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Criminal Justice Committee

Report on the Early Removal of Prisoners from the United Kingdom (Amendment of Specified Time Periods) (Scotland) Order 2026 [draft]



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Criminal Justice Committee

To consider and report on matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.

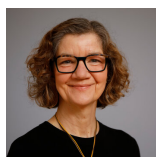


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Introduction

1. At its meeting on 25 February 2026, the Criminal Justice Committee considered the following affirmative instrument:
 - [The Early Removal of Prisoners from the United Kingdom \(Amendment of Specified Time Periods\) \(Scotland\) Order 2026 \[draft\]](#)

The Early Removal of Prisoners from the United Kingdom (Amendment of Specified Time Periods) (Scotland) Order 2026 [draft]

2. The Early Removal of Prisoners from the United Kingdom (Amendment of Specified Time Periods) (Scotland) Order 2026 was laid before the Scottish Parliament on 20 January 2026 and referred to the Criminal Justice Committee.
3. The purpose of the instrument is to facilitate the earlier removal from prison of prisoners who are liable to removal from the United Kingdom, or have the settled intention of residing permanently outside the United Kingdom once removed from prison. The Scottish Government's [Policy Note](#) states that it will align with other aspects of release legislation in Scotland and help mitigate the high prison population.
4. The instrument will align the release provisions with recent changes approved by Parliament, to Home Detention Curfew, so:
 - that the minimum sentence required to be served before removal is possible will be 15% of sentence rather than one quarter;
 - and the number of days, working backwards from point of automatic release, within which the prisoner can be removed from prison would change from 180 to 210.
5. The Policy Note states that these changes will provide a longer, and earlier, time-frame for removal from prison for the purpose of removal from the country. Home Detention Curfew is not available to prisoners liable to removal from the UK.
6. The instrument follows on from the [Management of Offenders \(Scotland\) Act 2019 and the Prisoners \(Early Release\) \(Scotland\) Act 2025 \(Consequential Modifications\) Regulations 2026](#) which the Committee considered at its [meeting of 26 November 2025](#).

Consideration by the Delegated Powers and Law Reform Committee

7. The Delegated Powers and Law Reform (DPLR) Committee considered the instrument on 27 January 2026 and reported on it in its [12th report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument.

Consideration by the Criminal Justice Committee

8. Motion S6M-20532 was lodged proposing that the Committee recommends approval of the instrument. The Committee took oral evidence from Angela Constance MSP, Cabinet Secretary for Justice and Home Affairs ("the Cabinet Secretary") and Scottish Government officials at its meeting of 25 February 2026.
9. During the evidence session, the Cabinet Secretary outlined the purpose of the Regulations to the Committee.
10. In response to questions from Members around what happens when a prisoner is released under the scheme, the Cabinet Secretary told the Committee that UK Home Office Immigration Enforcement is responsible for the removal and deportation of foreign national prisoners. However, she indicated that there is an agreed process in place between the Scottish Prison Service and immigration enforcement officials to facilitate removal. The Cabinet Secretary also confirmed the role that prison governors have on whether foreign national prisoners can be removed during their early removal window. Where a prisoner is liable for removal from the United Kingdom, and the Governor is satisfied that the prisoner is liable, the Governor may then sign an order for the prisoner's removal.
11. In addition, the Cabinet Secretary told the Committee that the early removal scheme is only open to short-term prisoners serving sentences of less than four years and that there are also a number of other exclusions. These include prisoners who are subject to notification requirements under part 2 of the Sexual Offences Act 2003, those who are subject to an extended sentence under the Criminal Procedure (Scotland) Act 1995, and those prisoners subject to a confiscation order made under the Proceeds of Crime Act 2002.
12. Following the evidence session, the Cabinet Secretary moved the motion:
 - S6M-20532 —That the Criminal Justice Committee recommends that the Early Removal of Prisoners from the United Kingdom (Amendment of Specified Time Periods) (Scotland) Order 2026 [draft] be approved.
13. The motion was agreed to.

14. **The Criminal Justice Committee recommends to the Scottish Parliament that it approve the Early Removal of Prisoners from the United Kingdom (Amendment of Specified Time Periods) (Scotland) Order 2026 [draft].**

