

Prisoners (Early Release) (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Exclusions from 40% release point: Governor's veto

1, 7, 16

Exclusions from 40% release point: rehabilitation and targeting repeat offending

2, 3, 8, 9

Release at 40% point subject to community payback order

4, 5, 11

Exclusions from 40% release point: offence against emergency workers

6

Victim notification of automatic early release

10, 17, 20, 26

No changes to current automatic early release point

12, 15, 25, 27, 28, 29, 30

Publication of information on support plans

13, 14, 18, 19

Consultation in connection with power to change release point

21, 22

Removal of new power to change release point

23

Requirement to reinstate 50% release point if prison capacity improves

24

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Amendments in debating order

Exclusions from 40% release point: Governor's veto

Katy Clark

- 1 In section 1, page 1, line 10, after <(1ZA)> insert <or (1ZB)>

Katy Clark

- 7 In section 1, page 1, line 22, at end insert—

<(1ZB) This subsection applies where the governor of the prison within which the prisoner is detained considers that, if released as soon as the prisoner has served two-fifths of the prisoner's sentence, the prisoner would pose an immediate risk of harm—

- (a) to an identified person, or
- (b) to an identified group of people.>

Katy Clark

- 16 In section 3, page 3, line 24, at end insert—

<(1A) Regulations under subsection (1) amending the point at which a short-term prisoner is to be released must provide that a prisoner is not to be released by virtue of the regulations if the governor of the prison within which the prisoner is detained considers that, if released, the person would pose an immediate risk of harm—

- (a) to an identified person,
- (b) to an identified group of people.

(1B) Where a prisoner is not released by virtue of subsection (1A), the regulations must provide for the prisoner to be released as soon as the prisoner has served one-half of the prisoner's sentence.>

Exclusions from 40% release point: rehabilitation and targeting repeat offending

Sharon Dowey

- 2 In section 1, page 1, line 10, after <(1ZA)> insert <or (1ZC)>

Jamie Greene

- 3 In section 1, page 1, line 10, after <(1ZA)> insert <or (1ZD)>

Sharon Dowey

- 8 In section 1, page 1, line 22, at end insert—

<(1ZC) This subsection applies where the prisoner, having been offered the opportunity to participate in a rehabilitation programme during the prisoner's imprisonment, has refused to participate in that programme.>

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Jamie Greene

- 9 In section 1, page 1, line 22, at end insert—

<(1ZD) This subsection applies where the prisoner has, in the period of 12 months immediately before the start of the sentence of imprisonment the prisoner is serving, previously been released from prison.>

Release at 40% point subject to community payback order

Jamie Greene

- 4 In section 1, page 1, line 14, after first <to> insert <subsection (1ZZA),>

Jamie Greene

- 5 In section 1, page 1, line 16, at end insert—

<(1ZZA) A prisoner released by virtue of subsection (1)(b) must be subject to a community payback order from the point at which the prisoner is released until the point at which the prisoner would have served one-half of the prisoner's sentence if the prisoner had remained in prison.>

Jamie Greene

- 11 In section 1, page 1, line 24, after <section,> insert—

<(aa) a “community payback order” means an order imposing an unpaid work or other activity requirement,>

Exclusions from 40% release point: offence against emergency workers

Jamie Greene

- 6 In section 1, page 1, line 22, after <offence.> insert—

<(c) an offence under section 1(1) of the Emergency Workers (Scotland) Act 2005.>

Victim notification of automatic early release

Pauline McNeill

- 10 In section 1, page 1, line 22, at end insert—

<(1ZE) Where a prisoner is released under subsection (1), the Scottish Ministers must notify any person who is or appears to be a victim in relation to the offence of the date of the prisoner's release.>

Pauline McNeill

- 17 In section 3, page 3, line 24, at end insert—

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<(1A) Regulations under subsection (1) amending the point at which a short-term or long-term prisoner is to be released must provide for the Scottish Ministers to notify any person who is or appears to be a victim in relation to the offence of the date of the prisoner's release.>

Pauline McNeill

20 In section 3, page 4, line 3, at end insert—

<(4) Before making regulations under subsection (1), the Scottish Ministers must make a statement to the Parliament setting out improvements that have been made to the victim notification scheme in respect of prisoners to be released by virtue of the regulations.>

Sharon Dowey

26 In the schedule, page 6, line 13, at end insert—

<(4A) Where—

- (a) a prisoner is released in accordance with sub-paragraph (1), or
- (b) a child is released in accordance with sub-paragraph (4),

the Scottish Ministers must notify any person who is or appears to be a victim in relation to the offence of the prisoner's or, as the case may be, the child's release.

(4B) Notification for the purposes of sub-paragraph (4A) must include—

- (a) the date of the release, and
- (b) any licence conditions which have been imposed on the prisoner or, as the case may be, the child under the Prisoners and Criminal Proceedings (Scotland) Act 1993 or the Criminal Procedure (Scotland) Act 1995 for the protection of the victim.>

No changes to current automatic early release point

Liam Kerr

12 Leave out section 1

Liam Kerr

15 Leave out section 2

Liam Kerr

25 Leave out section 4

Liam Kerr

27 Leave out the schedule

Liam Kerr

28 Leave out section 5

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Liam Kerr

- 29 Leave out section 6

Liam Kerr

- 30 Leave out section 7

Publication of information on support plans

Pauline McNeill

- 13 After section 1, insert—

<Extension of automatic early release for certain short-term prisoners: local authority resources

Before making regulations under section 6 bringing section 1 into force, the Scottish Ministers must publish their plans to support local authorities in managing the re-integration of prisoners released under section 1(1)(b) of the Prisoners and Criminal Proceedings (Scotland) Act 1993.>

Pauline McNeill

- 14 After section 1, insert—

<Extension of automatic early release for certain short-term prisoners: access to housing etc

Before making regulations under section 6 bringing section 1 into force, the Scottish Ministers must publish their plans to support prisoners released under section 1(1)(b) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 with access to housing, health and rehabilitative support.>

Pauline McNeill

- 18 In section 3, page 4, line 3, at end insert—

<(4) Before making regulations under subsection (1), the Scottish Ministers must publish their plans to support local authorities in managing the re-integration of prisoners released by virtue of the regulations.>

Pauline McNeill

- 19 In section 3, page 4, line 3, at end insert—

<(4) Before making regulations under subsection (1), the Scottish Ministers must publish their plans to support prisoners released by virtue of the regulations with access to housing, health and rehabilitative support.>

THIS IS NOT THE MARSHALLED LIST

Consultation in connection with power to change release point

Maggie Chapman

21 In section 3, page 4, line 3, at end insert—

- <(4) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) Community Justice Scotland,
 - (b) each local authority,
 - (c) each health board,
 - (d) the chief constable of the Police Service of Scotland,
 - (e) the Risk Management Authority,
 - (f) Social Care and Social Work Improvement Scotland,
 - (g) each integration joint board established by virtue of section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014,
 - (h) persons who are providing support services to victims in relation to offences perpetrated against or in respect of those victims,
 - (i) such other persons as the Scottish Ministers consider appropriate.
- (5) For the purposes of subsection (4)—
 - “health board” means a board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
 - “support services” has the meaning given by section 34C(8) of the Community Justice (Scotland) Act 2016.>

Sharon Dowey

22 In section 3, page 4, line 3, at end insert—

<27B Power to modify timing of automatic early release: further procedure

- (1) Before laying before the Scottish Parliament for approval a draft of regulations under section 27A, the Scottish Ministers must—
 - (a) lay a draft of the regulations before the Scottish Parliament for a period of 120 days, of which no fewer than 60 days must be days which the Scottish Parliament is not dissolved or in recess, and
 - (b) before finalising the regulations, seek the views of a committee of the Scottish Parliament whose remit includes matters relating to criminal justice for the time being appointed by virtue of the standing orders.
- (2) The Scottish Ministers must, when laying before the Scottish Parliament for approval a draft of regulations under section 27A, lay a statement before the Parliament setting out—
 - (a) details of any views mentioned in subsection (1)(b),
 - (b) the changes (if any) they have made to the draft of the regulations in response to such views and the reasons for those changes.>

THIS IS NOT THE MARSHALLED LIST

Removal of new power to change release point

Liam Kerr

Supported by: Pauline McNeill

23 Leave out section 3

Requirement to reinstate 50% release point if prison capacity improves

Jamie Greene

24 After section 3, insert—

<Duty to modify timing of automatic early release

- (1) The Prisoners and Criminal Proceedings (Scotland) Act 1993 is modified as follows.
- (2) After section 27A (inserted by section 3) insert—

“27B Duty to modify timing of automatic release

- (1) Where the condition in subsection (2) is met, the Scottish Ministers must by regulations amend section 1(1)(b) so that instead of a prisoner being released as soon as the prisoner reaches the point in the prisoner’s sentence for the time being provided in that section, the prisoner is released as soon as the prisoner has served one-half of the prisoner’s sentence.
- (2) The condition is that the prison population in Scotland is at or below 90% of the target operating capacity—
 - (a) for a period of 90 days, or
 - (b) for such other period as the Scottish Ministers consider appropriate.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.”.>

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