



Prisoners and Criminal Proceedings (Scotland) Act 1993

1993 CHAPTER 9

PART I

DETENTION, TRANSFER AND RELEASE OF OFFENDERS

Early release

5 Fine defaulters and persons in contempt of court.

(1) Subject to [^{F1}sections 1(8) and 2(7B)] of this Act and to subsections (2) [^{F2}to (4)] below, this Part of this Act (except sections [^{F3}3AA,] 1(3), 16 and 27(5)) applies to a person on whom imprisonment, or as the case may be detention in a young offenders institution, has been imposed—

[^{F4}(a) under section 219 of the 1995 Act (imprisonment for non-payment of fine or, by virtue of that section, under section 207 of that Act (detention of young offenders);] or

(b) for contempt of court,

as it applies to a person sentenced to imprisonment, or on whom detention has been imposed, on conviction of an offence; and references in this Part of this Act to prisoners (whether short-term or long-term), or to prison, imprisonment, detention or sentences of imprisonment shall be construed accordingly.

(2) [^{F5}Subject to [^{F6}section 1B],] where section 1(1) or (2) of this Act applies to a person by virtue of subsection (1) above, that section shall be construed as requiring the Secretary of State to release the person unconditionally as soon as, in the case of—

(a) a short-term prisoner, he has served one-half of his term of imprisonment; or

(b) a long-term prisoner, he has served two-thirds of his term of imprisonment,

and if during the term in question the prisoner is [^{F7}released on licence under section 3 of this Act and, subsequently, the licence is revoked under section 17(1), (1A) or (1B)]

Changes to legislation: Prisoners and Criminal Proceedings (Scotland) Act 1993, Section 5 is up to date with all changes known to be in force on or before 09 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

thereof, the period during which he is thereby lawfully at large shall be taken, for the purposes of paragraph (a) or (b) above, to be a period of imprisonment served.

^{F8}(2A)

(3) Notwithstanding subsection (1) above, section 11 of this Act shall not apply to a person to whom this Part of this Act applies by virtue of that subsection but whose release on licence is under section 3 of this Act; and that licence shall (unless revoked) remain in force only until the date on which, by virtue of subsection (2) above, his release would have been required had he not been released earlier.

^{F9}(4) Where a person has had imposed on him two or more terms of imprisonment or detention mentioned in subsection (1)(a) or (b) above, sections 1A [^{F10}, 1B] and 27(5) of this Act shall apply to those terms as if they were terms of imprisonment.]

Textual Amendments

- F1** Words in s. 5(1) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003, {ss. 29(3)}, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F2** Words in s. 5(1) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 100(a)**; S.I. 1998/2327, **art. 2(1)(2)(y)(hh)** (with transitional provisions in art. 7(2))
- F3** Words in s. 5(1) inserted (3.7.2006 for specified purposes, otherwise 21.3.2008) by *Management of Offenders etc. (Scotland) Act 2005* (asp 14), **ss. 15(6)**, 24(2); S.S.I. 2006/331, **art 3(4)(5)**; S.S.I. 2008/21, **art. 2(2)**
- F4** S. 5(1)(a) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 86(3)**
- F5** Words in s. 5(2) inserted (26.2.2020) by *Terrorist Offenders (Restriction of Early Release) Act 2020* (c. 3), **ss. 4(5)(a)**, 10(4)
- F6** Words in s. 5(2) substituted (30.4.2021) by *Counter-Terrorism and Sentencing Act 2021* (c. 11), s. 50(1)(i), **Sch. 13 para. 52(11)(a)**
- F7** Words in s. 5(2) substituted (27.6.2003) by *Criminal Justice (Scotland) Act 2003* (asp 7), **ss. 36(2)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F8** S. 5(2A) omitted (30.4.2021) by virtue of *Counter-Terrorism and Sentencing Act 2021* (c. 11), s. 50(1)(i), **Sch. 13 para. 52(11)(b)**
- F9** S. 5(4) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 100(b)**; S.I. 1998/2327, **art. 2(1)(2)(y)(hh)** (with transitional provisions in art. 7(2))
- F10** Word in s. 5(4) inserted (30.4.2021) by *Counter-Terrorism and Sentencing Act 2021* (c. 11), s. 50(1)(i), **Sch. 13 para. 52(11)(c)**

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))

Changes to legislation:

Prisoners and Criminal Proceedings (Scotland) Act 1993, Section 5 is up to date with all changes known to be in force on or before 09 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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