
EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to the calculation of sentences following the imposition of a substitute sentence under section 92(7) or (9) or on appeal under section 92(11) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the 2006 Act”).

Article 3(1) makes provision for calculating (under Part I of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”)) the total period of time that must be spent in custody under a substitute sentence. The article provides that any period of time that has already been spent in custody under the original sentence is to be deducted from the total period due to be spent in custody under the substitute sentence.

Article 3(2) makes provision for calculating (under Part I of the 1993 Act) the total period of time that must be spent on release on licence under a substitute sentence. The article provides that any period of time spent in custody which is surplus to that which an offender requires to spend in custody under a substitute sentence (which, in practice, will occur where a reduced sentence is substituted in circumstances where the offender has given or offered more assistance to the prosecutor); any period already spent on release on licence; or any period on unconditional release under the original sentence, is to be deducted from the total period due to be spent on release on licence under the substitute sentence.

Article 3(3) makes provisions for calculating (under Part I of the 1993 Act) the total period of time during which a person is on unconditional release under a substitute sentence. The article provides that any period spent in custody under the original sentence which is surplus to that which an offender requires to spend in custody under a substitute sentence (which, in practice, will occur where a reduced sentence is substituted in circumstances where the offender has given or offered more assistance to the prosecutor); any period already spent on release on licence under the original sentence; or any period on unconditional release under the original sentence, is to be deducted from the total period due spent on unconditional release under the substitute sentence.