

2020 No. 283 (C. 24)

OFFENDER MANAGEMENT

**The Management of Offenders (Scotland) Act 2019
(Commencement No. 5 and Saving Provisions) Regulations
2020**

Made - - - - - *14th September 2020*
Laid before the Scottish Parliament *16th September 2020*
Coming into force - - - *1st October 2020*

The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by section 63(2) and (3) of the Management of Offenders (Scotland) Act 2019(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Management of Offenders (Scotland) Act 2019 (Commencement No. 5 and Saving Provisions) Regulations 2020 and come into force on 1 October 2020.

(2) In these Regulations—

“the 1993 Act” means the Prisoners and Criminal Proceedings (Scotland) Act 1993(b),

“the 2019 Act” means the Management of Offenders (Scotland) Act 2019,

“the appointed day” means the day appointed by regulation 2.

Appointed day

2. 1 October 2020 is the day appointed for the coming into force of the following provisions of the 2019 Act—

- (a) Section 3 (list of the relevant disposals),
- (b) Section 4 (more about the list of disposals),
- (c) Section 8 (approved devices to be prescribed),
- (d) Section 9 (use of devices and information),
- (e) Section 15 (procedure for making regulations),
- (f) Section 40 (continued independence of action),
- (g) Section 41 (administrative arrangements),
- (h) Section 42 (mandatory categories of membership),

(a) 2019 asp 14.

(b) 1993 c.9.

- (i) Section 43 (appointment to be for fixed period),
- (j) Section 45 (references to the chairperson),
- (k) Section 46 (amendment of oversight provisions),
- (l) Section 47 (repeal of statutory provisions),
- (m) Section 50(3) (representations by certain recalled prisoners),
- (n) Section 52 (Parole Board decisions: consideration of impact on prisoner's family),
- (o) Section 53(2) and (3)(b) (re-release after revocation of licences generally), and
- (p) Section 54 (long-term prisoners due for removal from the UK).

Saving provision – term of membership of Parole Board

3. The amendment of paragraph 2A of schedule 2 of the 1993 Act^(a) made by section 43 of the 2019 Act has no effect in relation to a member of the Parole Board appointed before the appointed day.

Saving provision – licences revoked before appointed day

4. The insertion of section 17A(2A) into the 1993 Act by section 50(3) of the 2019 Act has no effect in relation to a person whose licence has been revoked under section 17A(1) of the 1993 Act^(b) before the appointed day.

Saving provision – cases referred before appointed day

5. The amendment of section 17(4) of the 1993 Act by section 53(3)(b) of the 2019 Act has no effect in relation to a person whose case has been referred as mentioned in section 17(3) of the 1993 Act^(c) before the appointed day.

HUMZA YOUSAF
A member of the Scottish Government

St Andrew's House,
Edinburgh
14th September 2020

(a) Paragraph 2A was inserted into schedule 2 of the 1993 Act by section 5(3) of the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7).

(b) Section 17A was inserted into the 1993 Act by the Management of Offenders etc. (Scotland) Act 2005 (asp 14). Subsection (1) was amended by Section 50(2) of the 2019 Act (commenced 11 October 2019 by S.S.I. 2019/309).

(c) Sections 17(1A), (1B)(2) and (3) were inserted into the 1993 Act by section 36(4) of the Criminal Justice (Scotland) Act 2003 (asp 7).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring further provisions of Parts 1, 3 and 4 of the Management of Offenders (Scotland) Act 2019 (“the 2019 Act”) into force. Regulation 2 lists the provisions which will come into force on 1 October 2020.

Part 1 of the 2019 Act relates to the use of electronic monitoring for the purpose of criminal proceedings and the management of offenders. Part 3 of the 2019 Act relates to the membership and functions of the Parole Board for Scotland (“the Board”). Part 4 relates to the release of prisoners and decisions about such releases by the Board.

Regulation 3 makes a saving provision to the effect that the fixed 5 year membership period for all members of the Board, which is provided for in section 43 of the 2019 Act, does not apply to members of the Board appointed before 1 October 2020.

Regulation 4 makes a saving provision to the effect that the six-month limit for making representations about the revocation of a release on licence under section 3AA of the 1993 Act, inserted by section 50(3) of the 2019 Act, does not apply to prisoners whose licence has been revoked before 1 October 2020.

Regulation 5 makes a saving provision in relation to the coming into force of section 53(3)(b) of the 2019 Act. Section 53(3)(b) alters the requirements on the Scottish Ministers in relation to the re-release of certain prisoners, requiring such prisoners to be released “without undue delay”, instead of “immediately”. Regulation 5 provides that where such a prisoner’s case is referred to the Board before 1 October 2020, the requirement will remain that the Scottish Ministers, if recommended to do so by the Board, are to release the prisoner immediately.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Management of Offenders (Scotland) Act 2019 have been brought into force by commencement regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 16(1) (partially)	11 October 2019	S.S.I. 2019/309
Section 17	30 November 2020	S.S.I. 2020/245
Section 18	30 November 2020	S.S.I. 2020/245
Section 19	30 November 2020	S.S.I. 2020/245
Section 20	30 November 2020	S.S.I. 2020/245
Section 21	30 November 2020	S.S.I. 2020/245
Section 22	30 November 2020	S.S.I. 2020/245
Section 23	30 November 2020	S.S.I. 2020/245
Section 24	30 November 2020	S.S.I. 2020/245
Section 25	30 November 2020	S.S.I. 2020/245
Section 26	30 November 2020	S.S.I. 2020/245
Section 27	30 November 2020	S.S.I. 2020/245
Section 28	30 November 2020	S.S.I. 2020/245
Section 29	30 November 2020	S.S.I. 2020/245
Section 30	30 November 2020	S.S.I. 2020/245
Section 31	30 November 2020	S.S.I. 2020/245
Section 32	21 December 2019	S.S.I. 2019/413
Section 33	30 November 2020	S.S.I. 2020/245
Section 34	30 November 2020	S.S.I. 2020/245
Section 35	30 November 2020	S.S.I. 2020/245

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Section 36	30 November 2020	S.S.I. 2020/245
Section 37	30 November 2020	S.S.I. 2020/245
Section 38	30 November 2020	S.S.I. 2020/245
Section 39	21 December 2019	S.S.I. 2019/413
Section 44	31 December 2019	S.S.I. 2019/417
Section 48	11 October 2019	S.S.I. 2019/309
Section 49	11 October 2019	S.S.I. 2019/309
Section 50(1), (2) and (4)	11 October 2019	S.S.I. 2019/309
Section 53(1) and (3)(a)	11 October 2019	S.S.I. 2019/309
Section 55	11 October 2019	S.S.I. 2019/309
Section 56	11 October 2019	S.S.I. 2019/309
Section 57	11 October 2019	S.S.I. 2019/309
Section 59	11 October 2019	S.S.I. 2019/309
Section 60	11 October 2019	S.S.I. 2019/309
Section 61	11 October 2019	S.S.I. 2019/309
Schedule 1, paragraph 1	11 October 2019	S.S.I. 2019/309
Schedule 1, paragraph 3	11 October 2019	S.S.I. 2019/309
Schedule 1, paragraph 4	11 October 2019	S.S.I. 2019/309
Schedule 1, paragraph 5	11 October 2019	S.S.I. 2019/309
Schedule 2	30 November 2020	S.S.I. 2020/245

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