

FACTSHEET

PRISONER TRANSFER TO SCOTLAND



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Prisoner Transfer Agreements (PTAs) allow British prisoners to serve the remaining part of their sentence in the UK (this process is also known as repatriation). Key issues relating to repatriation are addressed in the Prisoners Abroad factsheet '*Prisoner Transfer to the UK*', which you should read in conjunction with this factsheet.

Scotland has a prison system independent of England & Wales, so some of the regulations that apply to repatriation are slightly different in terms of the way in which the sentence is handled. This factsheet covers information regarding the calculation of the sentence only. If you have a query about other aspects of repatriation to Scotland which are not covered here, please contact our Prisoner and Family Support Service and we will try to answer your questions as best we can.

If you (or anyone you know) has internet access, you can find out more information about the Scottish Prison Service at their website (www.sps.gov.uk) including contact details, prison visiting information and in some cases more general information regarding services available in specific prisons (e.g. handling of mail and money).

People wishing to apply for a transfer to a prison in Scotland should contact the Scottish Prison Service (SPS) at the following address:

**Scottish Prison Service Headquarters
Legal Services Branch
Room 305
Calton House
5 Redheughs Rigg
EDINBURGH
EH12 9HW**

Sentence calculation

Below is a brief guide to sentence-related issues. It can seem complicated, so if you do have any questions, please contact the Prisoner & Family Support Service (PFSS) at Prisoners Abroad.

The prison authorities will continue to enforce the sentence you were given abroad after you arrive back. However, they will apply their own rules and regulations regarding release to repatriated prisoners.

The part of the sentence you will have to serve on your return is referred to here as the 'Scottish sentence'. This is calculated as outlined below.

Offenders on short-term sentences (serving less than 4 years)

For offenders who have a sentence of less than 4 years, the 'Scottish sentence' is calculated by deducting the following calculations from your total sentence:

- **the time you have already served** (this may include the time you spent on remand, if the country where you were sentenced takes this into account); and
- **any remission you have gained from work, study or good behaviour in the country where you are currently held** (prison authorities are not automatically informed of the remission gained abroad. In order to have this time deducted from your sentence, they will need to obtain a copy of your prison record. Therefore, if you have been granted remission, it is highly recommended that you try to obtain a copy and bring it back with you).

Repatriated prisoners whose original sentence is less than 4 years are released unconditionally at the halfway stage of the 'Scottish sentence'. Short-term sex offenders and extended sentenced prisoners will be released on licence in the community until the end of the sentence. During the period of licence, the offender may be recalled into custody if they commit a further offence or break the conditions of their licence.

Example A: you were sentenced to 3 years in Spain and have served 1 year 6 months abroad before transferring to Scotland. The 'Scottish sentence' is 1 year 6 months and you would be released automatically after serving 9 months of this sentence.



Example B: you were sentenced to 3 years in Spain and have served 1 year 6 months abroad before transferring to Scotland. **You have also earned 6 months' remission.** The 'Scottish sentence' is therefore 1 year (12 months) and you would be released automatically after serving 6 months of this sentence.



Although the majority of short-term offenders are released automatically and unconditionally after serving half their 'Scottish sentence', some offenders may be released on Home Detention Curfew (known as HDC) up to 6 months before they are due to be released from prison. Offenders released on HDC will be subject to curfew conditions which require them to stay within a specific address for around 12 hours every night. The SPS will carry out a risk assessment of an offender before he is allowed to be released on HDC. Compliance with the curfew is monitored remotely by means of an electronic tag. Offenders continue to serve their sentence during the period on home detention curfew and could be recalled to prison if they don't comply with the conditions.

The following offenders are excluded from release on HDC:

- Prisoners who are required to register as sex offenders;
- Prisoners who are subject to an Extended Sentence;
- Prisoners who are subject to a Supervised Release Order;
- Prisoners who are subject to a Hospital Direction (including Transfer for Treatment);
- Prisoners awaiting deportation; and
- Prisoners who have previously been recalled to prison having been released on licence.

Sex offenders on short-term sentences are released automatically after serving half their 'Scottish sentence' but will remain on licence under supervision in the community until the expiry of the sentence. Licence conditions are set by the Scottish Ministers.

Long-term offenders (serving more 4 years or more)

For offenders who have a sentence of longer than 4 years, the 'Scottish sentence' is calculated by deducting the following calculations from your total sentence:

- **the time you have already served** (this may include the time you spent on remand, if the country where you were sentenced takes this into account); and
- **any remission earned** in the country in which you are currently detained

Offenders sentenced to 4 years or more are considered for release on parole by the Parole Board for Scotland (PBS). The parole qualifying date is roughly worked out by halving the "original" sentence; the method the PBS uses halves the 'original' sentence and deducts the actual time served in the foreign jurisdiction. The days remaining are what must be served before a person becomes eligible to be considered for parole.

The Parole Qualifying Date (PQD) and automatic release date are calculated as follows:

| | # of... | days | months | years |
|--|---------|-------|--------|-------|
| A) total sentence (5 years) | | 1825 | 60 | 5 |
| B) remission earned (6 months) | | 183 | 6 | ½ |
| C) number of days served abroad | | 365 | 12 | 1 |
| D) total period deemed to have been served (B + C) | | 548 | 18 | 1½ |
| E) new Scottish sentence (A – D) | | 1277 | 42 | 3½ |
| F) time to serve before automatic release date (2/3 x E) | | 851 | 28 | 2⅓ |
| G) time to serve after transfer before qualifying for parole (A ÷ 2 – C) | | 547.5 | 18 | 1½ |

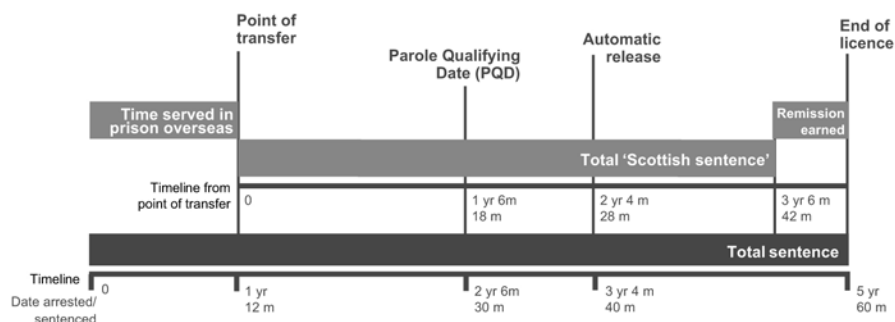
The PBS may decide to release them at that stage or any time between the PQD and the two-third stage of their Scottish sentence when they must by law, be released automatically.

These offenders are always released subject to the terms of a release licence (with conditions set on recommendation by the PBS) and supervised in the community until the end of their sentence by a Criminal Justice social worker of the local authority where they intend to live upon release. The licence and any conditions attached to it, will no longer apply after the end of the sentence.

If an offender is granted parole at the PQD, then he may be released on HDC for the period between the parole decision and the date before their parole begins. In practice this is likely to be around 6 weeks, although it could be up to 10 weeks.

For the purpose of calculating the PQD, remission earned overseas is **not** deducted from the total sentence as it has already been accounted for in the calculation of the “Scottish sentence” and the automatic release date.

Example (as outlined above): you were sentenced to 5 years in Spain. You have served 1 year in the foreign jurisdiction and have earned 6 months remission. The “Scottish sentence” is 3½ years and means that you will be released after serving two-thirds of this sentence (i.e. 2 years and 4 months **or** 28 months). However, you may be released earlier by the PBS, at any point from the halfway stage of the original sentence less the time served abroad (i.e. 2 years 6 months **or** 30 months).



Life sentenced prisoners

When an offender is sentenced to life imprisonment in Scotland the judge must set a minimum period during which the offender must remain in prison. This is known as the “punishment part” of the sentence and is announced in court at the same time as the sentence is passed.

A life sentence prisoner can only be considered for release once he has completed the “punishment part” of the sentence and on the direction of a life prisoner tribunal of the Parole Board for Scotland. The tribunal will only direct release if it considers that the offender does not present an unacceptable risk to the public. Life sentence prisoners are always released subject to the terms of a life licence (conditions set by the PBS) and supervised in the community by a Criminal Justice social worker of the local authority where they intend to live upon release.

For prisoners convicted with an indeterminate 'life' sentence overseas, on repatriation to Scotland the prisoner's case will be referred to the High court in Edinburgh for a hearing under section 10(2J) of the Prisoners and Criminal Proceedings (Scotland) Act 1993. At that hearing, the High Court makes an order under section 10(2K) of that Act specifying the punishment part of the life sentence. The minimum period must be served before being eligible for consideration for release on life licence.

If you require this leaflet in a large print format, please contact us. Our details are below.

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