

Status: Point in time view as at 09/06/2008.

Changes to legislation: There are currently no known outstanding effects for the Repatriation of Prisoners Act 1984, SCHEDULE. (See end of Document for details)

SCHEDULE

OPERATION OF CERTAIN ENACTMENTS IN RELATION TO THE PRISONER

Application of Schedule

- 1 This Schedule applies where a warrant is issued under this Act providing for the transfer of the prisoner into the United Kingdom; and in this Schedule “the relevant provisions” means the provisions contained in the warrant by virtue of section 3(1)(c) of this Act or, in the case of a warrant which contains such a requirement as is referred to in section 4(2) of this Act, the provisions in accordance with which the prisoner continues, in pursuance of that requirement, to be detained.

[^{F1}Release on licence][^{F1}Early release]

Textual Amendments

- F1** Sch. para. 2 and cross-heading substituted (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 33(1)(b)(i), 89(2)** (with s. 33(2)); S.S.I. 2003/288, **art. 2, sch.**

- 2 [^{F1}(1) In determining, for the purposes of sections 1(1) to (3), [^{F4}1AA, 2(2) and (7), 3AA] and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9), in their application to prisoners repatriated to Scotland (eligibility for early release from a sentence), whether the prisoner has at any time served a particular proportion or part of the sentence, the sentence shall, subject to sub-paragraph (2) below, be deemed to begin with the day on which the relevant provisions take effect.
- (2) If the warrant specifies a period to be taken into account for the purposes of section 1(3) [^{F5}, 2(2) or (7) or 3AA] of that Act (eligibility of long-term and life prisoners as respects release on licence)—
- (a) the amount of time the prisoner has served; and
- (b) where the sentence is a determinate one, the sentence,
- shall, so far only as the question whether he has served any particular proportion or part of the sentence is concerned, be deemed to be increased by that period.
- (3) The question whether the prisoner is a short-term or a long-term prisoner for the purposes of any of the sections mentioned in sub-paragraph (1) above shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.
- (4) For the purposes of Schedule 6 to that Act, a prisoner’s sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.
- (5) In this paragraph, “sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.]

Textual Amendments

- F2** Sch. para. 2(1)(1A) substituted for para. 2(1) (E.W.S.) (1.10.1993) by [1993 c. 9, s. 47\(1\)](#), **Sch. 5 para. 3(4)** (with s. 47(2), [Sch. 6 paras. 1, 2](#)); S.I. 1993/2050, **art. 3(4)**.
- F3** Sch. para. 2(2)-(4) substituted (E.W.) (4.4.2005) for Sch. 2 para. (1A)(2) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), **Sch. 32 para. 43(2)**; S.I. 2005/950, **art. 2(1), Sch. 1 para. 42(19)** (with savings

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in Sch. 2) (as explained (29.7.2005) by S.I. 2005/2122, **art. 2**; and as amended: (14.7.2008) by 2008 c. 4, Sch. 26 para. 78, **Sch. 28 Pt. 2**; S.I. 2008/1586, Sch. 1 paras. 48(s), **50(2)(d)**; (30.11.2009) by S.I. 2009/3111, **art. 2**; (3.12.2012) by S.I. 2012/2905, **art. 4**; (3.12.2012) by 2012 c. 10, **Sch. 14 para. 17**; S.I. 2012/2906, **art. 2(1)**)

- F4** Words in Sch. para. 2(1) substituted (S.) (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), **ss. 21(5)(a)**, 24(2); S.S.I. 2006/48, art. 3(1), sch. Pt. 1
- F5** Words in Sch. para. 2(2) substituted (S.) (8.2.2006) by Management of Offenders etc. (Scotland) Act 2005 (asp 14), **ss. 21(5)(b)**, 24(2); S.S.I. 2006/48, art. 3(1), sch. Pt. 1

Modifications etc. (not altering text)

- C1** Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to Scotland) by 1997 c. 43, s. 42, **Sch. 2 para. 6(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)**
- Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to E.W.) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)** (and, as so modified, further modified (E.W.) (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 58**; S.I. 1998/2327, **art. 2(1)(y)(2)(s)**, and further modified by art. 5(3)(b) of that S.I., and further modified (E.W.) (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 94(1)(a)(2)**)
- Sch. para. 2 modified (1.10.1997 in relation to prisoners repatriated to E.W.) by 1997 c. 43, s. 42, **Sch. 2 para. 3(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)** (and, as so modified, further modified (E.W.) (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 59**; S.I. 1998/2327, **art. 2(1)(y)(2)(s)**, and further modified (E.W.) (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 94(1)(b)(2)**)
- Sch. para. 2 modified (E.W.) (prosp.) by 1997 c. 43, s. 42, **Sch. 2 paras. 4(1)(4)** (which Sch. 2 para. 4 was repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 136, **Sch. 10**; S.I. 1998/2327, **art. 2(1)(2)(pp)(3)(y)**)
- Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to Scotland) by 1997 c. 43, s. 42, **Sch. 2 para. 5(1)(2)** (which modification shall be deemed to have had effect since 16.2.1990); S.I. 1997/2200, **art. 2(1)(h)**
- Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to Scotland) by 1997 c. 43, s. 42, **Sch. 2 para. 7(2)**; S.I. 1997/2200, **art. 2(1)(h)**
- Sch. para. 2 modified (S.) (prosp.) by 1997 c. 43, s. 42, **Sch. 2 para. 8(1)(2)** (which amending Sch. 2 para. 8 was repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 136, **Sch. 10**; S.I. 1998/2327, **art. 2(1)(2)(pp)(3)(y)**)
- Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to N.I.) by 1997 c. 43, s. 42, **Sch. 2 para. 9(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)**
- C2** Sch. para. 2: certain functions made exercisable in or as regards Scotland (30.6.1999) by S.I. 1999/1748, arts. 4(1), 8(1), **Sch. 2 para. 1(11)**
- C3** Sch. para. 2 (as it applies in E.W. in relation to offences committed before 4.4.2005) modified (9.6.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **Sch. 26 para. 19(4)**; S.I. 2008/1466, **art. 2(c)(i)** (with art. 4)

[^{F6}2A (1) This paragraph applies to a prisoner repatriated to Northern Ireland.

- (2) In determining for the purposes of Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 whether the prisoner has at any time served a particular proportion or part of his sentence specified in that Chapter, the prisoner's sentence shall subject to sub-paragraph (3), be deemed to begin with the day on which the relevant provisions take effect.
- (3) If the warrant specifies a period to be taken into account for the purposes of this paragraph, the amount of time the prisoner has served shall, so far only as the question whether he has served a particular proportion or part of his sentence, be deemed to be increased by that period.

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- (4) Where the prisoner's sentence is for a term of less than 12 months, Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 shall apply as if the sentence were for a term of 12 months or more.
- (5) In this paragraph “sentence” means the provision included in the warrant which is equivalent to sentence.]

Textual Amendments

- F6** Sch. para. 2A inserted (N.I.) (15.5.2008) by [The Criminal Justice \(Northern Ireland\) Order 2008 \(S.I. 2008/1216\)](#), art. 1(4), **Sch. 5 para. 4(2)**; S.R. 2008/217, art. 2, Sch. para. 18(b)

[^{F7}Life imprisonment]

Textual Amendments

- F7** Sch. para. 3 and cross-heading substituted (E.W.) (30.9.1998) by [1998 c. 37, s. 119, Sch. 8 para. 60; S.I. 1998/2327, art. 2\(1\)\(h\)](#)

F8F9₃

Textual Amendments

- F8** Sch. para. 3 repealed (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. **33(1)(b)(ii)**, **89(2)**; S.S.I. 2003/288, art. 2, sch.
- F9** Sch. para 3 repealed (E.W.N.I.) (8.10.2001) by [S.I. 2001/2565, arts. 1\(2\), 2\(4\)](#); S.R. 2001/337, art. 2

4 **F10**

Textual Amendments

- F10** Sch. para. 4 repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 16** and subject to an amendment by [1995 c. 40, ss. 5, 7\(2\)](#), **Sch. 4 para. 52(a)**

Mental health legislation

- 5 (1) References in—
- (a) the Mental Health Act 1983, and
 - (b) the Mental Health [^{F11}(Northern Ireland) Order 1986],
- to the date of an order under [^{F11}that Act or that Order] shall have effect, in relation to any of the relevant provisions which is equivalent to such an order, as references to the day on which the relevant provisions take effect.
- (2) Where the relevant provisions include provision equivalent to a hospital order within the meaning of the said Act of 1983 or such an order and a restriction order within the meaning of that Act, the prisoner may (in addition to any application he may make

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under that Act) apply to a Mental Health Review Tribunal at any time in the period of six months beginning with the day on which the relevant provisions take effect.

(3) References howsoever expressed in—

- (a) the [^{F12}Mental Health (Care and Treatment) (Scotland) Act 2003], and
- (b) the Criminal Procedure (Scotland) Act [^{F13}1995],

to the date of an order of the type referred to in the definition of hospital order or restriction order in section 2(6) of this Act shall have effect, in relation to any of the relevant provisions which is equivalent to such an order, as a reference to the day on which the relevant provisions take effect.

(4) Where the relevant provisions include provisions equivalent in Scotland to such an order, the prisoner may at any time in the period of six months beginning with the day on which the relevant provisions take effect, appeal to the Sheriff to order his discharge; and (without prejudice to section 3(4) of this Act) in any appeal under this paragraph the provisions of the said Act of 1984 in respect of appeals by a patient subject to such an order apply to an appeal by the prisoner where he is subject to any such equivalent provision as they apply to a patient who is subject to such an order.

Textual Amendments

- F11** Words substituted by [S.I. 1986/596, art. 9\(b\)](#)
- F12** Words in Sch. para. 5(3)(a) substituted (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\), art. 1, sch. 1 para. 15\(2\)](#)
- F13** Word in Sch. para. 5(3)(b) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\), Sch. 4 para. 52\(b\)](#)

Rehabilitation of offenders

6 The relevant provisions shall be disregarded for the purposes of the application, in relation to any offence of which the prisoner was convicted in a country or territory outside the British Islands, of—

- (a) the ^{M1}Rehabilitation of Offenders Act 1974, except section 1(2) (person not rehabilitated unless he serves sentence etc.); and
- (b) the ^{M2}Rehabilitation of Offenders (Northern Ireland) Order 1978, except Article 3(2) (person not rehabilitated unless he serves sentence etc.).

Marginal Citations

- M1** [1974 c. 53.](#)
- M2** [S.I. 1978/1908 \(N.I. 27\).](#)

The Representation of the ^{M3}People Act 1981

Marginal Citations

- M3** [1981 c. 34.](#)

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- 7 For the purposes of section 1 of the Representation of the People Act 1981 (disqualification of certain offenders for membership of the House of Commons), the prisoner shall, while detained in accordance with the relevant provisions, be deemed to be detained in pursuance of the order in pursuance of which, at the time of his transfer into the United Kingdom, he was required to be detained in the country or territory from which he was transferred.

The Firearms (Northern Ireland) Order [F¹⁴2004]

Textual Amendments

- F14** Word in Sch. para. 8 cross-heading substituted (N.I.) (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702\)](#), art. 1(3), **Sch. 7 para. 7(a)** (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)

- 8 Where the relevant provisions include provision equivalent to such a sentence as is mentioned in paragraph (2) of [F¹⁵Article 63] of the Firearms (Northern Ireland) Order [F¹⁶2004] (possession of firearm by person previously convicted of crime), that paragraph shall apply in relation to the prisoner as if for the reference in that paragraph to the period of eight years from the date so mentioned there were substituted a reference to the period of eight years from the day on which the relevant provisions take effect.

Textual Amendments

- F15** Words in Sch. para. 8 substituted (N.I.) (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702\)](#), art. 1(3), **Sch. 7 para. 7(b)** (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)
- F16** Word in Sch. para. 8 substituted (N.I.) (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702\)](#), art. 1(3), **Sch. 7 para. 7(b)** (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)

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