\)\(b\)](#)
- s. 12AA(6)(a) words inserted by [2023 asp 4 s. 9\(8\)\(c\)](#)
- s. 16(1) words substituted by [2016 asp 1 s. 86\(2\)](#)
- s. 16(2)(a) words substituted by [2016 asp 1 s. 86\(3\)\(a\)](#)
- s. 16(2)(b) words substituted by [2016 asp 1 s. 86\(3\)\(b\)](#)
- s. 17(7) words inserted by [2023 asp 4 s. 9\(10\)](#)
- s. 17A(1) words inserted by [2023 asp 4 s. 9\(11\)\(a\)](#)
- s. 17A(3) words substituted by [2023 asp 4 s. 10\(3\)\(b\)](#)
- s. 17A(5B) words inserted by [2023 asp 4 s. 9\(11\)\(b\)](#)
- s. 21A(1) words inserted by [2023 asp 4 s. 9\(12\)\(a\)](#)
- s. 27(7) words substituted by [2023 asp 4 s. 8\(2\)\(a\)](#)

**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\(2\)\(b\)](#)