

Criminal Justice Committee
Wednesday 4 March 2026
9th Meeting, 2026 (Session 6)

Note by the Clerk on the Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026 [draft]

Overview

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Justice and Home Affairs and officials on the Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026 [draft] before debating a motion in the name of the Cabinet Secretary inviting the Committee to recommend approval of the instrument.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

Title of instrument: [The Prisoners \(Early Release\) \(Miscellaneous Amendment and Transitional Provisions\) \(Scotland\) Regulations 2026 \[draft\]](#)

Laid under: section 27A(1) and (2) of the [Prisoners and Criminal Proceedings \(Scotland\) Act 1993](#)

Laid on: 12 February 2026

Procedure: Affirmative

Lead committee to report by: 23 March 2026

Commencement: 12 May 2026

Procedure

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.
6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
 - an evidence session with the Minister and officials, followed by
 - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered the instrument on 24 February 2026 and reported on it in its [21st Report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

9. The Policy Note sets out that the purpose of the instrument is to change the point at which certain short-term prisoners are released from prison. Short-term prisoners are those serving sentences of less than four years. Following the commencement of the [Prisoners \(Early Release\) \(Scotland\) Act 2025](#) (“the 2025 Act”), most short-term prisoners are released after they have served 40% of their sentence (previously, 50%).
10. The Regulations will change that release point so that those eligible are released after serving 30% of their sentence. The change will also apply to the release of children detained following conviction in summary and solemn proceedings, and to persons serving a sentence for fine default or contempt of court.
11. The change will not apply to those serving sentences as a whole or in part for a domestic abuse offence (including those serving a sentence with a domestic abuse statutory aggravator), or sexual offences who will continue to be released after serving 50% of their sentence.
12. The change will apply to those serving a short-term sentence when the legislation comes into force and those sentenced to short-term sentences in the future. Those who become immediately eligible for release on commencement of the legislation will be released in tranches.

13. The Policy Note accompanying the instrument is included in **Annexe A**. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:

- [Business and Regulatory Impact Assessment](#)
- [Child Rights and Wellbeing Impact Assessment](#)
- [Equality Impact Assessment](#)
- [Fairer Scotland Duty Impact Assessment](#)
- [Island Communities Impact Assessment](#)

Evidence received

14. The Cabinet Secretary for Justice and Home Affairs wrote to the Committee on 23 February 2026 regarding the responses received during the consultation on the proposed changes. A copy of the letter can be found in **Annexe B**.

15. The Cabinet Secretary also wrote to the Committee on 27 February to provide an annual breakdown of those who serve short term sentences. This is included in **Annexe C**.

16. Victim Support Scotland have provided a written submission to the Committee. This is included in **Annexe D**.

Report

17. Following today's proceedings, a draft report will be prepared by the clerks.

18. The Committee is invited to delegate to the Convener and clerks responsibility for drafting a report and finalising it for publication.

**Clerks to the Committee
February 2026**

Annexe A: Scottish Government Policy Note

The Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026 [draft]

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by section 27A(1) and (2) of the Prisoners and Criminal Proceedings (Scotland) Act 1993. The instrument is subject to the affirmative procedure.

Summary Box

The purpose of the Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026 is to change the point at which certain short-term prisoners are released from prison. Short-term prisoners are those serving sentences of less than four years. Following the commencement of the Prisoners (Early Release) (Scotland) Act 2025 (“the 2025 Act”), most short-term prisoners are released after they have served 40% of their sentence (previously, 50%).

The regulations will change that release point so that those eligible are released after serving 30% of their sentence. The change will also apply to the release of children detained following conviction in summary and solemn proceedings, and to persons serving a sentence for fine default or contempt of court.

The change will not apply to those serving sentences as a whole or in part for a domestic abuse offence (including those serving a sentence with a domestic abuse statutory aggravator), or sexual offences who will continue to be released after serving 50% of their sentence.

The change will apply to those serving a short-term sentence when the legislation comes into force and those sentenced to short-term sentences in the future. Those who become immediately eligible for release on commencement of the legislation will be released in tranches.

Policy Objectives

Policy context

The Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026 change the release point for certain short-term prisoners so they are released after serving 30% of their sentence instead of 40%. The aim of bringing forward the point of release for certain short-term prisoners is to achieve a sustained reduction in the prison population as part of a range of actions designed to ensure the prison service functions safely and effectively.

The Scottish Government has taken a range of action to alleviate the sustained pressure experienced by those who live and work in our prisons due to a high prison population over an extended period of time.¹ This includes optimising the existing prison estate and investing in new prisons HMP Highland and HMP Glasgow; an increase in the use of bail supervision; the roll out of electronically monitored bail across the country; expansion of Home Detention Curfew; and increased investment in community justice. The Sentencing and Penal Policy Commission also published its report on 6 February 2026 which will inform the longer-term strategy for establishing a sustainable prison population.²

Section 27A of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) provides Scottish Ministers with the power, via subordinate legislation, to amend the point at which a prisoner (or, as the case may be a child) is released from prison (or detention). Section 27A does not allow amendments to be made to section 1AA of the 1993 Act (concerning the release of certain sexual offenders) or section 1AB (release of terrorist prisoners). This power enables any changes made to the release point to be kept under active review and provides flexibility to respond to changing circumstances, including if the circumstances around the prison population change.

Despite the action undertaken by the Scottish Government and delivery partners the prison population remains stubbornly high. The Scottish Prison Service has reported that eight prisons are showing red risk status. This increases the risks to the safe operation of the prison estate, impacts on availability of rehabilitative services; ability to respond to a major incident; increased risk of disorder; and risk to the safety and welfare of staff and prisoners. Given this, the Scottish Government considers that a further change to the release point for short-term prisoners is now required to mitigate the risks of the rising prison population and to deliver a sustained reduction as soon as possible.

Victim and public safety is a priority for the Scottish Government and we remain committed to ensuring that we take the impact on victims into account in the delivery of this change. Victims have a right to get information about the release of a prisoner. The Scottish Prison Service will contact those registered with the Victim Notification Scheme if there is a change to the release date of a prisoner involved in their case. If eligible, victims can also request this information directly from the Scottish Prison Service.

Release of short-term prisoners

The regulations make relevant amendments to the 1993 Act to change the point at which some people serving short-term custodial sentences are released from prison. It requires those eligible to be released after they have served 30% of their sentence instead of 40%. The regulations make no change to the release point for short-term

¹ <https://www.gov.scot/publications/scottish-prison-population-projections-october-2025/>

² <https://www.gov.scot/publications/justice-works-report-scottish-sentencing-penal-policy-commission/>

prisoners serving custodial sentences for domestic abuse³ or sexual offences,⁴ who will continue to be released after serving 50% of their sentence. The Scottish Government considers this to be a proportionate approach to the risks faced by the rising prison population, which balances mitigating the risks arising within the prison estate and ensuring that individuals still serve a proportion of their sentence in custody.

This will result in both an immediate and sustained impact on the prison population. Once fully implemented, it is estimated that the sentenced prison population will have a sustained reduction of between 239-312 people compared to what the prison population would otherwise have been if the change had not been made. The actual reduction to the population will depend on the composition of the prison population when the change comes into effect.

The regulations cannot be used to change the way prisoners are released. There is generally no statutory requirement for supervision for most short-term prisoners, subject to any supervised release order or extended sentence. Those leaving prison can access voluntary throughcare services. They can request throughcare support from their local authority, which has a statutory duty to provide this if requested. They can also access this support from a range of third sector organisations, including the newly established voluntary throughcare service, Upside.

Release of detained children

The regulations amend section 7 of the 1993 Act so that children detained in solemn proceedings, where the sentence is less than four years, are released on licence following 30% of their sentence. The regulations also amend section 44 of the Criminal Procedure (Scotland) Act 1995 Act so that children detained in summary proceedings will be released after serving no more than 30% of their sentence. These changes are not applied to any child serving a sentence in whole or in part in relation to a domestic abuse or sexual offence.

This approach provides certainty regarding the release date of the person sentenced and avoids a situation where co-accused who receive the same sentence are released at different times by virtue of their ages when the offence was committed.

Additionally, it is the Scottish Government's view that amending the point of automatic release for children is in line with the principles of Article 37 of the UNCRC (the right not to be punished in a cruel or harmful way), which provides that the detention or imprisonment of children must be only as a measure of last resort and for the shortest appropriate period of time.

³ A "domestic abuse offence" means an offence that is aggravated as described in section 1(1)(a) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 or an offence under section 1(1) of the Domestic Abuse (Scotland) Act 2018.

⁴ A "sexual offence" in this context means an offence listed in paragraphs 36 to 60 of schedule 3 of the Sexual Offences Act 2003.

Fine default and contempt of court

The regulations make similar amendment to section 5 of the 1993 Act so that those serving a short period (less than four years) of imprisonment for non-payment of a fine or for contempt of court are released after serving 30% of their sentence. This is to ensure the changes being made in section 1 of the 1993 Act will apply consistently to those imprisoned for those offences.

Applicability of new release point

The change will not apply to those serving sentences in whole or in part for domestic abuse or sexual offences or those with a domestic abuse statutory aggravator, who will continue to be released after serving 50% of their sentence.

The Scottish Government considers that there are specific issues in relation to domestic abuse and sexual offences that are not necessarily as prevalent in relation to other offences. For example, there is evidence of particular barriers to reporting sexual and domestic abuse offences⁵ and the progress which has been made in recent years in ensuring that victims can have confidence in the justice system when coming forward.⁶ Reducing barriers to reporting of sexual and domestic abuse offences, and maintaining the confidence to do so, is vital to the success of the Scottish Government's commitment to reduce violence against women and girls, as supported by the Equally Safe strategy.⁷

While we recognise that all types of offence can be traumatising, we know that victims of these categories of offence may be particularly concerned about the release of a prisoner. We understand that they may wish to ensure that they have support and safety plans in place at the point in time the release occurs, and establishing certainty around that date will help facilitate such planning. Victims have a right to get information about the release of a prisoner. The Scottish Prison Service will contact those registered with the Victim Notification Scheme if there is a change to the release date of a prisoner involved in their case. If eligible, victims can also request this information directly from the Scottish Prison Service.

Transitional provision

The changes made will apply retrospectively, meaning that subject to transitional provision, they apply to those serving a short-term sentence when the legislation comes into force on 12 May 2026 and those sentenced to short-term sentences in the future.

If the relevant provisions were commenced fully on 12 May 2026, this would necessitate the immediate release of all eligible short-term prisoners who have already served 30% or more of their sentence. There could be a risk that community services could be overwhelmed, individuals may not be suitably prepared for their

⁵ <https://safelives.org.uk/research-policy-library/whole-lives-scotland-survivor-survey/>

⁶ <https://www.gov.scot/publications/domestic-abuse-statistics-recorded-police-scotland-2023-24/pages/overview/>

⁷ <https://www.gov.scot/publications/equally-safe-scotlands-strategy-preventing-eradicating-violence-againstwomen-girls/>

release and victims who wish to be may not be informed about the new release date of the prisoner in their case.

In order to mitigate against those risks, the changes are subject to transitional provision meaning those who become immediately eligible will be released in tranches. Following commencement on 12 May 2026, there will be three tranches of release, with a tranche of release taking place every two weeks. The first tranche will begin on the second Tuesday following commencement. Those eligible will be released within each tranche based on how much of their sentence has been served.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

To comply with the requirements of section 27A(5) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 the following bodies have been consulted:

- the Care Inspectorate
- Community Justice Scotland,
- each health board,
- each integration joint board
- each local authority,
- the chief constable of Police Scotland,
- the Risk Management Authority,
- victim support organisations,

alongside other national organisations and delivery partners. There was, in general, a recognition of the negative impact and risks of a high prison population. Some respondents felt the proposals were necessary as urgent action is required to mitigate those impacts, others wanted the focus to be on longer term reform to address underlying drivers of the prison population alongside an analysis of measures undertaken to date. Most respondents who expressed a view supported the exclusions for those serving sentences for domestic abuse and sexual offences recognising the impact for victims of those offences. Some respondents felt that a more risk-based approach should be taken rather than offence-based exclusions, whereas others noted that other offences should also be excluded. Some respondents also suggested there was a need for clearer information on release arrangements, both for victims and the wider public. Many respondents highlighted

the impact of the anticipated increase in demand for services in the community and consequently the impact this could have on outcomes for those being released.

Impact Assessments

In addition to the impact assessments completed for the 2025 Act, the following impact assessments have been completed on this specific policy:

- Business and Regulatory Impact Assessment
- Child Rights and Wellbeing Impact Assessment
- Equality Impact Assessment
- Fairer Scotland Duty Impact Assessment
- Island Communities Impact Assessment

Financial Effects

A Financial Memorandum was completed for the 2025 Act⁸ which changed the automatic early release point for certain short-term prisoners, and the regulations are likely to have a similar impact. The regulations do not create any new approach to the delivery of services within prison and the community. The individuals being released are also not additional but are being released earlier. However, it is recognised that the changes would impact the delivery of, and increase demand for, some services during the transition to the new release point. While this has been mitigated to an extent by the transitional provision provided for in the regulations, we will continue to assess with delivery partners, the cost and resource implications.

Scottish Government

Justice Directorate

12 February 2026

Annexe B: correspondence from the Cabinet Secretary for Justice and Home Affairs

23 February 2026

Dear Convener,

I wrote to the Committee on 4 February to provide information on the targeted consultation that we carried out on the proposed change to the automatic early release point for certain short-term prisoners, from 40% to 30% of their sentence.

A total of 28 responses were received. Where permission was granted, these responses have now been published and are available at: <https://www.gov.scot/isbn/9781806438334>.

As you are aware, the Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026 were laid on 12 February. We continue to engage with stakeholders, and should Parliament approve the Regulations, we will work closely with them to plan for effective implementation.

I hope this information is helpful to the Committee.

Yours sincerely,

ANGELA CONSTANCE

Annexe C: correspondence from the Cabinet Secretary for Justice and Home Affairs

27 February 2026

Dear Convener,

Following my statement in Parliament on 03 February 2026, regarding proposed changes to the automatic early release point for certain short-term prisoners, I was asked to provide an annual breakdown of those who serve short term sentences. I can now share the requested information enclosed with this letter ahead of my appearance at the Criminal Justice Committee.

In the chamber, a Committee member raised an important point highlighting that the number of people who receive short term sentences of a year or below has remained stubbornly high despite the presumption against them. Whilst there is a longer-term trend away from shorter sentences, the numbers have recently been increasing and a significant number continue to be imposed.

In Annex A, Table 1 shows the number of people receiving a custodial sentence of one year or less from 2013 to 2023 and Table 2 shows a breakdown by year of people receiving short term sentences.

Work is ongoing to understand how the current presumption is operating but I recognise there may be merit, especially within the context of the Sentencing and Penal Policy Commission's recommendations, for the next administration to explore whether any further steps should be taken.

Given the Committee's interest, I also enclosed the crime profile of short term prisoners eligible for release.

In Annex B, Table 3 shows a percentage breakdown of eligible short term prisoners by Index Offence Group and Table 4 shows the number of eligible short term prisoners by Index Offence Group.

Most prisoners convicted of 'Non-sexual crimes of violence' are long term prisoners, sentenced to 4 years or more and therefore are not eligible for early release under the changes proposed by Prisoners (Early Release) (Miscellaneous Amendment and Transitional Provisions) (Scotland) Regulations 2026. The change would apply to all short term prisoners except for those serving sentences for domestic abuse and sexual offences, reflecting the historic barriers in reporting those offences.

I recognise the concerns raised by victims and victim support organisations and will continue engaging closely with them. The proposed exclusions seek to balance public safety, concerns of victims, and supporting a sustainable reduction in the prison population.

The Committee may wish to note that the newest prison population projections are due to be published on 3 March 2026. These will be available from the link below and might provide further useful context for our discussion on Wednesday:

CJ/S6/26/9/3

<https://www.gov.scot/collections/scottish-prison-population-statistics/#post-covidpandemicshorttermprisonprojections>

I hope this information is helpful to the Committee.

Yours sincerely,

ANGELA CONSTANCE

ANNEX A: Short Term Sentences

Table 1: People Receiving a Custodial Sentence of a Year or Less

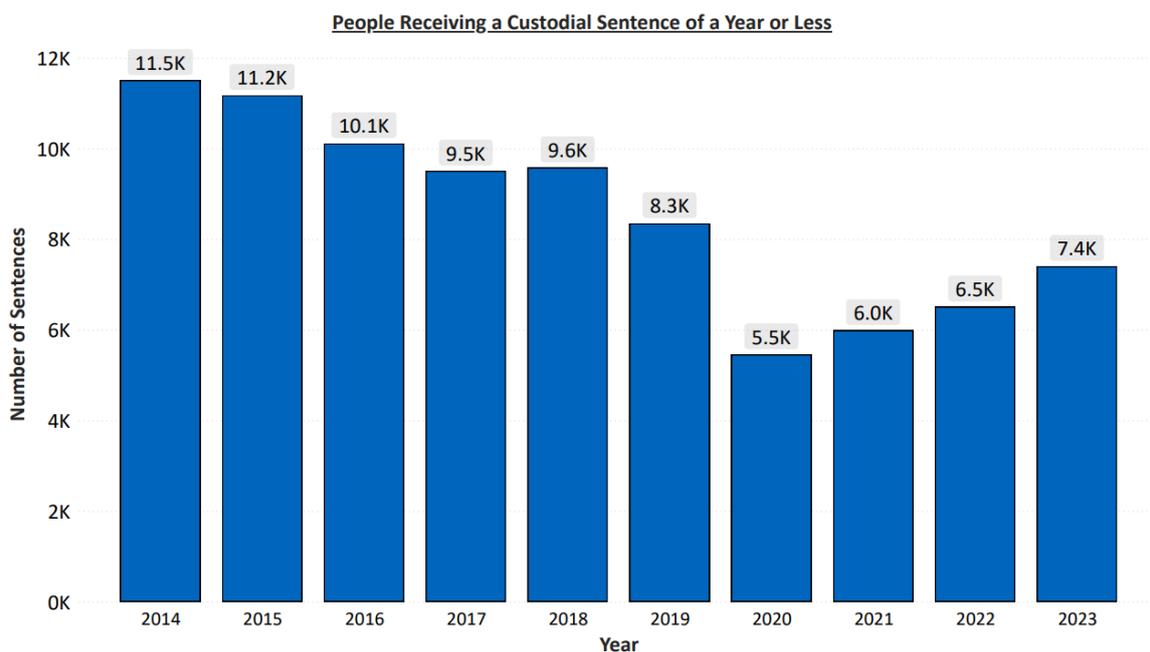
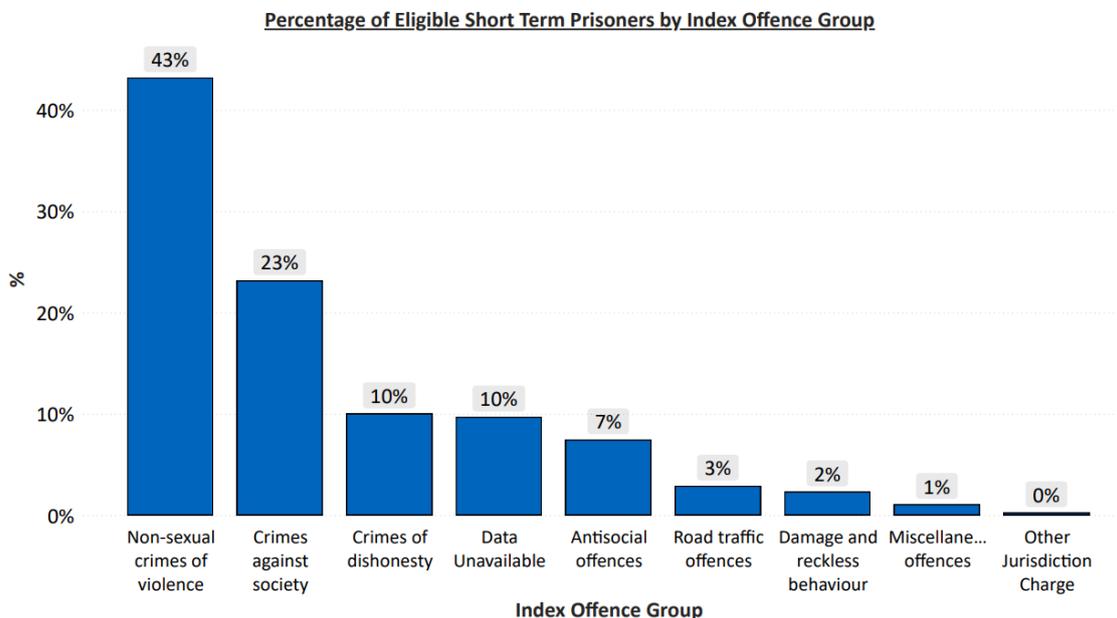


Table 2: Breakdown by Year of People Receiving Short Term Sentences

Year	Up to 3 months	Over 3 months to 6 months	Over 6 months to 1 year	Over 1 year to 2 years	Over 2 years to less than 4 years
2014-15	4,103	5,228	2,171	1,431	619
2015-16	4,067	4,850	2,256	1,479	645
2016-17	3,503	4,465	2,141	1,435	646
2017-18	3,190	4,276	2,036	1,387	613
2018-19	3,141	4,279	2,155	1,469	642
2019-20	2,555	3,716	2,073	1,599	628
2020-21	1,751	2,360	1,339	1,133	378
2021-22	1,899	2,530	1,554	1,332	435
2022-23	2,372	2,597	1,536	1,399	494
2023-24	2,658	2,982	1,760	1,464	598

ANNEX B: Short Term Prisoner Crime Profile**Table 3: Percentage of Eligible Short Term Prisoners by Index Offence Group (as of 09 February 2026).****Table 4: Number of Eligible Short Term Prisoners by Index Offence Group (as of 09 February 2026).**

Index Offence Group	Count
Non-sexual crimes of violence	690
Crimes of dishonesty	160
Damage and reckless behaviour	37
Crimes against society	370
Antisocial offences	119
Miscellaneous offences	17
Road traffic offences	46
Other Jurisdiction Charge	4
Data Unavailable	155

**Data unavailable denotes where an Index Offence Group had not yet been assigned in the data at the time of the request*

Annexe D: written submission from Victim Support Scotland

1. Views on changing the release point for certain short-term prisoners to 30%

As Scotland's national charity supporting victims and witnesses of crime, we are extremely concerned at the proposed changes to the release point for certain short-term prisoners from 40% to 30%.

Whilst we acknowledge the challenge of overcrowding in Scotland's prisons, we have seen in recent reports that these repeated early release schemes have failed to achieve a meaningful and sustained reduction in Scotland's prison population - which brings into question why this same strategy continues to be pursued.

The Cabinet Secretary for Justice and Home Affairs stated that prison numbers remain stubbornly high at 8,301.

- In February 2025 (the month in which the Prisoners (Early Release) (Scotland) Act 2025 came into force), Scotland's prison population sat at 8,350.⁸
- When looking at population numbers from across 2025, there was a slight reduction in numbers, however, by October 2025 Scotland's prison population hit an all-time high of 8,430.⁹
- There are currently eight jails at 'red risk status' with 15 others being close to their over-capacity tolerance.

Additionally, we raise concerns that the Scottish Government is moving ahead with early release schemes without the necessary reforms for victims being implemented first.

It is important to highlight the pace at which new legislation regarding automatic short term prisoner early release, as well as emergency early release, has been implemented. This is in stark comparison with the slow pace of reform benefitting victims.

Victims of crime and their families express anger and incredulity upon learning that the perpetrator in their case may be released early. These proposals will only serve to exacerbate these feelings.

We fear it will also further erode the trust and confidence in the criminal justice system, potentially fostering a feeling of 'what is the point?' amongst victims and their families.

⁸ [Data, Research and Evidence | Scottish Prison Service](#)

⁹ [Scotland's prison population hits record high - BBC News](#)

Although the criteria for early release only applies to short term sentences, the impact of crime on victims, families and the wider community cannot be understated for any type of crime or subsequent sentence.

This will be particularly true for crimes such as culpable homicide, which can and have, carried sentences of 4 years or less. Whilst all crime types have the potential to be traumatising for victims and families, we wish to highlight this example as one that will be particularly difficult and traumatising.

Reducing the time in prison reduces the amount of time a perpetrator has to access and complete rehabilitation – something the Scottish Government states is needed to reduce reoffending.

Previous Early Release Scheme Data

The reoffending rates from the release of prisoners during COVID was reported as 40%. We are concerned this will be replicated following these new proposals, leading to an increase in victims and/or re-victimisation.

Examples:

1. Following the first emergency early release in 2024, 57 out of the 477 (12%) prisoners released in June and July had been returned to custody by 18 September. 60% of this group re-entered prison within just 20 days of their emergency release. This highlights the need to completely re-think emergency release proposals. It also emphasises the need for adequate preparation, rehabilitation, and access to support services on release.
2. The available figures for the first group of prisoners released under the Prisoners (Early Release) (Scotland) Act 2025 in February and March 2025 show that 17 of the 311 released were returned to custody prior to their 'original' Earliest Date of Liberation (EDL).

As the Government continues with early release schemes, there must be more comparable reporting, clear data, and analysis of the impact of early release schemes, which includes reoffending rates. We would like to see:

- Comparisons between recidivism rates for prisoners who have been released early and the current baseline of recidivism rates
- Percentage of released prisoners returned to custody beyond their EDL
- Impact of release measures on individuals and communities
- Proportion of victims informed about the release of the prisoner in their case including consideration of people who are signed up to the Victim Notification Scheme, and significantly to include numbers and proportions of victims who are not.

There must also be more clarity provided to allow people to distinguish between early release due to changes to automatic release points changing and the Emergency Early Release Scheme. Currently, VSS feels that there is not a clear enough distinction between the two. This can cause added confusion and distress for victims who may think that an offender is being released under emergency early release when they are not, or vice versa.

Victim Support Scotland participates in weekly meetings regarding emergency early release. At these meetings, VSOs are encouraged to promote sign up to the VNS, which we willingly do. However, it is unclear whether this makes a positive impact, as proportionally and numerically victims being contacted about the release of the prisoner in their case remains low – generally around the 2% mark and less than 10 victims per tranche.

If VSOs are being asked to encourage sign up to the Victim Notification Scheme, it must be acknowledged that the independent review of the VNS was published in May 2023, nearly three years ago. Some changes, albeit not yet implemented, are included in the Victims, Witnesses, and Justice Reform Act 2025, yet there is a further consultation on the horizon this year. VSS argues that VNS reform is critical in informing victims, and priority has been given to reforms which benefit the prison estate only.

2.Exclusion of those with charges for domestic abuse and sexual offences

Victim Support Scotland stresses that the exclusion of prisoners serving sentences for domestic abuse and sexual offences remains essential. Through our services we know that women are at risk of further abuse, and sometimes death, when offenders are released.

We are aware of a case in which a prisoner in custody for domestic abuse charges was released before having served 40% of their sentence. Therefore, although this safeguard appears to be in place, in reality, perpetrators of domestic abuse are being released earlier than the current automatic point. The individual affected has raised this with their local MSP.

We also seek assurances that prisoners with a Non-Harassment Order against them, or offences that are often linked to domestic abuse or sexual offences (such as stalking), continue to be ineligible for early release.

3.Equivalent changes for children detained in secure accommodation

To Victim Support Scotland's knowledge, this is the first time equivalent changes have been proposed for children in secure accommodation. We note SSI/277 in relation to YOIs,¹⁰ but, until now, there have been no indications that these changes would be applied to secure accommodation.

Given that the primary driver for changes to automatic early release and emergency early release is to ease overcrowding in prisons, VSS questions the rationale behind this proposal. VSS is not aware of overcrowding in secure accommodation, or any evidence to support this move. The lack of a clear rationale for this measure would further erode public confidence in the system, if it were to go ahead.

Detention of a child in secure accommodation is for the purpose and benefit of correcting behaviour and deviation from further offending. Therefore, can assurances be provided interventions provided through secure accommodation can be fully implemented and create positive outcomes for child perpetrators, if the detention is reduced due to 'overcrowding.'

¹⁰ [The Prisons and Young Offenders Institutions \(Scotland\) Amendment Rules 2025](#)

It must be noted that victims' rights in respect of many parts of the criminal justice system differ greatly when the perpetrator is a child compared to when there is an adult perpetrator. We make this point particularly in relation to what victims can and cannot do and what information they are entitled to. However, the impact on a victim and their family remains the same, no matter the age of the perpetrator.

Open communication is therefore critical to a victims' experience of early release – this is essential in the context of secure accommodation (relating to this question) and the young offender and adult criminal justice/prison system more widely. Given that the provision of information sharing differs significantly depending on the whether the perpetrator is a child, young person or an adult, it is essential that victims in such cases can and do access all they are entitled to.

VSS is currently developing a model to address the information needs of victims in cases where there is a child perpetrator. This is due to changes brought in through the Children (Care and Justice) Act 2024, which changed legislation in relation to 16- and 17-year-olds who commit offences.

4.Fine defaults and contempt of court

Victim Support Scotland questions why these two offences have been specifically highlighted. The measures proposed are based on a straight-line approach to time served in prison. These crime types are not excluded from the scheme.

We seek clarity on how these two offences would differ from a prisoner serving less than four years for any other offence – fine defaults and contempt of court are not victimless crimes.

However, it may be that this eligibility could be assessed based on the severity of the crime and the level of fine.

To clarify, VSS does not support the release of prisoners serving sentences for these crime types who are on bail or connected to any of the excluded crime types.

5.Additional Comments:

A holistic approach

Victim Support Scotland highlights that the topic of early release, and the issues raised by it, do not exist separately to other areas within the justice system. The issues we raise later in the answer to this question are inextricably linked and should therefore be considered and analysed in conjunction with one another to build the fullest of pictures and produce detailed and accurate responses.

Taking a compartmentalised approach to overcrowding in prisons and early release, separate to these other issues risks missing critical aspects that will negatively impact all involved.

From a victim's perspective, any change to the criminal justice system and processes must be looked at in conjunction with one another. Recently, reform plans have included:

- The passage of the Victims, Witnesses and Justice Reform (Scotland) Act 2025
- The passage of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025
- Voices in Justice: Parole Reform in Scotland Consultation
- The future of secure care and the single point of contact (SPOC) for victims in the Children's Hearings System Consultation
- Undertaking domestic homicide and suicide reviews: draft statutory guidance consultation
- The Report by the Sentencing and Penal Policy Commission
- Victim Notification Scheme Reform

Many of the reforms outlined above have had, or will have had, extensive timelines and still require a significant volume of SSIs to enact the changes. This is in contrast with the expedited nature of early release schemes has created a sense of de-prioritisation of victims.

Automatic Early Release alongside Emergency Early Release

Although automatic early release and emergency prison release are being looked at separately, it is very challenging for victims of crime to see these as separate schemes. Additionally and confusingly, the Governor's veto applies to one scheme but not the other.

VNS Reform

Victim Support Scotland has consistently advocated for the swift implementation of the reforms to the Victim Notification Scheme outlined in the 2023 Independent Review. These reforms are essential in ensuring that victims and their families have access to the information they require to feel safe and informed

Victim Support Scotland cautions that victims continue to be at risk of not being informed about a prisoner's release eligibility, parole eligibility, or offered support, if they are not currently signed up to the Victim Notification Scheme.

Current uptake of the VNS remains low and whilst we appreciate that victims who are signed up are contacted through the details available, it remains that the majority of victims who are eligible to be signed up are not informed. Therefore, the changes recommended for the Victim Notification Scheme made over three years ago are critical.