

*Status: This version of this provision is prospective.*

*Changes to legislation: Criminal Justice (Scotland) Act 2016, Section 86 is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



# Criminal Justice (Scotland) Act 2016

## 2016 asp 1

### PART 4

#### SENTENCING

##### *Prisoners on early release*

PROSPECTIVE

#### **86 Sentencing under the 1993 Act**

- (1) Section 16 (commission of offence by released prisoner) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 is amended as follows.
- (2) In subsection (1), for the words “or Part II of the Criminal Justice Act 1991” there is substituted “, Part II of the Criminal Justice Act 1991 or Part 12 of the Criminal Justice Act 2003”.
- (3) In subsection (2)—
  - (a) in paragraph (a), for the words from “other” to “below” there is substituted “to which subsection (2A) does not apply”,
  - (b) in paragraph (b), for the words from “where” to “subsection (1)(a)” there is substituted “to which subsection (2A) applies”.
- (4) After subsection (2) there is inserted—

“(2A) This subsection applies to a case if—

  - (a) the court mentioned in subsection (1)(b) is inferior to the court which imposed the original sentence, and
  - (b) the whole of the period described in subsection (2)(a) exceeds—
    - (i) if the court mentioned in subsection (1)(b) is a justice of the peace court (however constituted), 60 days,
    - (ii) if the court is the sheriff court sitting in summary proceedings, 12 months,

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(iii) if the court is the sheriff court sitting in solemn proceedings, 5 years.”.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act expiry of affecting provision 2022 asp 8, sch. para. 15 by [S.S.I. 2023/360 reg. 2\(a\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 38(7)(a) words renumbered as s. 38(7)(a) by [2024 asp 5 s. 15\(6\)\(a\)](#)
- s. 38(7)(b) and word inserted by [2024 asp 5 s. 15\(6\)\(b\)](#)
- s. 41(1A) inserted by [2024 asp 5 s. 15\(7\)\(b\)](#)