

Delegated Powers and Law Reform Committee  
Tuesday, 4<sup>th</sup> June 2024  
19<sup>th</sup> Meeting, 2024 (Session 6)

## Instrument Responses

### Early Release of Prisoners and Prescribed Victim Supporters (Scotland) Regulations 2024 (SSI 2024/Draft)

**On Thursday 30<sup>th</sup> May, the Committee asked the Scottish Government:**

The instrument appears to have the effect that if the sentence is short enough:

- a person who is sentenced in the period starting on 13 June and ending on 26 June could be released on 27 June; and
- a person who is sentenced in the period starting on 27 June and ending on 16 July could be released straight away, so would not be imprisoned at all.

Is this in line with the policy intention?

Please confirm whether any corrective action is proposed, and if so, what action and when.

**On Thursday 30<sup>th</sup> May, the Scottish Government responded:**

The effect of the provision is that if someone is sentenced to a term of imprisonment or detention between 13 June and 17 July, they may be eligible for release under the regulations. However, such individuals will still have to be eligible (per regulation 2(3)) and not fall under the statutory exclusions set out under section 3C(6) or Regulation 2(4). Importantly, they will also still be subject to the “governor’s veto” (section 3C(5)(b)).

Even if eligible, that individual would still have to go to prison in accordance with any warrant issued by the court. Thereafter the aforementioned assessments can be carried out.

The provision therefore has a “rolling effect” during a short, time limited period, enabling individuals who are sentenced between 13 June and 16 July to be considered for release under the regulations. Reg 2(4)(d) ensures that this is not limitless, and individuals sentenced on or after 17 July will not be eligible for release under the regulations.