
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 137

CRIMINAL LAW

The Criminal Justice (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020

Made - - - - *at 10.15 a.m. on 4th*
May 2020
Laid before the Scottish *at 12.15 p.m. on 4th*
Parliament - - - - *May 2020*
Coming into force in accordance with regulation 1(1)

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 16(1) of the Coronavirus (Scotland) Act 2020⁽¹⁾ and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Criminal Justice (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 and come into force immediately after they are made.

(2) In these Regulations, “the relevant period” means the period during which the Coronavirus (Scotland) Act 2020 remains in force.

Modification of the Criminal Justice (Scotland) Act 2003

2.—(1) During the relevant period, section 16 of the Criminal Justice (Scotland) Act 2003⁽²⁾ has effect subject to the following modification.

(2) In section 16(3), after paragraph (a) insert—

“(aa) the date on which the convicted person is released under or by virtue of regulations made under paragraph 19(1) of schedule 4 of the Coronavirus (Scotland) Act 2020⁽³⁾;

Modification of the Victims and Witnesses (Scotland) Act 2014

3.—(1) During the relevant period, section 27A of the Victims and Witnesses (Scotland) Act 2014⁽⁴⁾ has effect subject to the following modification.

(1) 2020 asp 7.
(2) 2003 asp 7.
(3) 2020 asp 7.
(4) 2014 asp 1; section 27A was inserted by S.S.I. 2015/444.

- (2) In subsection (4), for the definition of “lawful release” substitute—
- ““lawful release” means release under or by virtue of—
- (a) the 1989 Act (other than temporary release),
 - (b) the 1993 Act, or
 - (c) regulations made under paragraph 19(1) of schedule 4 of the Coronavirus (Scotland) Act 2020,”.

Modification of the Coronavirus (Scotland) Act 2020

4.—(1) During the relevant period, paragraph 19 of schedule 4 of the Coronavirus (Scotland) Act 2020 has effect subject to the following modification.

- (2) In sub-paragraph (9), after the definition of “the 1995 Act” insert—
- ““governor” means—
- (a) the governor appointed for that prison under section 3(1A) of the Prisons (Scotland) Act 1989,
 - (b) in relation to a contracted out prison, the director appointed under section 107(1)(a) of the Criminal Justice and Public Order Act 1994,”.

St Andrew’s House,
Edinburgh
At 10.15 a.m. on 4th May 2020

H YOUSAF
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make incidental provisions that the Scottish Ministers consider to be appropriate in connection with paragraph 19 of schedule 4 of the Coronavirus (Scotland) Act 2020 (“the 2020 Act”).

Paragraph 19 of schedule 4 of the 2020 Act enables the Scottish Ministers to provide for the early release from prison of a specified class of persons. Section 16 of the Criminal Justice (Scotland) Act 2003 (“the 2003 Act”) and section 27A of the Victims and Witnesses (Scotland) Act 2014 (“the 2014 Act”) both make provision for victims to be notified in the event of the relevant offender’s release from prison. Section 16 of the 2003 Act applies where the offender has received a sentence of 18 months or more and section 27A of the 2014 Act applies where the offender has received a sentence of less than 18 months.

Regulations 2 and 3 modify section 16 of the 2003 Act and section 27A of the 2014 Act, respectively, for the period during which the Coronavirus (Scotland) Act 2020 is in force so as to provide that victims can be informed, where they so request, in the event that the relevant offender is released from prison under regulations made under paragraph 19 of schedule 4 of the 2020 Act.

Regulation 4 modifies paragraph 19(9) of schedule 4 of the 2020 Act to clarify by whom the powers conferred on governors by paragraph 19(3)(b) of that schedule can be exercised. Contracted out prisons have directors instead of governors so regulation 4 modifies paragraph 19(9) to insert a definition of the term “governor” so as to include a director in a contracted out prison. This will enable the director of a contracted out prison to exercise the power conferred on governors in state-run prisons to prevent the release of a prisoner who they consider to pose an immediate risk of harm to an identified person.