



Prisoners and Criminal Proceedings (Scotland) Act 1993

1993 CHAPTER 9

PART I

DETENTION, TRANSFER AND RELEASE OF OFFENDERS

Early release

16 Commission of offence by released prisoner.

- (1) This section applies to a short-term or long-term prisoner sentenced to a term of imprisonment (in this section referred to as “the original sentence”) by a court in Scotland and released [^{F1}at any time] under this Part of this Act or Part II of the ^{M1}Criminal Justice Act 1991 if—
- (a) before the date on which he would (but for his release) have served his sentence in full, he commits an offence punishable with imprisonment (other than an offence in respect of which imprisonment for life is mandatory); and
 - (b) whether before or after that date, he pleads guilty to or is found guilty of that offence (in this section referred to as “the new offence”) in a court in Scotland or England and Wales.
- (2) Where the court mentioned in subsection (1)(b) above is in Scotland it may, instead of or in addition to making any other order in respect of the plea or finding—
- (a) in a case other than that mentioned in paragraph (b) below, order the person to be returned to prison for the whole or any part of the period which—
 - (i) begins with the date of the order for his return; and
 - (ii) is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1)(a) above; and
 - (b) in a case where that court is inferior to the court which imposed the sentence mentioned in the said subsection (1)(a), refer the case to the superior court in

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question; and a court to which a case is so referred may make such order with regard to it as is mentioned in paragraph (a) above.

- (3) Where the court mentioned in subsection (1)(b) above is in England and Wales it may, instead of or in addition to making any other order in respect of the plea or finding, refer the case to the court which imposed the original sentence and shall, if it does so, send to that court such particulars of that case as may be relevant.
- (4) The court to which a case is referred under subsection (3) above may make such an order as is mentioned in subsection (2)(a) above in respect of the person.
- (5) The period for which a person to whom this section applies is ordered under subsection (2) or (4) above to be returned to prison—
- (a) shall be taken to be a sentence of imprisonment for the purposes of this Act and of any appeal; and
 - (b) shall, as the court making that order may direct, either be served before and be followed by, or be served concurrently with, any sentence of imprisonment imposed for the new offence (being in either case disregarded in determining the appropriate length of that sentence).
- (6) In exercising its powers under [^{F2}section 118(4) or 189(1) and (2)] of the [^{F3}1995 Act], the court hearing an appeal against an order under subsection (2) or (4) above may, if it thinks fit and notwithstanding subsection (2)(a), substitute for the period specified in the order a period not exceeding the period between the date on which the person was released and the date mentioned in subsection (1)(a) above.
- [^{F4}(7) Where an order under subsection (2) or (4) above is made in respect of a person released on licence—
- (a) ^{F5}
 - ^{F6}(b)]
- [^{F7}(8) Where a prisoner has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term by virtue of section 27(5) of this Act, the date mentioned in subsection (1)(a) above shall be taken to be that on which he would (but for his release) have served all of the sentences in full.]

Extent Information

- E1** S.16(1)(3) extends to England and Wales and Scotland; s. 16 otherwise extends to Scotland only, see s. 48(5)(6)

Textual Amendments

- F1** Words in s. 16(1) inserted (S.) (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 104(1)**; S.I. 1998/2327, **art. 2(1)(y)(2)(hh)**
- F2** Words in s. 16(6) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 86(9)(a)**
- F3** Words in s. 16(6) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 86(2)**
- F4** S. 16(7) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 86(9)(b)**
- F5** S. 16(7)(a) and word repealed (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. **36(3)**, **89(2)**; S.S.I. 2003/288, **art. 2**, Sch.
- F6** S. 16(7)(b) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 104(3), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(y)(aa)(2)(hh)(3)(u)** (subject to transitional provisions in arts. 5-8)
- F7** S. 16(8) inserted (30.9.1998) by 1998 c. 37, s. **111(2)**; S.I. 1998/2327, **art. 2(1)(x)** (subject to arts. 5-8)

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Modifications etc. (not altering text)

C1 Ss. 1, 1A, 2(4), 3A, 5, 6(1)(a)(b)(i)(iii), 7, 9, 16, 20, 21, 26A, 27, Schs. 2, 6 extended (30.9.1998) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 10(2)(a)(5)(a)(6)(7), **11(2)(a)(4)(a)(6)** (subject to art. 5) (as amended (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 paras. 135(5)(a)(d)(f)(6)(a)(b)**; S.I. 1998/2327, **art. 2(1)(y)(2)(oo)** (subject to arts. 5-8))

Marginal Citations

M1 1991 c. 53.

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Changes and effects yet to be applied to :

- 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\(3\)\(b\)](#)

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