

Status: Point in time view as at 30/11/2000.

Changes to legislation: Crime (Sentences) Act 1997, Part II is up to date with all changes known to be in force on or before 03 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Crime (Sentences) Act 1997

1997 CHAPTER 43

PART II

EFFECT OF CUSTODIAL SENTENCES

Modifications etc. (not altering text)

C1 Pt. II applied in part (with modifications) (1.10.1997) by S.I. 1997/1776, art. 2, Sch. 1 paras. 2-4; S.I. 1997/2200, art. 2(1)

CHAPTER I

DETERMINATE SENTENCES

General

F18

Textual Amendments

F1 S. 8 repealed (30.9.1998) by 1998 c. 37, s. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 22(1)(w)(3)(x).

F29

Textual Amendments

F2 S. 9 repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 12 Pt. I (with Sch. 11 paras. 1, 2)

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F3 **9A**

Textual Amendments
F3 S. 9A repealed (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)

Early release

F4 **10**

Textual Amendments
F4 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

F5 **11**

Textual Amendments
F5 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

F6 **12**

Textual Amendments
F6 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

F7 **13**

Textual Amendments
F7 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

Additional days

F8 **14**

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Textual Amendments

F8 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F9 **15**

Textual Amendments

F9 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Supervision after release

F10 **16**

Textual Amendments

F10 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F11 **17**

Textual Amendments

F11 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F12 **18**

Textual Amendments

F12 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Special cases

F13 **19**

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Textual Amendments

F13 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F14²⁰

Textual Amendments

F14 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F15²¹

Textual Amendments

F15 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F16²²

Textual Amendments

F16 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F17²³

Textual Amendments

F17 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F18²⁴

Textual Amendments

F18 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

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F19 **25**

Textual Amendments

F19 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Supplemental

F20 **26**

Textual Amendments

F20 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F21 **27**

Textual Amendments

F21 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

CHAPTER II

LIFE SENTENCES

Modifications etc. (not altering text)

C2 Pt. II Ch. II excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 3(1)** (with s. 78); S.I. 2001/2161, **art. 2**

Release on licence

28 **Duty to release certain life prisoners.**

[^{F22}(1A) In this Chapter—

- (a) references to a life prisoner to whom this section applies are references to a life prisoner in respect of whom an order has been made under subsection (2) of section 82A of the ^{M1}Powers of Criminal Courts (Sentencing) Act 2000 or a direction under subsection (5) of that section has been given or will be required to be given at the appropriate stage; and
- (b) references to the relevant part of his sentence are references to the part of his sentence specified in the order or direction or, in the case of a life prisoner in

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respect of whom a direction under subsection (5) of that section has not been given but will be required to be given at the appropriate stage, the whole of his sentence,

and in this section “appropriate stage”, in relation to such a direction, has the same meaning as in subsection (6) of that section.

- (1B) But if a life prisoner is serving two or more life sentences—
- (a) he is not to be treated for the purposes of this Chapter as a life prisoner to whom this section applies unless such an order or direction has been made or given in respect of each of those sentences or such a direction will be required to be given at the appropriate stage; and
 - (b) the provisions of subsections (5) to (8) below do not apply in relation to him until he has served the relevant part of each of them.
- (5) As soon as—
- (a) a life prisoner to whom this section applies has served the relevant part of his sentence; and]
 - (b) the Parole Board has directed his release under this section,
- it shall be the duty of the Secretary of State to release him on licence.
- (6) The Parole Board shall not give a direction under subsection (5) above with respect to a life prisoner to whom this section applies unless—
- (a) the Secretary of State has referred the prisoner’s case to the Board; and
 - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (7) A life prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole Board at any time—
- (a) after he has served the relevant part of his sentence; and
 - (b) where there has been a previous reference of his case to the Board, after the end of the period of two years beginning with the disposal of that reference; and
 - (c) where he is also serving a sentence of imprisonment or detention for a term, after [F23he has served one-half of that sentence];
- and in this subsection “previous reference” means a reference under subsection (6) above or section 32(4) below.
- (8) In determining for the purpose of subsection (5) or (7) above whether a life prisoner to whom this section applies has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large within the meaning of section 49 of the M2Prison Act 1952.

F24(9)

Textual Amendments

- F22** S. 28(1A)(1B)(5)(a) substituted (30.11.2000 with effect as mentioned in Sch. 7 para. 145 of the substituting Act) for s. 28(1)-(5)(a) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 136(a)**
- F23** Words in s. 28(7)(c) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 130(2)**; S.I. 1998/2327, **art. 2(2)(II)**
- F24** S. 28(9) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and notes to Sch. 8 of the repealing Act) by 2000 c. 43, ss. 74, 75, **Sch. 7 Pt. II para. 136(b)**, **Sch. 8**

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Modifications etc. (not altering text)

- C3 S. 28: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. I para. 1(1)
- C4 S. 28(1B) modified (30.11.2000) by 2000 c. 43, ss. 74, 80(3)(d), Sch. 7 Pt. II para. 146-148

Marginal Citations

- M1 2000 c. 6.
- M2 1952 c.52.

29 Power to release other life prisoners.

- (1) If recommended to do so by the Parole Board, the Secretary of State may, after consultation with the Lord Chief Justice together with the trial judge if available, release on licence a life prisoner who is not one to whom section 28 above applies.
- (2) The Parole Board shall not make a recommendation under subsection (1) above unless the Secretary of State has referred the particular case, or the class of case to which that case belongs, to the Board for its advice.

Modifications etc. (not altering text)

- C5 S. 29: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. I para. 1(1)
- C6 S. 29(1) modified (*prosp.*) by 1984 c. 47, Sch. para. 2 (as modified by 1997 c. 43, ss. 42, 57(2), Sch. 2 paras. 4(1)(5))

30 Power to release life prisoners on compassionate grounds.

- (1) The Secretary of State may at any time release a life prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.
- (2) Before releasing a life prisoner under subsection (1) above, the Secretary of State shall consult the Parole Board, unless the circumstances are such as to render such consultation impracticable.

Modifications etc. (not altering text)

- C7 S. 30: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. I para. 1(1)

Licences and recall

31 Duration and conditions of licences.

- (1) Where a life prisoner is released on licence, the licence shall, unless previously revoked under section 32(1) or (2) below, remain in force until his death.

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- (2) A life prisoner subject to a licence shall comply with such conditions^{F25} . . . as may for the time being be specified in the licence; and the Secretary of State may make rules for regulating the supervision of any description of such persons.
- [^{F26}(2A) The conditions so specified shall include on the prisoner’s release conditions as to his supervision by—
- (a) a probation officer appointed for or assigned to the petty sessions area within which the prisoner resides for the time being;
 - (b) where the prisoner is under the age of 22, a social worker of the social services department of the local authority within whose area the prisoner resides for the time being; or
 - (c) where the prisoner is under the age of 18, a member of a youth offending team established by that local authority under section 39 of the Crime and Disorder Act 1998.]
- (3) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a life prisoner, or vary or cancel any such condition, except—
- (a) in the case of the inclusion of a condition in the licence of a life prisoner to whom section 28 above applies, in accordance with recommendations of the Parole Board; and
 - (b) in any other case, after consultation with the Board.
- (4) For the purposes of subsection (3) above, the Secretary of State shall be treated as having consulted the Parole Board about a proposal to include, insert, vary or cancel a condition in any case if he has consulted the Board about the implementation of proposals of that description generally or in that class of case.
- (5) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In relation to a life prisoner who is liable to removal from the United Kingdom (within the meaning given by [^{F27}section 46(3) of the 1991 Act]), subsection (2) above shall have effect as if [^{F27}subsection (2A) above] were omitted.

Textual Amendments

- F25** Words in s. 31(2) repealed (30.9.1998 in the areas specified in S.I. 1998/2327, **Sch. 1** and otherwise 1.4.2000) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 131(1), **Sch.10**; S.I. 1998/2327, art. 3(1)(b)(c), **Sch.1**; S.I. 2000/924, **art. 3**
- F26** S. 31(2A) inserted (30.9.1998 in the areas specified in S.I. 1998/2327, **Sch. 1** and otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 131(2)**; S.I. 1998/2327, art. 3(1)(b), **Sch.1**; S.I. 2000/924, **art. 3**
- F27** Words in s. 31(6) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 131(3)**; S.I. 1998/2327, **art. 2(2)(mm)**.

Modifications etc. (not altering text)

- C8** S. 31: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), **Sch. 4 Pt. 1 para. 1**
- C9** S. 31(6) modified (1.1.1998) by S.I. 1997/2200, **art. 5(3)(a)**
 S. 31(6) modified (19.9.1998) by S.I. 1998/2327, **art. 5(1)(b)**.

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32 Recall of life prisoners while on licence.

- (1) If recommended to do so by the Parole Board in the case of a life prisoner who has been released on licence under this Chapter, the Secretary of State may revoke his licence and recall him to prison.
- (2) The Secretary of State may revoke the licence of any life prisoner and recall him to prison without a recommendation by the Parole Board, where it appears to him that it is expedient in the public interest to recall that person before such a recommendation is practicable.
- (3) A life prisoner recalled to prison under subsection (1) or (2) above—
 - (a) may make representations in writing with respect to his recall; and
 - (b) on his return to prison, shall be informed of the reasons for his recall and of his right to make representations.
- (4) The Secretary of State shall refer to the Parole Board—
 - (a) the case of a life prisoner recalled under subsection (1) above who makes representations under subsection (3) above; and
 - (b) the case of a life prisoner recalled under subsection (2) above.
- (5) Where on a reference under subsection (4) above the Parole Board—
 - (a) directs in the case of a life prisoner to whom section 28 above applies; or
 - (b) recommends in the case of any other life prisoner,his immediate release on licence under this section, the Secretary of State shall give effect to the direction or recommendation.
- (6) On the revocation of the licence of any life prisoner under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

Modifications etc. (not altering text)

C10 S. 32: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. I para. 1

Miscellaneous and supplemental

33 Life prisoners transferred to England and Wales.

- (1) This section applies where, in the case of a transferred life prisoner, the Secretary of State, after consultation with the Lord Chief Justice, certifies his opinion that, if—
 - (a) the prisoner's offence had been committed after the commencement of this Chapter; and
 - (b) he had been sentenced for it in England and Wales,the court by which he was so sentenced would have ordered that [^{F28}the provisions of section 28(5) to (8)] above should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) This section also applies where, in the case of a transferred life prisoner, the Secretary of State certifies his opinion that, if—

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- (a) the prisoner’s offence had been committed after the commencement of this Chapter; and
 - (b) he had been sentenced for it in England and Wales,
- the Secretary of State would have directed that [^{F28}the provisions of section 28(5) to (8)] above should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (3) In a case to which this section applies, this Chapter except section 29(1) above shall apply as if—
- (a) the transferred life prisoner were a life prisoner to whom section 28 above applies; and
 - (b) the relevant part of his sentence within the meaning of section 28 above were the part specified in the certificate.
- (4) In this section “transferred life prisoner” means a person—
- (a) on whom a court in a country or territory outside England and Wales has imposed one or more sentences of imprisonment or detention for an indeterminate period; and
 - (b) who has been transferred to England and Wales, in pursuance of—
 - (i) an order made by the Secretary of State under paragraph 1 of Schedule 1 to this Act or section 2 of the ^{M3}Colonial Prisoners Removal Act 1884; or
 - (ii) a warrant issued by the Secretary of State under the ^{M4}Repatriation of Prisoners Act 1984,
 there to serve his sentence or sentences or the remainder of his sentence or sentences.
- (5) A person who is required so to serve the whole or part of two or more such sentences shall not be treated as a life prisoner to whom section 28 above applies unless the requirements of subsection (1) or (2) above are satisfied as respects each of those sentences; and [^{F28}the provisions of section 28(5) to (8)] above shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

Textual Amendments

F28 Words in s. 33(1)(2)(5) substituted (30.11.2000 with effect as mentioned in Sch. 7 para. 145 of the substituting Act) by 2000 c. 43, ss. 74, 80(3)(d), **Sch. 7 Pt. II para. 137(a)(b)**

Marginal Citations

M3 1884 c.31.
M4 1984 c.47.

34 Interpretation of Chapter II.

- (1) In this Chapter “life prisoner” means a person serving one or more life sentences; ^{F29} . . .
- (2) In this section “life sentence” means any of the following imposed for an offence, whether committed before or after the commencement of this Chapter, namely—
 - (a) a sentence of imprisonment for life;

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- (b) a sentence of detention during Her Majesty’s pleasure or for life under [F30 section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000]; and
 - (c) a sentence of custody for life under [F30 section 93 or 94 of that Act].
- (3) In this Chapter “court” includes a court-martial and “trial judge” includes a trial judge advocate; and in subsection (2) above—
- (a) the reference to [F30 section 90 or 91 of the Powers of Criminal Courts (Sentencing) Act 2000] includes a reference to subsections (3) and (4) of section 71A of the M5 Army Act 1955 and the M6 Air Force Act 1955 and section 43A of the M7 Naval Discipline Act 1957; and
 - (b) the reference to [F30 section 93 or 94 of that Act of 2000] includes a reference to subsections (1A) and (1B) of [F30 section 71A of the Army Act 1955 and the Air Force Act 1955 and section 43A of the Naval Discipline Act 1957.]
- [F31(4) Where a person has been sentenced to one or more life sentences and to one or more terms of imprisonment, nothing in this Chapter shall require the Secretary of State to release the person in respect of any of the life sentences unless and until the Secretary of State is required to release him in respect of each of the terms.]

Textual Amendments

- F29** Word in s. 34(1) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and notes to Sch. 8 of the repealing Act) by 2000 c. 43, ss. 74, 75, 80(3)(d), Sch. 7 Pt. II para. 138, **Sch. 8**
- F30** Words in s. 34(2)(3) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 183(2)(3)**
- F31** S. 34(4) inserted (30.9.1998) by 1998 c. 37, ss. 101(2), 120(1), **Sch. 9 para. 11**; S.I. 1998/2327, **art. 2(1)(v)**.

Modifications etc. (not altering text)

- C11** S. 34: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, **art. 8(2)**, **Sch. 4 Pt. I para. 1**

Marginal Citations

- M5** 1955 c.18.
- M6** 1955 c.19.
- M7** 1957 c.53.

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