SCOTTISH STATUTORY INSTRUMENTS

2026 No. 168

PRISONS

CHILDREN AND YOUNG PERSONS

The Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026

Made - - - -	*19th March 2026*
Coming into force - -	*12th May 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 27A(1) and (2) of the Prisoners and Criminal Proceedings (Scotland) Act 1993(**a**) and all other powers enabling them to do so.

In accordance with section 27A(5) of that Act, the Scottish Ministers have consulted with the persons listed there and such other persons as they consider appropriate.

In accordance with section 27A(6) of that Act, the Scottish Ministers have made a statement to the Scottish Parliament in relation to these Regulations.

In accordance with section 27A(2)(d) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026 and come into force on 12 May 2026.

(2) In these Regulations—

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

"the 1995 Act" means the Criminal Procedure (Scotland) Act 1995(**b**).

(**a**) 1993 c. 9 ("the 1993 Act"). Section 27A was inserted by section 3 of the Prisoners (Early Release) (Scotland) Act 2025 (asp 1). The 1993 Act was relevantly amended by section 4 of the 2025 Act inserting new section 27B and the schedule made relevant amendments to section 7 of the 1993 Act.

(**b**) 1995 c. 46.

Amendment to the Prisoners and Criminal Proceedings (Scotland) Act 1993

2.—(1) The 1993 Act is amended as follows.

(2) In section 1(1)(b) (release of short-term prisoners)(**a**), for "two-fifths" substitute "three-tenths".

(3) In section 5(2)(a) (fine defaulters and persons in contempt of court)(**b**), for "two-fifths" substitute "three-tenths".

(4) In section 7(1ZA)(b) (children detained in solemn proceedings)(**c**), for "two-fifths" substitute "three-tenths".

Amendment to section 44 of the Criminal Procedure (Scotland) Act 1995

3.—(1) Section 44 (detention of children) of the 1995 Act(**d**) is amended as follows.

(2) In subsection (6A)(b)(**e**), for "two-fifths" substitute "three-tenths".

Transitional provision: initial release of individuals

4.—(1) Where—

(a) a prisoner's release date is changed by these Regulations, and

(b) the prisoner is mentioned in an entry in the first column of the table in paragraph (2),

the prisoner is, instead of being released on the prisoner's new release date, to be released within the period mentioned in the corresponding entry in the second column of the table.

(2) The table is—

Table

Initial release of individuals when these Regulations come into force

Prisoners to whom release period applies	Release period
A prisoner whose new release date falls on or before the day that is 30 days before 12 May 2026.	The period of 3 days beginning on 26 May 2026.
A prisoner whose new release date falls within the period— (a) beginning on the day that is 29 days before 12 May 2026, and (b) ending on 11 May 2026.	The period of 3 days beginning on 9 June 2026.
A prisoner whose new release date falls within the period— (a) beginning on 12 May 2026, and (b) ending on 22 June 2026.	The period of 3 days beginning on 23 June 2026.

(3) But if a prisoner would, if released in accordance with paragraph (1), be released after the prisoner's original release date, the prisoner is instead to be released on the prisoner's original release date.

(4) Where—

(a) a child's release date is changed by these Regulations, and

(**a**) Section 1 was relevantly amended by section 1(2) of the Prisoners (Early Release) (Scotland) Act 2025 (asp 1) ("the 2025 Act"). Section 1(1) was substituted by section 1(1) and (1ZA) by section 1(2)(a) of the 2025 Act.
(**b**) Section 5(2)(a) was amended by section 1(3) of the Prisoners (Early Release) (Scotland) Act 2025 (asp 1).
(**c**) Section 7(1ZA) inserted by section 2(2)(b) of the Prisoners (Early Release) (Scotland) Act 2025 (asp 1).
(**d**) Section 44 was relevantly amended by the Children (Care and Justice) (Scotland) Act 2024 (asp 5) and the Prisoners (Early Release) (Scotland) Act 2025 (asp 1).
(**e**) Section 44(6A) was inserted by section 2(4)(b) of the Prisoners (Early Release) (Scotland) Act 2025 (asp 1).

(b) the child's new release date is before 12 May 2026,

the child is, instead of being released on the child's new release date, to be released on 12 May 2026.

(5) In this regulation—

"child" means a person who, on 11 May 2026, is under the age of 18,

"new release date", in relation to a prisoner or a detained child, means the date to which the person's release date is changed by regulation 2 or, as the case may be, 3,

"original release date", in relation to a prisoner or a detained child, means the date on which the person would, but for these Regulations, have been released,

"prisoner" includes—

(a) a person who, having been detained as a child under section 208 of the 1995 Act, is now detained in a young offenders institution or prison,

(b) any other person detained in a young offenders institution,

"release date" means the date on which a person is entitled to be released in accordance with Part 1 of the 1993 Act or, as the case may be, section 44 of the 1995 Act.

Transitional provision: short-term prisoners on licence

5.—(1) Sub-paragraph (2) applies where—

(a) at the end of the day immediately prior to these Regulations coming into force, a person is on licence under section 3 (power to release prisoners on compassionate grounds) or 3AA (further powers to release prisoners)(**a**) of the 1993 Act in respect of a short-term sentence, and

(b) the duration of the person's licence is provided for in section 11(3)(a)(ii) or (3B)(**b**) of the 1993 Act.

(2) Where the person's licence is changed by these Regulations, the licence remains in force (unless it is revoked) until the later of—

(a) the date on which these Regulations come into force, or

(b) the date mentioned in section 11(3)(a)(ii) or (as the case may be) (3B) of the 1993 Act (ignoring for these purposes the effect of regulation 4).

(3) For the purposes of this regulation, "short-term sentence" means the sentence of imprisonment to which a short-term prisoner (within the meaning of section 27(1) of the 1993 Act) is subject.

ANGELA CONSTANCE
A member of the Scottish Government

St Andrew's House,
Edinburgh
19th March 2026

(**a**) Section 3AA was inserted by section 15(5) of the Management of Offenders (Scotland) Act 2005 (asp 14). Section 3AA has been amended by the Home Detention Curfew Licence (Amendment) (Scotland) Order 2016 (S.S.I. 2016/416), the Management of Offenders (Scotland) Act 2019 (asp 14), the Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), the Prisoners (Early Release) (Scotland) Act 2025 (asp 1) and the Home Detention Curfew (Amendment of Specified Time Periods) (Scotland) Order 2025 (S.S.I. 2025/242).

(**b**) Section 11(3)(a) was inserted by section 9 of the Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3). Subsection (3B) was inserted by section 15 of the Management of Offenders etc. (Scotland) Act 2005 (asp 14).

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 1(1) and (1ZA) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act") makes provision for the automatic early release of certain short-term prisoners. A "short-term prisoner" is defined in section 27(1) of that Act as a prisoner serving a sentence of imprisonment for a term of less than 4 years. Short-term prisoners who are sentenced to a term of 6 months' or more imprisonment for an offence listed in schedule 3 of the Sexual Offences Act 2003 (i.e. one where sex offender notification requirements apply upon conviction) are dealt with separately under section 1AA of the 1993 Act. Terrorist prisoners are also dealt with separately and are provided for in section 1AB of the 1993 Act.

Section 1(1) provides that Scottish Ministers are required to release most short-term prisoners after the prisoner has served two-fifths of their sentence. However, the effect of subsection (1ZA) is that short-term prisoners serving a sentence of imprisonment for a "domestic abuse offence" (defined in subsection (10)) or a sexual offence (not already falling within section 1AA), require to be released after serving half of their sentence.

Section 5 of the 1993 Act (fine defaulters and persons in contempt of court) provides that short-term prisoners falling within that section require to be released as soon as the prisoner has served two-fifths of their term of imprisonment.

Under section 208 of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act"), children (i.e. those under 18) who are convicted on indictment can be sentenced to detention if the court is of the opinion that no other method of dealing with them is appropriate. Section 7 of the 1993 Act makes provision regarding the release of such children. It similarly provides that Scottish Ministers are required to release a child detained for less than 4 years after two-fifths of their sentence has elapsed. However, as with short-term prisoners, this is subject to an exception for those sentenced for sexual offences or domestic abuse offences, who require to be released after serving half of their sentence.

Under section 44 of the 1995 Act, children who are convicted in summary proceedings can be sentenced to detention for up to a year. The effect of subsections (6), (6A) and (6B) of section 44 is to provide that such a child must be released no later than the date by which they have served two-fifths of their sentence. This is subject to the exception for those detained in respect of sexual offences or domestic abuse offences who must be released no later than the date on which they have served half of their sentence.

Regulation 2 amends sections 1(1)(b), 5(2)(a) and 7(1ZA)(b) of the 1993 Act to provide that instead of being released after serving two-fifths of their custodial sentence, prisoners or children falling within those provisions are required to be released after serving three-tenths of their sentence. Prisoners or children serving a sentence of imprisonment or detention for a domestic abuse or sexual offence will continue to require to be released after serving half of their sentence.

Regulation 3 similarly amends section 44(6A)(b) of the 1995 Act to provide that children detained under that provision must be released no later than when three-tenths of their sentence has elapsed, rather than when two-fifths of their sentence has elapsed; again however for children serving a period of detention for a domestic abuse or sexual offence they must be released no later than when half of their sentence has elapsed.

Regulation 4 makes transitional provision about how the release of individuals is to take place immediately after these Regulations come into force. Paragraph (1) provides that existing prisoners whose release dates are changed by these Regulations and who are listed in the first column of the table in paragraph (2) are to be released within the period provided for in that table instead of being released on the new release date which would apply to them under section 1 of the 1993 Act.

Paragraphs (1) and (2) together provide as follows—

- A prisoner whose new release date falls on or before the day that is 30 days before the 12 May 2026 is to be released in the period of 3 days beginning on 26 May 2026.
- A prisoner whose new release date falls in the period starting 29 days before the 12 May 2026 and ending 11 May 2026 is to be released in the period of 3 days beginning on 9 June 2026.
- A prisoner whose new release date falls in the period starting on the 12 May 2026 and ending on 22 June 2026 is to be released in the period of 3 days beginning on 23 June 2026.

Paragraph (3) provides that if release under the provisions set out in the table would lead to the prisoner being released later than their original release date, they are instead to be released on their original release date.

Paragraph (4) makes provision in relation to children who are sentenced to a period of detention upon conviction for an offence. If their release date is changed by these Regulations and their new release date would therefore have arisen prior to the coming into force date, they are to be released on the date which these Regulations come into force.

Paragraph (5) sets out the definitions which apply for the purpose of these transitional provisions.

Regulation 5 makes transitional provision for short-term prisoners who are on licence at the point when the changes made by these Regulations come into force. This covers both those on licence under section 3AA (home detention curfew) of the 1993 Act and those who have been granted compassionate release on licence under section 3 of that Act. Section 11 of the 1993 Act makes provision for the duration of the licence granted to such short-term prisoners and is tied to the point when, had the prisoner not been released on licence, they would have been released under section 1(1) of that Act. Paragraphs (2) and (3) together provide that where a person's licence end date is changed by these Regulations, the person's licence is to end (unless revoked earlier) on the later of the date on which these Regulations come into force or the date on which the licence would otherwise have ended.

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