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## SCHEDULES

### SCHEDULE 6

Section 47(2).

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### Modifications etc. (not altering text)

- C1** Sch. 6 amended (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 70(1)**; S.I. 1998/2327, **art. 2(1)(y)(2)(u)**  
Sch. 6 modified (*retrospectively*) by 1984 c. 47, s. 3(7), **Sch. para. 2(4)** (as inserted (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 6(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)**)  
Sch. 6 modified (*retrospectively*) by 1984 c. 47, s. 3(7), **Sch. para. 2(4)** (as substituted (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 7(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)**)  
Sch. 6: certain functions made exercisable in or as regards Scotland (30.6.1999) by S.I. 1999/1748, **art. 4(2)**, **Sch. 3 Pt. I paras. 5-8**, Pt. III para. 10(3)  
Ss. 1-3, 5, 6(1)(a)(b)(i)(iii), 9, 11-13, 15-21, 27, Schs. 2, 6 extended (1.10.1997) by 1997 c. 43, 56(1), Sch. 1 paras. 10(2)(5), 11(2)-(4), Sch. 5 paras. 11(1)-(3), 12(1); S.I. 1997/2200, **art. 2(1)(n)** (subject to art. 5 of the said S.I.) (which amendment fell (30.9.1998) by reason of the repeal of Sch. 5 paras. 11(1), 12(1) by 1998 c. 37, s. 120(2), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(aa)(3)(x)** (subject to arts. 5-8 of the said S.I.)  
Ss. 1, 1A, 2(4), 3A, 5, 6(1)(a)(b)(i)(iii), 7, 9, 16, 20, 21, 26A, 27, Schs. 2, 6 extended (30.9.1998) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 10(2)(a)(5)(a)(6)(7), **11(2)(a)(4)(a)(6)** (subject to art. 5) (as amended (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 paras. 135(5)(a)(d)(f)(6)(a)(b)**; S.I. 1998/2327, **art. 2(1)(y)(2)(oo)** (subject to arts. 5-8))

VALID FROM 01/10/1993

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In this Schedule—

“existing provisions” means such provisions as relate to the detention or release of persons and are amended or repealed by this Act, as they had effect immediately before such amendment or repeal;

“new provisions” means sections 1 to 21 and 27 of this Act (together with the provisions of the 1975 Act and of the <sup>M1</sup>Mental Health (Scotland) Act 1984 which so relate and are so amended);

“existing child detainee” means any child (“child” having the meaning assigned to that expression by section 30 of the <sup>M2</sup>Social Work (Scotland) Act 1968) who, at the relevant date, is detained under section 206 of the 1975 Act other than without limit of time or is detained in residential care by virtue of section 413 of the 1975 Act;

“existing licensee” means any person who, before the relevant date, has been released on licence under the 1989 Act;

“existing life prisoner” means any person [<sup>F1</sup>(other than a transferred life prisoner)] who, at the relevant date, is serving—

- (a) a sentence of imprisonment for life;

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- (b) a sentence of detention without limit of time or for life under section 205 of the 1975 Act;
  - (c) a sentence of detention without limit of time under section 206 of that Act; or
  - (d) a period of detention without limit of time or for life under section 207(2) of that Act;
- “existing prisoner” means any person who, at the relevant date, is serving—
- (a) a sentence of imprisonment; or
  - (b) a sentence of detention in a young offenders institution; and
- “relevant date” means the date of commencement of the new provisions.

#### Textual Amendments

**F1** Words in Sch. 6 para. 1 inserted (27.7.1993) by 1993 c. 36, ss. 76(3)(a), 78(2)

#### Marginal Citations

**M1** 1984 c. 36.

**M2** 1968 c. 49.

VALID FROM 01/10/1993

- 2
- (1) Subject to sub-paragraph (2) and [<sup>F2</sup>to section 10(4) of this Act], the new provisions shall apply only to persons who are sentenced (or on whom detention is imposed) on or after the relevant date; and notwithstanding any repeal or amendment effected by or by virtue of this Act, but subject to that sub-paragraph and to the following paragraphs of this Schedule, the existing provisions shall continue to apply to persons sentenced (or on whom detention has been imposed) before that date.
  - (2) Section 3 of this Act [<sup>F3</sup>, and sections 12 and 17 of this Act in so far as relating to a licence granted, or person released, by virtue of this sub-paragraph,] shall apply irrespective of the date on which a person is sentenced (or on which detention is imposed on him).

#### Textual Amendments

**F2** Words in Sch. 6 para 2(1) substituted (27.7.1993) by 1993 c. 36, ss. 76(3)(b), 78(2)

**F3** Words in Sch. 6 para. 2(2) inserted (27.7.1993) by 1993 c. 36, ss. 75(2), 78(2)

VALID FROM 01/10/1993

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- An existing prisoner whose sentence is for a term of less than two years and who, by the relevant date, has served—
- (a) one-half or more of that sentence, shall be released unconditionally by the Secretary of State on that date;

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- (b) less than one-half of that sentence, shall be so released as soon as he has served one-half of that sentence.

VALID FROM 01/10/1993

- 4 (1) An existing child detainee whose sentence under section 206 of the 1975 Act is for a period—
- (a) of less than four years and who, by the relevant date, has served—
    - (i) one-half or more of that sentence, shall be released on licence by the Secretary of State on that date;
    - (ii) less than one-half of that sentence, shall be so released as soon as he has served one-half of that sentence;
  - (b) of four years or more and who, by the relevant date, has served—
    - (i) two-thirds or more of that sentence, shall be released on licence by the Secretary of State on that date;
    - (ii) less than two-thirds of that sentence, shall be so released as soon as he has served two-thirds of that sentence.
- (2) An existing child detainee detained under section 206 of the 1975 Act may, on the recommendation of the Parole Board made at any time, be released on licence by the Secretary of State.

VALID FROM 01/10/1993

- 5 (1) An existing child detainee who, by the relevant date, has completed—
- (a) one-half or more of a period of detention in residential care for which he has been committed, shall be released from such care on that date;
  - (b) less than one-half of that period, shall be so released as soon as he has completed one-half of that period,
- but until the entire such period has elapsed may be required by the appropriate local authority to submit to supervision in accordance with such conditions as they consider appropriate.
- (2) Where a child released under sub-paragraph (1) above is subject to a supervision requirement within the meaning of the <sup>M3</sup>Social Work (Scotland) Act 1968, the effect of that requirement shall commence, or as the case may be resume, upon such release.

#### Marginal Citations

M3 1968 c. 49.

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- 6 (1) This paragraph applies where, in the case of an existing life prisoner, the Lord Justice General, whom failing the Lord Justice Clerk, after consultation with the trial judge, if available, certifies his opinion that, if section 2 of this Act had been in force at the time when the prisoner was sentenced, the court by which he was sentenced would have ordered that that section should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) In a case to which this paragraph applies, sections 1 to 27 of this Act except sections 1(4) and 2(9) shall apply as if—
- (a) the existing life prisoner were a discretionary life prisoner within the meaning of section 2 of this Act; and
  - (b) the relevant part of his sentence within the meaning of that section were the part specified in the certificate.
- (3) Where a person is serving two or more sentences of imprisonment for life or detention without limit of time or for life—
- (a) he shall be treated as a discretionary life prisoner within the meaning of section 2 of this Act only if the requirements of sub-paragraph (1) above are satisfied in respect of each of those sentences; and
  - (b) notwithstanding the terms of any certificate under that sub-paragraph, subsections (4) and (6) of section 2 shall not apply to him until he has served the relevant part of each of those sentences.

VALID FROM 03/02/1995

- [<sup>F4</sup>6A (1) This paragraph applies where a prisoner sentenced before the relevant date to a sentence of imprisonment for life for an offence the sentence for which is not fixed by law has been (whether before, on or after that date) released on licence under the 1989 Act.
- (2) Without prejudice to section 22(6) of the 1989 Act, in a case to which this paragraph applies, the new provisions shall apply as if the prisoner were a discretionary life prisoner, within the meaning of section 2 of this Act, whose licence has been granted under subsection (4) of that section of this Act on his having served the relevant part of his sentence.]

#### Textual Amendments

**F4** Sch. 6 paras. 6A, 6B inserted (3.2.1995) by 1994 c. 33, s. 135; S.I. 1995/127, art. 2(1), Sch. 1

VALID FROM 03/02/1995

- [<sup>F5</sup>6B (1) This paragraph applies where—

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- (a) a prisoner was, at the relevant date, serving a sentence or sentences of imprisonment, on conviction of an offence, passed before that date and that sentence was for a term of, or as the case may be those sentences fall to be treated as for a single term of, two or more years; and
  - (b) on or after that date he is, or has been, sentenced to a further term or terms of imprisonment, on conviction of an offence, to be served consecutively to, or concurrently with, the sentence or sentences mentioned in head (a) above.
- (2) In a case to which this paragraph applies—
- (a) the sentence or sentences mentioned in head (b) of sub-paragraph (1) above shall be treated as a single term with the sentences mentioned in head (a) of that sub-paragraph and that single term as imposed on or after the relevant date (so however that nothing in the foregoing provisions of this head shall affect the application of sections 39(7) (which makes provision as respects the award of additional days for breaches of discipline) and 24 (which makes provision as respects remission for good conduct) of the 1989 Act); and
  - (b) the new provisions shall apply accordingly, except that—
    - (i) where the prisoner is a long-term prisoner by virtue only of the aggregation provided for in head (a) of this sub-paragraph, he shall be released unconditionally on the same day as he would have been but for that aggregation;
    - (ii) where, notwithstanding the aggregation so provided for, the prisoner remains a short-term prisoner, subsection (1) of section 1 of this Act shall in its application be construed as subject to the qualification that the prisoner shall be released no earlier than he would have been but for that aggregation;
    - (iii) that section shall in its application be construed as if for subsection (3) there were substituted—
- (“ Without prejudice to subsection (1) above and to sub-paragraph (2)(b)(i) of paragraph 6B of Schedule 6 to this Act, after a prisoner to whom that paragraph applies has either served one-third of the sentence, or as the case may be sentences, mentioned in sub-paragraph (1)(a) of that paragraph, or (if it results in a later date of release) has served twelve months of that sentence or those sentences, the Secretary of State may, if recommended to do so by the Parole Board under this section, release him on licence; and where such a prisoner has been released on licence under section 22 of the 1989 Act, that licence shall be deemed to have been granted by virtue of this subsection.”;
- (iv) section 11(1) shall in its application be construed as if the sentence referred to were the further term or terms mentioned in head (b) of sub-paragraph (1) above; and
  - (v) section 16 shall in its application be construed as if the original sentence (within the meaning of that section) were the further term or terms so mentioned.]

#### Textual Amendments

F5 Sch. 6 paras. 6A, 6B inserted (3.2.1995) by 1994 c. 33, s. 135; S.I. 1995/127, art. 2(1), Sch. 1

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VALID FROM 30/09/1998

[<sup>F6</sup>6C (1) This paragraph applies where—

- (a) an existing prisoner was, at the relevant date, serving a sentence or sentences of imprisonment, on conviction of an offence, passed before that date;
- (b) on or after the date on which section 111 of the Crime and Disorder Act 1998 comes into force he is, or has been, sentenced to a further term or terms of imprisonment on conviction of an offence, to be served wholly or partly concurrently with the sentence or sentences mentioned in head (a); and
- (c) the sentences do not fall to be treated as a single term by virtue of paragraph 6B(2)(a) above.

(2) In a case to which this paragraph applies the Secretary of State shall not release, or be required to consider the release of, the prisoner unless and until the requirements for release, or for consideration of his release, of the new and the existing provisions are satisfied in relation to each sentence to which they respectively apply.

(3) In a case to which this paragraph applies the Parole Board shall not be required to consider the release of the prisoner unless and until the requirements for release, or for consideration for release, of the new and the existing provisions are satisfied in relation to each sentence to which they respectively apply.

(4) In a case to which this paragraph applies, where the prisoner is released on licence, he shall be on a single licence which—

- (a) shall (unless revoked) remain in force until the later of—
  - (i) the date on which he would have been discharged from prison on remission of part of his sentence or sentences under the existing provisions if, after his release, he had not forfeited remission of any part of that sentence under those provisions; or
  - (ii) the date on which he would (but for his release) have served in full all the sentences in respect of which he was released on licence and which were imposed after the relevant date; and
- (b) shall be deemed to be granted under the new provisions and, subject to sub-paragraph (5) below, those provisions so far as relating to conditions of licences, and recall or return to prison, shall apply as they apply in respect of a prisoner on licence in respect of a sentence passed after the relevant date.

(5) In the application of section 16 to a person whose licence is deemed to be granted under the new provisions by virtue of sub-paragraph (4)(b) above, the reference to the original sentence (within the meaning of that section) shall be construed as a reference to the further term or terms mentioned in head (b) of sub-paragraph (1) above.]

#### Textual Amendments

**F6** Sch. 6 para. 6C inserted (30.9.1998) by 1998 c. 37, s. 111(5)(6); S.I. 1998/2327, art. 2(1)(x)

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[<sup>F7</sup>6D Where a prisoner released on licence is treated by virtue of the provisions of this or any other enactment as a prisoner whose licence was granted under section 2(4) of this Act, the validity of his licence shall not be affected by the absence in the licence of such a condition as is specified in section 12(2) of this Act.]

**Textual Amendments**

**F7** Sch. 6 para. 6D inserted (30.9.1998) by 1998 c. 37, s. 119, Sch. 8 para. 108; S.I. 1998/2327, art. 2(1)(y)(2)(hh)

VALID FROM 01/10/1993

[<sup>F8</sup>7 In the case of a transferred life prisoner who is a discretionary life prisoner for the purposes of Part II of the Criminal Justice Act 1991 by virtue of section 48 of or paragraph 9 of Schedule 12 to that Act, subsection (3) of section 10 of this Act applies and the certificate mentioned in paragraph (b) of that subsection is the certificate under the said section 48 or paragraph 9.]

**Textual Amendments**

**F8** Sch. 6 para. 7 substituted (27.7.1993) by 1993 c. 36, ss. 76(3)(c), 78(2)

VALID FROM 01/10/1993

8 Unless revoked, a licence under—  
(a) paragraph 4(1)(a)(i) or (b)(i) above shall remain in force until at least twelve months have elapsed after the date of release and until the entire period of sentence has elapsed;  
(b) paragraph 4(1)(a)(ii) or (b)(ii) above shall remain in force until a date determined by the Parole Board, being a date not later than the date by which the entire period of sentence has elapsed.

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9 Section 12 of this Act shall apply in respect of a licence granted under this Schedule.

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VALID FROM 03/02/1995

[<sup>F9</sup>10 Section 17 of this Act shall apply in respect of a release on licence under paragraph 4 of this Schedule as that section applies in respect of the release on licence, under Part I of this Act, of a long-term prisoner.]

**Textual Amendments**

**F9** Sch. 6 para. 10 inserted (3.2.1995) by 1994 c. 33, s. 130(3)(b); S.I. 1995/127, art. 2(1), Sch. 1



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