



# Bail and Release from Custody (Scotland) Act 2023

2023 asp 4

## PART 1

### BAIL

PROSPECTIVE

#### 5 Time spent on electronically monitored bail

After section 210 of the 1995 Act (consideration of time spent in custody) insert—

##### **“210ZA Consideration of time spent on electronically monitored bail**

- (1) This section applies where—
  - (a) a court passes a sentence of imprisonment or detention on a person for an offence, and
  - (b) the person has spent a period of time (“the bail period”) on qualifying bail awaiting trial or sentence.
- (2) When passing the sentence, the court must—
  - (a) have regard to the bail period,
  - (b) specify, in accordance with subsection (3), a period of time (“the relevant period”) which is to be treated as a period of time spent in custody by the person, and
  - (c) unless the relevant period is nil, direct (for the purpose of executing the sentence) that the person is to be treated as having served either—
    - (i) the sentence in full, where the relevant period is equal to or greater than the sentence passed, or
    - (ii) such part of the sentence as is equal to the relevant period, where the relevant period is less than the sentence passed.
- (3) The relevant period is to be the period equal to one-half of either of the following (rounded up, as necessary, to the nearest whole day)—

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Bail and Release from Custody (Scotland) Act 2023, Section 5. (See end of Document for details)*

- (a) the bail period, or
  - (b) the bail period less such period (whether all or part of the bail period) as the court considers appropriate to disregard.
- (4) Where the court specifies the relevant period in accordance with subsection (3)(b), it must state its reasons for disregarding all or (as the case may be) part of the bail period.
- (5) Nothing in this section affects the application of section 210 to any period of time which the person may additionally have spent in custody or in hospital as described in that section.
- (6) For the purposes of this section—
- (a) “qualifying bail” means bail subject to a condition—
    - (i) which requires the person to remain at one or more specified places for a total period (whether or not continuous) of not less than 9 hours in any given day, and
    - (ii) in relation to which the person is required to submit to monitoring in accordance with Part 1 of the Management of Offenders (Scotland) Act 2019 (electronic monitoring etc.),
  - (b) references to the bail period are references to the period beginning on the day on which the person is granted qualifying bail and ending on the day before the day on which the person ceases to be on qualifying bail.
- (7) The Scottish Ministers may by regulations—
- (a) modify—
    - (i) the meaning of “qualifying bail” or “the bail period” given by subsection (6),
    - (ii) the meaning of “the relevant period” given by subsection (3),
  - (b) further modify this section, or modify any other enactment, to make such further provision for the purposes of this section as the Scottish Ministers consider appropriate.
- (8) Regulations under subsection (7)—
- (a) may include incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) are subject to the affirmative procedure.”.

#### Commencement Information

**II** S. 5 not in force at Royal Assent, see [s. 18\(2\)](#)

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**Changes to legislation:**

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