Draft Regulations laid before the Scottish Parliament under section 62(3)(a) of the Management of Offenders (Scotland) Act 2019 and section 7(3)(a) of the Prisoners (Early Release) (Scotland) Act 2025, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2026 No.

PRISONS

The Management of Offenders (Scotland) Act 2019 and the Prisoners (Early Release) (Scotland) Act 2025 (Consequential Modifications) Regulations 2026

Made - - - -	*2026*
Coming into force - -	*16th January 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 62(1) of the Management of Offenders (Scotland) Act 2019(**a**), section 7(1) of the Prisoners (Early Release) (Scotland) Act 2025(**b**) and all other powers enabling them to do so.

In accordance with section 62(3)(a) of the Management of Offenders (Scotland) Act 2019 and section 7(3)(a) of the Prisoners (Early Release) (Scotland) Act 2025, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Management of Offenders (Scotland) Act 2019 and the Prisoners (Early Release) (Scotland) Act 2025 (Consequential Modifications) Regulations 2026 and come into force on 16 January 2026.

Modification of schedule 6 of the Custodial Sentences and Weapons (Scotland) Act 2007

2.—(1) Paragraph 4 of schedule 6 of the Custodial Sentences and Weapons (Scotland) Act 2007(**c**) is modified as follows.

(2) In section 9B of the Prisoners and Criminal Proceedings (Scotland) Act 1993(**d**) treated as inserted by that paragraph—

(a) in subsection (1), for "will have served one-half of the prisoner's sentence" substitute "is entitled to be released under this Part",

(**a**) 2019 asp 14.
(**b**) 2025 asp 1.
(**c**) 2007 asp 17.
(**d**) 1993 c. 9.

(b) in subsection (3)(c), for "one-half of the sentence" substitute "the proportion of the sentence required under this Part in order for the prisoner to be entitled to be released",

(c) for subsection (5), substitute—

"(5) The Scottish Ministers may by order do either or both of the following—

(a) amend the number of days for the time being specified in subsection (1),

(b) amend a period for the time being specified in subsection (2) (which may be done by amending the subsection to describe a period as a particular length of time or a proportion of a prisoner's sentence).".

(3) In section 9C of the Prisoners and Criminal Proceedings (Scotland) Act 1993 treated as inserted by that paragraph—

(a) in subsection (1), for "one-half of the sentence" substitute "the proportion of the sentence required under this Part in order for the prisoner to be entitled to be released",

(b) in subsection (6), for "one-half of the sentence" substitute "the proportion of the sentence required under this Part in order for the prisoner to be entitled to be released".

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 make modifications to the Custodial Sentences and Weapons (Scotland) Act 2007 ("the 2007 Act") in consequence of both the Management of Offenders (Scotland) Act 2019 ("the 2019 Act") and the Prisoners (Early Release) (Scotland) Act 2025 ("the 2025 Act"). Schedule 6 of the 2007 Act makes transitory amendments to the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act"). These transitory amendments mean that the 1993 Act is to be read as if paragraph 4 of schedule 6 of the 2007 Act has inserted sections 9A, 9B and 9C into the 1993 Act.

No amendments were made by the 2019 Act or by the 2025 Act to paragraph 4 of schedule 6 of the 2007 Act and these Regulations now modify those provisions in consequence of the changes the 2019 Act and the 2025 Act made to the 1993 Act.

The 2025 Act amended the 1993 Act to remove the uniform automatic release rule that applied to most short-term prisoners (which was the half way point in a sentence) and substituted different automatic release rules dependent on the offence or offences for which they had been sentenced.

Regulation 2(2)(a) modifies section 9B(1) of the 1993 Act, treated as inserted by paragraph 4 of schedule 6 of the 2007 Act. That text currently makes reference to a period of a numbers of days, counted back from the half way point of sentence (being the previous uniform release point, prior to the passing of the 2025 Act), in order to regulate the period during which Scottish Ministers may exercise the power to remove a prisoner from prison early. Regulation 2(2)(a) changes the current reference to the half way point of a sentence to instead make reference to the date on which the prisoner is now entitled to be released under Part 1 of the 1993 Act as amended by the 2025 Act.

Regulation 2(2)(b) modifies section 9B(3)(c) of the 1993 Act, treated as inserted by paragraph 4 of schedule 6 of the 2007 Act. That text currently provides that a prisoner who is removed by Scottish Ministers for the purpose of removal from the United Kingdom is, so long as they remain in the United Kingdom, liable to be detained in pursuance of their sentence until they have served one half of their sentence (being the previous uniform release point, prior to the passing of the 2025 Act). Regulation 2(2)(b) changes the current reference to one half of the sentence to instead make reference to the date on which the prisoner is now entitled to be released under Part 1 of the 1993 Act, as amended by the 2025 Act.

Section 3AA of the 1993 Act makes provision for and about the early release of prisoners on licence by the Scottish Ministers, (early release being release prior to the date when they may or must be otherwise released).

The 2019 Act substituted a new section 3AA(6)(b) into the 1993 Act, empowering the Scottish Ministers to amend by order, the period of time set out in section 3AA(2) (being the length of time of a prisoners sentence, or a proportion of a prisoners sentence, which must be served before Ministers can direct their release).

Prisoners who are liable to removal from the United Kingdom are not entitled to early release on licence under section 3AA, however Scottish Ministers are able to remove such prisoners early from prison and before their automatic release date through broadly equivalent powers conferred on them by section 9B of the 1993 Act, treated as inserted by paragraph 4 of schedule 6 of the 2007 Act.

Section 9B(2) of the 1993 Act, treated as inserted by paragraph 4 of schedule 6 (in a similar way to section 3AA(2)), makes provision as to the minimum period of sentence that must be served before a prisoner can be removed early by the Scottish Ministers. In consequence of and in connection to the substitution of a new section 3AA(6)(b) into the 1993 Act, regulation 2(2)(c) modifies section 9B(5) of the 1993 Act, treated as inserted by paragraph 4 of schedule 6 of the 2007 Act, which confers a power to make changes to 9B(2) by empowering the Scottish Ministers to amend by order, the period of time set out in section 9B(2) in the same way they can for section 3AA(2).

Section 9C of the 1993 Act, treated as inserted by paragraph 4 of schedule 6 of the 2007 Act, currently makes reference at subsections (1) and (6) to one half of the prisoner's sentence being the previous uniform release point, prior to the passing of the 2025 Act. Regulation 2(3)(a) and 2(3)(b) change that reference to instead make reference to the date on which the prisoner is now entitled to be released under Part 1 of the 1993 Act in consequence of the amendments made by the 2025 Act.

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