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Convener
Criminal Justice Committee
Scottish Parliament

By Email: justice.committee@parliament.scot

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Dear Convener

As you will be aware, there has been a significant increase in the prison population over recent months, with the current population at 8363 as of 2 October. Scotland is not alone in the UK in facing challenges with a high prison population. Despite the continuing action taken the recent increases in the prison population are placing significant and unsustainable pressure on the prison estate.

I am writing to you to set out the immediate actions the Scottish Government intends to take to respond to these unsustainable prison population levels.

As I have set out in a statement to Parliament today, Thursday 2 October 2025, I have laid draft regulations seeking Parliamentary approval to use the emergency release powers in section 3C of the Prisoners and Criminal Proceedings (Scotland) Act 1993.

I consider that an emergency early release is necessary and proportionate to ensure the prison service can maintain the security and good order of prisons and the health, safety and welfare of prisoners and prison staff.

I am acutely aware that using emergency early release is a significant step and this is not a decision which has been taken lightly. The Scottish Prison Service and Scottish Government have already undertaken measures to optimise use of the prison estate and work towards achieving sustainable population levels. However, the increasing number of prisoners in custody is now at a level where immediate action is needed to protect the safety and security of those living and working in prisons.

The regulations which have been laid today set out the criteria and timescales for the proposed release processes, and I wanted to provide you with some more detail on those points.

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Firstly, regarding the **criteria for release**, the regulations provide that only short-term prisoners would be released under this power, should Parliament approve the regulations. That means that only individuals serving less than four years will be released.

Furthermore, only those who are due to be released within 180 days of the regulations coming into force can be considered for release under the emergency release power.

The following groups of prisoners would not be eligible for release under this legislation:

- Life sentenced prisoners (including Order of Lifelong Restrictions)
- Remand prisoners
- Terrorist prisoners
- Individuals serving extended sentences
- Individuals subject to supervised release orders
- Individuals subject to the sex offender notification requirements
- Individuals liable for removal from the UK or subject to extradition
- Individuals subject to non-harassment orders
- Anyone sentenced on or after 28 March 2026
- Individuals serving sentences following conviction under relevant sections of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (2016 Act), Domestic Abuse (Scotland) Act 2018 (2018 Act), or the Domestic Abuse (protection) (Scotland) Act 2021 (the 2021 Act).
- Individuals who have served a sentence for an offence under those offences, the conviction for which is not spent (for the purposes of the Rehabilitation of Offenders Act 1974)

In addition, a governor veto process will also apply which allows a prison Governor -in-Charge or Deputy Governor to stop the release of an eligible prisoner if they consider they would pose an immediate risk of harm to a specific individual or group of individuals if released.

Secondly, regarding **timescales**, if Parliament approves the regulations, release will take place in seven separate tranches.

The releases are staged in this way to make sure that not all prisoners are released at once. This will ensure pre-release planning between SPS and community partners can take place, allow for people registered with the VNS to be notified of a change to a prisoner's release date and help to provide greater certainty for those who are eligible to be released.

Releases would begin on 11 November 2025, and the process will run until 30 April 2026. The tranches proposed are as follows:

First three tranches: 11-13 November 2025; 25-27 November 2025; 9-11 December 2025 – those who have been serving their sentence on 20 October 2025 and are due to be released within 180 days (at point of regs coming into force).

Fourth tranche: 27-29 January 2026 – those who have been serving their sentence on 15 December 2025 and are due to be released within 180 days (following 26 January 2026).

Fifth tranche: 24-26 February 2026 - those who have been serving their sentence on 30 January 2026 and are due to be released within 180 days (following 23 February 2026).

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Sixth tranche: 24-26 March 2026 - those who have been serving their sentence on 27 February 2026 and are due to be released within 180 days (following 23 March 2026).

Seventh tranche: 27-30 April 2026 - those who have been serving their sentence on 27 March 2026 and are due to be released within 180 days (following 27 April 2026).

The regulations also include a provision that will allow for any eligible prisoner whose release is not completed within the appropriate tranche, for example due to illness, to be released as soon afterwards as is practicable, but no later than the final release date of 30 April 2026. Victims who are registered on the Victim Notification Scheme will be notified by SPS of the change of release date in advance of the prisoner's release from custody.

As per the previous emergency release process that was delivered in June/July 2024, victims will also be able to nominate a specific victim support organisation (VSO) to receive certain information about the prisoner in their case on their behalf. There are four VSOs who are prescribed to receive this information on behalf of a victim (as set out in Section 14 of the Bail and Release from Custody (Scotland) Act). Those organisations are [Victim Support Scotland](#), [ASSIST](#), [Rape Crisis Scotland](#) and [Children First](#).

I hope this provides some additional context and I look forward to discussing these regulations with the Criminal Justice Committee in due course.

Yours sincerely,



ANGELA CONSTANCE

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