



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 3

SENTENCING AND PUNISHMENT OF OFFENDERS

CHAPTER 4

RELEASE ON LICENCE ETC

Other provisions about release

115 Supervision of young offenders after release

After section 256A of the Criminal Justice Act 2003 insert—

“Supervision of young offenders after release

256B Supervision of young offenders after release

- (1) This section applies where a person (“the offender”) is released under this Chapter from one of the following terms if the term is for less than 12 months—
 - (a) a term of detention in a young offender institution;
 - (b) a term of detention under section 91 of the Sentencing Act;
 - (c) a term of detention under section 209 of the Armed Forces Act 2006.
- (2) The offender is to be under the supervision of—
 - (a) an officer of a provider of probation services,
 - (b) a social worker of a local authority, or

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- (c) if the offender is under the age of 18 years at the date of release, a member of the youth offending team.
- (3) Where the supervision is to be provided by an officer of a provider of probation services, the officer must be an officer acting in the local justice area in which the offender resides for the time being.
- (4) Where the supervision is to be provided by—
 - (a) a social worker of a local authority, or
 - (b) a member of a youth offending team,
 the social worker or member must be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.
- (5) The supervision period begins on the offender’s release and ends three months later (whether or not the offender is detained under section 256C or otherwise during that period).
- (6) During the supervision period, the offender must comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.
- (7) The requirements that may be specified in a notice under subsection (6) include—
 - (a) requirements for securing the electronic monitoring of the offender’s compliance with any other requirements specified in the notice;
 - (b) requirements for securing the electronic monitoring of the offender’s whereabouts (otherwise than for the purpose of securing compliance with requirements specified in the notice);
 - (c) in the circumstances mentioned in subsection (8), requirements to provide, when instructed to do so by an officer of a provider of probation services or a person authorised by the Secretary of State, any sample mentioned in the instruction for the purpose of ascertaining whether the offender has any specified Class A drug in his or her body.
- (8) The circumstances referred to in subsection (7)(c) are that—
 - (a) the offender has attained the age of 18 years;
 - (b) the offender’s term of detention was imposed for a trigger offence; and
 - (c) the requirements to provide samples are being imposed for the purpose of determining whether the offender is complying with any other requirements specified in the notice.
- (9) The function of giving such an instruction as is mentioned in subsection (7)(c) must be exercised in accordance with guidance given from time to time by the Secretary of State; and the Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (7) and the provision of samples in pursuance of such an instruction.
- (10) In this section—
 - “specified Class A drug” has the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000;
 - “trigger offence”—
 - (a) has the same meaning as in that Part, unless paragraph (b) applies;

- (b) if the offender's term of detention was imposed for an offence under section 42 of the Armed Forces Act 2006 (criminal conduct), means such an offence as respects which the corresponding offence under the law of England and Wales is a trigger offence within the meaning of that Part.

256C Breach of supervision requirements

- (1) Where an offender is under supervision under section 256B and it appears on information to a justice of the peace that the offender has failed to comply with requirements under section 256B(6), the justice may—
 - (a) issue a summons requiring the offender to appear at the place and time specified in the summons, or
 - (b) if the information is in writing and on oath, issue a warrant for the offender's arrest.
- (2) Any summons or warrant issued under this section must direct the offender to appear or be brought—
 - (a) before a court acting for the local justice area in which the offender resides, or
 - (b) if it is not known where the offender resides, before a court acting for same local justice area as the justice who issued the summons or warrant.
- (3) Where the offender does not appear in answer to a summons issued under subsection (1)(a), the court may issue a warrant for the offender's arrest.
- (4) If it is proved to the satisfaction of the court that the offender has failed to comply with requirements under section 256B(6), the court may—
 - (a) order the offender to be detained, in prison or such youth detention accommodation as the Secretary of State may determine, for such period, not exceeding 30 days, as the court may specify, or
 - (b) impose on the offender a fine not exceeding level 3 on the standard scale.
- (5) An offender detained in pursuance of an order under subsection (4)(a) is to be regarded as being in legal custody.
- (6) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (7) An offender may appeal to the Crown Court against any order made under subsection (4)(a) or (b).
- (8) In this section "court" means—
 - (a) if the offender has attained the age of 18 years at the date of release, a magistrates' court other than a youth court;
 - (b) if the offender is under the age of 18 years at the date of release, a youth court."

116 Miscellaneous amendments relating to release and recall

- (1) The Criminal Justice Act 2003 is amended as follows.

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- (2) Omit section 248(2) (Secretary of State to consult Board before releasing extended sentence prisoner on compassionate grounds).
- (3) In section 256(1) (review by the Board)—
 - (a) for “recommend” substitute “direct”;
 - (b) for “recommendation” substitute “direction”.
- (4) In section 256A (further review)—
 - (a) in subsection (4)(a), for “recommending” substitute “directing”;
 - (b) in subsection (4)(c), for “recommendation” substitute “direction”;
 - (c) in subsection (5), for “recommendation” (in both places) substitute “direction”.
- (5) In section 260(5) (duties and powers remaining exercisable in relation to persons removed from prison), after “244” insert “, 247”.
- (6) In section 261(5) (re-entry to UK of offender removed early: re-release), after “sentence expiry date,” insert “—
 - (a) if the person is serving an extended sentence imposed under section 227 or 228, section 247 has effect in relation to that person as if the reference to one-half of the appropriate custodial term were a reference to the further custodial period;
 - (b) in any other case,”.
- (7) In section 261(6) (re-entry to UK of offender removed early: definitions), in the definition of “requisite custodial period”, after the words “requisite custodial period” insert “—
 - (a) in relation to a prisoner serving an extended sentence imposed under section 227 or 228, means one-half of the appropriate custodial term (determined by the court under that section);
 - (b) in any other case,”.
- (8) In section 263(2)(b) (concurrent terms: authority to release), for “section 244” substitute “section 246”.
- (9) In section 263(2)(c) (concurrent terms: licence period), for the words “for so long, and subject to such conditions, as is” substitute “—
 - (i) until the last date on which the offender is required to be on licence in respect of any of the terms, and
 - (ii) subject to such conditions as are”.

117 Replacement of transitory provisions

- (1) Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release on licence) is amended as follows.
- (2) In section 237(1)(b) (“fixed-term prisoner” includes those serving sentence of detention)—
 - (a) after “91” insert “or 96”;
 - (b) before “228” insert “227 or”.
- (3) At the end of that section insert—

Status: This is the original version (as it was originally enacted).

- “(3) In this Chapter, references to a sentence of detention under section 96 of the Sentencing Act or section 227 of this Act are references to a sentence of detention in a young offender institution.”
- (4) In section 244(3)(a) (duty to release prisoners: requisite custodial period), after “91” insert “or 96”.
- (5) In section 250(4) (licence conditions)—
- (a) after “91” insert “or 96”;
 - (b) before “228” insert “227 or”.
- (6) In section 258 (early release of fine defaulters and contemnors), after subsection (3) insert—
- “(3A) The reference in subsection (3) to sentences of imprisonment includes sentences of detention under section 91 or 96 of the Sentencing Act or under section 227 or 228 of this Act.”
- (7) In section 263(4) (concurrent terms)—
- (a) after “91” insert “or 96”;
 - (b) before “228” insert “227 or”.
- (8) In section 264(7) (consecutive terms)—
- (a) after “91” insert “or 96”;
 - (b) before “228” insert “227 or”.
- (9) In section 265(2) (restriction on consecutive sentences)—
- (a) after “91” insert “or 96”;
 - (b) before “228” insert “227 or”.
- (10) In Part 2 of the Crime (Sentences) Act 1997 (life sentences: release on licence)—
- (a) in section 31A(5) (termination of licences), in the definition of “preventive sentence”, after “a sentence of imprisonment” insert “or detention in a young offender institution”;
 - (b) in section 34(2)(d) (interpretation), after “a sentence of imprisonment” insert “or detention in a young offender institution”.
- (11) In the Criminal Justice Act 2003 (Sentencing) (Transitory Provisions) Order 2005 ([S.I. 2005/643](#)), article 3(7), (10), (11), (12), (13), (14), (15) and (17)(a) and (b) (transitory provision replaced by this section) are revoked.

118 Repeal of uncommenced provisions

- (1) This section repeals certain provisions which have not been commenced.
- (2) Omit section 266 of the Criminal Justice Act 2003 (which amends section 64 of the Criminal Justice and Court Services Act 2000 in relation to drug testing requirements).
- (3) Omit section 34 of the Police and Justice Act 2006 (which makes amendments of Part 12 of the Criminal Justice Act 2003 relating to imprisonment for bail offences).
- (4) Omit the following provisions of the Criminal Justice and Immigration Act 2008 (which relate to the early release of persons with a settled intention of residing permanently outside the UK)—

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- (a) section 33(2), (4), (7) and (8) (amendments of the Criminal Justice Act 1991);
 - (b) section 34(2), (4)(b), (7) and (10) (amendments of the Criminal Justice Act 2003).
- (5) In Schedule 8 to the Crime and Disorder Act 1998 (minor and consequential amendments) omit—
- (a) paragraph 86 (amendments of section 41 of the Criminal Justice Act 1991);
 - (b) paragraph 90 (amendment of section 47 of that Act).