
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.