
SCOTTISH STATUTORY INSTRUMENTS

2024 No. 145 (C. 13)

CRIMINAL PROCEDURE

**The Bail and Release from Custody (Scotland) Act
2023 (Commencement No. 1) Regulations 2024**

<i>Made</i>	- - - -	<i>14th May 2024</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>16th May 2024</i>
<i>Coming into force</i>	- -	<i>26th May 2024</i>

The Scottish Ministers make the following Regulations in exercise of the power conferred by section 18(2) of the Bail and Release from Custody (Scotland) Act 2023⁽¹⁾.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Bail and Release from Custody (Scotland) Act 2023 (Commencement No. 1) Regulations 2024 and come into force on 26 May 2024.

(2) In these Regulations “the Act” means the Bail and Release from Custody (Scotland) Act 2023.

Appointed days

2.—(1) 26 May 2024 is the day appointed for the coming into force of sections 11 (power to release early) and 14 (provision of information to victim support organisations) of the Act.

(2) 1 July 2024 is the day appointed for the coming into force of section 5 (time spent on electronically monitored bail) of the Act.

St Andrew’s House,
Edinburgh
14th May 2024

ANGELA CONSTANCE
A member of the Scottish Government

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into force sections 5 (time spent on electronically monitored bail), 11 (power to release early) and 14 (provision of information to victim support organisations) of the Bail and Release from Custody (Scotland) Act 2023 (“the 2023 Act”). Section 5 will come into force on 1 July 2024 and sections 11 and 14 will come into force on 26 May 2024.

Section 5 inserts a new section 210ZA into the Criminal Procedure (Scotland) Act 1995 (c. 46) which requires the court, when passing a custodial sentence on a person, to have regard to any period of time which the person has spent on “qualifying bail” (as defined in new section 210ZA(6)(a)) while awaiting trial or sentence.

Section 11 makes amendments to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9) (“the 1993 Act”). New sections 3C to 3E are inserted, which provide the Scottish Ministers with the power by regulations to release prisoners in an emergency situation. The Scottish Ministers may only make such regulations if they are satisfied that doing so is necessary and proportionate to the effects the emergency situation is having, or is likely to have, on a prison or prisons generally for the purpose of protecting the security and good order of prisons or the health, safety and welfare of prisoners or those working in a prison. Those sections also set out the Parliamentary scrutiny which regulations made under new section 3C of the 1993 Act will be subject to and the effect of a person’s early release by virtue of regulations made under that section. Section 11 makes a minor amendment to section 12 (conditions in licence) of the 1993 Act to disapply section 12(3)(b) in relation to a release of a prisoner serving a sentence of four or more years under new section 3C of the 1993 Act. Section 11 also inserts section 12ZA into the 1993 Act. That section makes provision to ensure standard conditions to which a person released under section 3C of the 1993 Act is subject remain in force until the person would otherwise have fallen to be released under section 1(3) of the 1993 Act. It also provides that those standard conditions can include a curfew condition.

Section 14 inserts new sections 16ZA, 16D, 17ZA and 17DA into the Criminal Justice (Scotland) Act 2003 (“the 2003 Act”). Sections 16ZA and 16D allow the Scottish Ministers to provide information which a victim is entitled to under sections 16 or 16C of the 2003 Act to a victim support organisation as well as, or instead of, the victim. The Scottish Ministers are given the power to prescribe which victim support organisations can be provided with information. Sections 17ZA and 17DA also entitle the Scottish Ministers to provide a prescribed victim support organisation notices and information that the victim is entitled to under section 17 and 17B of the 2003 Act or to inform them of certain orders made by the Mental Health Tribunal or the Court of Session in relation to the person who committed against the victim. Section 14 also inserts new section 27B into the Victims and Witnesses (Scotland) Act 2014 (“the 2014 Act”) to allow the Scottish Ministers to provide information which a victim is entitled to under section 27A of the 2014 Act to a victim support organisation as well as, or instead of, the victim. The Scottish Ministers are given the power to prescribe which victim support organisations can be provided with information. Section 14 also makes consequential amendments to the 2003 Act and the 2014 Act.

The Bill for the 2023 Act received Royal Assent on 1 August 2023 and sections 6, 7, 15, 17, 18 and 19 came into force on the following day.