Draft Regulations laid before the Scottish Parliament under section 3D(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2025 No.

PRISONS

The Early Release of Prisoners (Scotland) Regulations 2025

Made - - - -	*2025*
Coming into force - -	*10th November 2025*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 3C of the Prisoners and Criminal Proceedings (Scotland) Act 1993(**a**) and all other powers enabling them to do so.

In accordance with section 3D(1) of that Act(**b**), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

The Scottish Ministers are satisfied that making these Regulations is necessary and proportionate, in response to the effects that an emergency situation is having, and is likely to have, on prisons generally, for the purposes of protecting (a) the security and good order of prisons, or (b) the health, safety and welfare of prisoners, or those working, in prisons.

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Early Release of Prisoners (Scotland) Regulations 2025 and come into force on 10 November 2025.

(2) These Regulations apply to all prisons in Scotland.

(3) In these Regulations, any reference to a person being released under section 1(1) of the 1993 Act(**c**) includes a person who is being released under that section as applied by section 6(1)(a)(iii) of that Act(**d**).

(4) In these Regulations—

"the 1993 Act" means the Prisoners and Criminal Proceedings (Scotland) Act 1993,

"the latest release date" means 30 April 2026.

(**a**) 1993 c. 9. Section 3C was inserted by section 11(2) of the Bail and Release from Custody (Scotland) Act 2023 (asp 4).
(**b**) Section 3D was inserted by section 11(2) of the Bail and Release from Custody (Scotland) Act 2023 (asp 4).
(**c**) Section 1(1) was amended by section 1(2)(a) of the Prisoners (Early Release) (Scotland) Act 2025 (asp 1).
(**d**) Section 6(1)(a) was substituted by paragraph 52(12) of schedule 13 of the Counter Terrorism and Sentencing Act 2021 (c. 11).

Description of persons specified to be released early from prison

2.—(1) A person who falls within the description of persons specified in paragraph (2) is to be released early from prison in accordance with regulation 3.

(2) The class of persons to be released early are any person who—

(a) falls within paragraphs (3) to (7), and

(b) does not fall within paragraph (8).

(3) A person falls within this paragraph if—

(a) the person is serving a sentence of imprisonment or detention on 20 October 2025,

(b) the sentence is for a period of less than four years, and

(c) the person is due to be released under sections 1(1) or 7(1)(a)(**a**) of the 1993 Act within the 180 days following the date on which these Regulations come into force.

(4) A person falls within this paragraph if—

(a) the person is serving a sentence of imprisonment or detention on 15 December 2025,

(b) the sentence is for a period of less than four years, and

(c) the person is due to be released under sections 1(1) or 7(1)(a) of the 1993 Act within the 180 days following 26 January 2026.

(5) A person falls within this paragraph if—

(a) the person is serving a sentence of imprisonment or detention on 30 January 2026,

(b) the sentence is for a period of less than four years, and

(c) the person is due to be released under sections 1(1) or 7(1)(a) of the 1993 Act within the 180 days following 23 February 2026.

(6) A person falls within this paragraph if—

(a) the person is serving a sentence of imprisonment or detention on 27 February 2026,

(b) the sentence is for a period of less than four years, and

(c) the person is due to be released under sections 1(1) or 7(1)(a) of the 1993 Act within the 180 days following 23 March 2026.

(7) A person falls within this paragraph if—

(a) the person is serving a sentence of imprisonment or detention on 27 March 2026,

(b) the sentence is for a period of less than four years, and

(c) the person is due to be released under sections 1(1) or 7(1)(a) of the 1993 Act within the 180 days following 27 April 2026.

(8) A person falls within this paragraph if—

(a) subject to regulation 4, the person has served a sentence of imprisonment or detention for an offence that was aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016(**b**), which was recorded as such under section 1(5)(b) of that Act and the conviction for which is not spent for the purposes of the Rehabilitation of Offenders Act 1974(**c**) on the date they would otherwise be released in accordance with regulation 3(6) to (12),

---

(**a**) Section 7(1)(a) was amended by paragraph 86(2) and (5) of schedule 4 of the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40) and section 2(2)(a) of the Prisoners (Early Release) (Scotland) Act 2025 (asp 1).

(**b**) 2016 asp 22.

(**c**) 1974 c. 53.

(b) subject to regulation 4, the person has served a sentence of imprisonment or detention for an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018(**a**) and the conviction for which is not spent for the purposes of the Rehabilitation of Offenders Act 1974 on the date they would otherwise be released in accordance with regulation 3(6) to (12),

(c) the person is the subject of a non-harassment order imposed under section 234A of the Criminal Procedure (Scotland) Act 1995(**b**) or section 8 or 8A of the Protection from Harassment Act 1997(**c**), and

(d) the person has been sentenced to a term of imprisonment or detention on or after 28 March 2026.

Timing of release

3.—(1) A person who is to be released in accordance with regulation 2 because they fall within paragraph (3) but not paragraph (8) of that regulation, must be released in accordance with paragraphs (6) to (8) of this regulation.

(2) A person who is to be released in accordance with regulation 2 because they fall within paragraph (4) but not paragraph (8) of that regulation, must be released in accordance with paragraph (9) of this regulation.

(3) A person who is to be released in accordance with regulation 2 because they fall within paragraph (5) but not paragraph (8) of that regulation, must be released in accordance with paragraph (10) of this regulation.

(4) A person who is to be released in accordance with regulation 2 because they fall within paragraph (6) but not paragraph (8) of that regulation, must be released in accordance with paragraph (11) of this regulation.

(5) A person who is to be released in accordance with regulation 2 because they fall within paragraph (7) but not paragraph (8) of that regulation, must be released in accordance with paragraph (12) of this regulation.

(6) Where a person is due to be released under section 1(1) or 7(1)(a) of the 1993 Act within the 60 days following the date on which these Regulations come into force, that person is to be released from prison in accordance with these Regulations—

(a) no earlier than 11 November 2025, and

(b) no later than 13 November 2025.

(7) Where a person is due to be released under section 1(1) or 7(1)(a) of the 1993 Act more than 60 days but within the 120 days following the date on which these Regulations come into force, that person is to be released from prison in accordance with these Regulations—

(a) no earlier than 25 November 2025, and

(b) no later than 27 November 2025.

(8) Where a person is due to be released under section 1(1) or 7(1)(a) of the 1993 Act more than 120 days but within the 180 days following the date on which these Regulations come into force, that person is to be released from prison in accordance with these Regulations—

(**a**) 2018 asp 5.

(**b**) 1995 c. 46. Section 234A was inserted by section 11 of the Protection from Harassment Act 1997 (c. 40) and was amended by schedule 3 of the Crime and Punishment (Scotland) Act 1997 (c. 48), section 49 of the Criminal Justice (Scotland) Act 2003 (asp 7), section 15 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), paragraph 3 of schedule 2 of the Criminal Justice (Scotland) Act 2016 (asp 1) and section 5 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (asp 22).

(**c**) 1997 c. 40. Section 8 was amended by schedule 2 of the Damages (Scotland) Act 2011 (asp 7) and section 1 of the Domestic Abuse (Scotland) Act 2011 (asp 13) ("the 2011 Act"). Section 8A was inserted by the 2011 Act.

(a) no earlier than 9 December 2025, and

(b) no later than 11 December 2025.

(9) Where a person is due to be released under section 1(1) or 7(1)(a) of the 1993 Act within the 180 days following 26 January 2026, that person is to be released from prison in accordance with these Regulations—

(a) no earlier than 27 January 2026, and

(b) no later than 29 January 2026.

(10) Where a person is due to be released under section 1(1) or 7(1)(a) of the 1993 Act within the 180 days following 23 February 2026, that person is to be released from prison in accordance with these Regulations—

(a) no earlier than 24 February 2026, and

(b) no later than 26 February 2026.

(11) Where a person is due to be released under section 1(1) or 7(1)(a) of the 1993 Act within the 180 days following 23 March 2026, that person is to be released from prison in accordance with these Regulations—

(a) no earlier than 24 March 2026, and

(b) no later than 26 March 2026.

(12) Where a person is due to be released under section 1(1) or 7(1)(a) of the 1993 Act within the 180 days following 27 April 2026, that person is to be released from prison in accordance with these Regulations—

(a) no earlier than 28 April 2026, and

(b) no later than 30 April 2026.

(13) Where a person is to be released in accordance with paragraphs (6) to (11) but their release does not take place on the dates specified in those paragraphs, that person is to be released as soon as reasonably practicable, but no later than the latest release date.

Release of prisoner where unspent conviction becomes spent

4.—(1) Paragraph (2) applies to a person who is not to be released in accordance with regulation 3 on the basis that they fall within regulation 2(8)(a) or (b).

(2) Where that person's conviction for an offence described in regulation 2(8)(a) or (b) becomes spent before the latest release date, that person is to be released as soon as reasonably practicable on or after the date on which the offence became spent, but no later than the latest release date.

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the powers contained in section 3C of the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act").

Regulation 1(2) provides that these Regulations apply to all prisons in Scotland. The term "prisons" in these Regulations also includes young offenders institutions. Regulation 1(4) provides that the latest date a person can be released on under these Regulations is 30 April 2026 ("the latest release date").

Regulation 2(1) provides that persons of a description set out in regulation 2(2) are to be released early from a prison or young offenders institution.

Regulation 2(2) provides that a person is to be released only if they fall within the description of a person as set out in regulation 2(3) to (7), but they are not to be released if, notwithstanding their inclusion in such a description, they also fall within the description of a person as set out in regulation 2(8).

Each of paragraphs (3) to (7) of regulation 2 provide that for a person to fall within them, they must be serving a sentence of imprisonment of less than four years.

Regulation 2(3) further provides that for a person to fall within it, they must be serving their sentence on 20 October 2025 and be due to be released unconditionally under section 1(1), or conditionally under section 7(1)(a), of the 1993 Act within the 180 days following the coming into force of the Regulations. (Regulation 1(3) clarifies that any reference to release under section 1(1) of the 1993 Act includes the release of a young offender under that section as applied by section 6(1)(a) of the 1993 Act).

Regulation 2(4) further provides that for a person to fall within it, they must be serving their sentence on 15 December 2025 and be due to be released unconditionally under section 1(1), or conditionally under section 7(1)(a), of the 1993 Act within the 180 days following the 26 January 2026.

Regulation 2(5) further provides that for a person to fall within it, they must be serving their sentence on 30 January 2026 and be due to be released unconditionally under section 1(1), or conditionally under section 7(1)(a), of the 1993 Act within the 180 days following the 23 February 2026.

Regulation 2(6) further provides that for a person to fall within it, they must be serving their sentence on 27 February 2026 and be due to be released unconditionally under section 1(1), or conditionally under section 7(1)(a), of the 1993 Act within the 180 days following the 23 March 2026.

Regulation 2(7) further provides that for a person to fall within it, they must be serving their sentence on 27 March 2026 and be due to be released unconditionally under section 1(1), or conditionally under section 7(1)(a), of the 1993 Act within the 180 days following the 27 April 2026.

Regulation 2(8) describes persons who have previously served a sentence of imprisonment or detention for an offence of domestic abuse, or for an offence aggravated by domestic abuse where the conviction for such an offence has not become spent. Regulation 2(8) further describes persons

who are subject to a non-harassment order imposed under section 234A of the Criminal Procedure (Scotland) Act 1995 or section 8 or 8A of the Protection from Harassment Act 1997. Regulation 2(8) further describes persons who have been sentenced to a term of imprisonment or detention on or after 28 March 2026. Persons as described in regulation 2(8) are thus excluded from early release by virtue of these Regulations, even where they fall within the description of persons set out regulation 2(3) to (7). Regulation 2(8) is, however, subject to regulation 4.

Regulation 3 makes provision for determining the date of early release. Those who fall within the description in regulation 2(3) (but not the description in regulation 2(8)) are to be released in one of three tranches. Those are due to be released within the 60 days following the date on which the Regulations come into force are to be released between 11 and 13 November 2025. Those due to be released more than 60 days, but within the 120 days, following the date on which the Regulations come into force are to be released between 25 and 27 November 2025. Those due to be released more than 120 days, but within the 180 days, following the date on which the Regulations come into force are to be released between 9 and 11 December 2025.

Those who fall within the description in regulation 2(4) (but not the description in regulation 2(8)) are to be released between 27 and 29 January 2026. Those who fall within the description in regulation 2(5) (but not the description in regulation 2(8)) are to be released between 24 and 26 February 2026. Those who fall within the description in regulation 2(6) (but not the description in regulation 2(8)) are to be released between 24 and 26 March 2026. Those who fall within the description in regulation 2(7) (but not the description in regulation 2(8)) are to be released between 28 and 30 April 2026.

Regulation 3(13) provides that where a person was due to be released in accordance with regulation 3 but their release did not take place on the dates specified in that regulation, that person is to be released as soon as reasonably practicable, but no later than the latest release date.

Regulation 4 provides that where a person is not released when they would otherwise have been eligible to be released in accordance with regulation 3, on the basis that they fall within the descriptions in regulation 2(8)(a) or (b), and their conviction for an offence falling within those descriptions becomes spent during the period between these Regulations coming into force and the latest release date, then that person is to be released as soon as reasonably practicable (but not later than the latest release date).

© Crown Copyright 2025

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

ISBN 978-0-11-106378-1

£6.40

http://www.legislation.gov.uk/id/sdsi/2025/9780111063781