



Criminal Justice Act 1991

1991 CHAPTER 53

PART II **E+W**

EARLY RELEASE OF PRISONERS

New arrangements for early release

33 **Duty to release short-term and long-term prisoners.** **E+W**

- (1) As soon as a short-term prisoner has served one-half of his sentence, it shall be the duty of the Secretary of State—
- (a) to release him unconditionally if that sentence is for a term of less than twelve months; and
 - (b) to release him on licence if that sentence is for a term of twelve months or more.

- (2) As soon as a long-term prisoner has served two-thirds of his sentence, it shall be the duty of the Secretary of State to release him on licence.

- (3) As soon as a short-term or long-term prisoner who—
- (a) has been released on licence under [^{F1}this Part]; and
 - (b) has been recalled to prison under section [^{F1}39(1) or (2)] below,
- would (but for his release) have served three-quarters of his sentence, it shall be the duty of the Secretary of State to release him [^{F2}on licence].

[^{F3}(3A) In the case of a prisoner to whom section 44A below applies, it shall be the duty of the Secretary of State to release him on licence at the end of the extension period (within the meaning of [^{F4}section 85 of the Powers of Criminal Courts (Sentencing) Act 2000].]

^{F5}(4)

- (5) In this Part—

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“long-term prisoner” means a person serving a sentence of imprisonment for a term of four years or more;

“short-term prisoner” means a person serving a sentence of imprisonment for a term of less than four years.

Textual Amendments

- F1** Words in s. 33(3)(a)(b) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 80(1)(a)(b)**; S.I. 1998/2327, **art. 2(1)(y)(2)(y)**.
- F2** Words in s. 33(3) substituted (30.9.1998) by 1998 c. 37, s. 104(1) (with Sch. 9 para. 13); S.I. 1998/2327, **art. 2(1)(w)**.
- F3** S. 33(3A) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 80(2)**; S.I. 1998/2327, **art. 2(1)(y)(2)(y)**.
- F4** Words in s. 33(3A) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), **Sch. 9 para. 137**
- F5** S. 33(4) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 80(3), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(aa)(y)(2)(y)(3)(t)**.

Modifications etc. (not altering text)

- C1** S. 33 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8(2), 9(2), Sch. 5 paras. 9(1)(a), **10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.
S. 33 modified (30.9.1998) by 1998 c. 37, s. 120(1), **Sch. 9 para. 12(3)(9)**; S.I. 1998/2327, **art. 2(1)(z)**
- C2** S. 33(1)(b) amended (*retrospectively*) by 1984 c. 47, **Sch. para. 2** as modified (*retrospectively*) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)**.
S. 33(1)(b) amended (1.10.1997) by 1984 c. 47, **Sch. para. 2** as modified (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 3(1)(2)**; S.I. 1997/2200, **art. 2(1)**.
- C3** S. 33(2) amended (*retrospectively*) by 1984 c. 47, **Sch. para. 2** as modified (*retrospectively*) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)**.
S. 33(2) amended (1.10.1997) by 1984 c. 47, **Sch. para. 2** as modified (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 3(1)(2)**; S.I. 1997/2200, **art. 2(1)**.
- C4** S. 33(3) modified (25.8.2000) by 2000 c. 6, ss. **86(1)**, 186(1)

Commencement Information

- II** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

[^{F6F6}33A Duty to release prisoners: special cases. **E+W**

- (1) As soon as a prisoner—
- (a) whose sentence is for a term of less than twelve months; and
 - (b) who has been released on licence under section 34A(3) or 36(1) below and recalled to prison under section 38A(1) or 39(1) or (2) below,
- would (but for his release) have served one-half of his sentence, it shall be the duty of the Secretary of State to release him unconditionally.
- (2) As soon as a prisoner—
- (a) whose sentence is for a term of twelve months or more; and
 - (b) who has been released on licence under section 34A(3) below and recalled to prison under section 38A(1) below,
- would (but for his release) have served one-half of his sentence, it shall be the duty of the Secretary of State to release him on licence.
- (3) In the case of a prisoner who—

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- (a) has been released on licence under this Part and recalled to prison under section 39(1) or (2) below; and
 - (b) has been subsequently released on licence under section 33(3) or (3A) above and recalled to prison under section 39(1) or (2) below,
- section 33(3) above shall have effect as if for the words “three-quarters” there were substituted the words “the whole” and the words “on licence” were omitted.]

Textual Amendments

F6 S. 33A inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para.81**; S.I. 1998/2327, **art.2(1)(y)(2)(y)**.

Modifications etc. (not altering text)

C5 S. 33A modified (30.9.1998) by 1998 c. 37, s. 120(1), **Sch. 9 para. 12(4)(9)**; S.I. 1998/2327, **art.2(1)(z)**.
S. 33A modified by S.I. 1998/2327, **art. 5(3)(c)**.

F7 34 **E+W**

Textual Amendments

F7 S. 34 repealed (1.10.1997) by 1997 c. 43, s. 56(2), **Sch.6**; S.I. 1997/2200, **art. 2(1)(p)(3)(a)**.

[F8 34A Power to release short-term prisoners on licence. E+W

- (1) Subject to subsection (2) below, subsection (3) below applies where a short-term prisoner^{F9} . . . is serving a sentence of imprisonment for a term of three months or more.
- (2) Subsection (3) below does not apply where—
 - (a) the sentence is an extended sentence within the meaning of [F10 section 85 of the Powers of Criminal Courts (Sentencing) Act 2000];
 - (b) the sentence is for an offence under section 1 of the^{M1}Prisoners (Return to Custody) Act 1995;
 - (c) the sentence was imposed under [F10 paragraph 4(1)(d) or 5(1)(d) of Schedule 3 to the Powers of Criminal Courts (Sentencing) Act 2000] in a case where the prisoner had failed to comply with a requirement of a curfew order;
 - (d) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the^{M2}Mental Health Act 1983;
 - [F11](da) the prisoner is subject to the notification requirements of Part I of the^{M3}Sex Offenders Act 1997;]
 - (e) the prisoner is liable to removal from the United Kingdom for the purposes of section 46 below;
 - (f) the prisoner has been released on licence under this section at any time and has been recalled to prison under section 38A(1)(a) below;
 - (g) the prisoner has been released on licence under this section or section 36 below during the currency of the sentence, and has been recalled to prison under section 39(1) or (2) below;
 - (h) the prisoner has been returned to prison under [F10 section 116 of the Powers of Criminal Courts (Sentencing) Act 2000]at any time; or

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- (j) the interval between—
- (i) the date on which the prisoner will have served the requisite period for the term of the sentence; and
 - (ii) the date on which he will have served one-half of the sentence,
- is less than 14 days.
- (3) After the prisoner has served the requisite period for the term of his sentence, the Secretary of State may, subject to section 37A below, release him on licence.
- (4) In this section “the requisite period” means—
- (a) for a term of three months or more but less than four months, a period of 30 days;
 - (b) for a term of four months or more but less than [^{F12}eighteen months] , a period equal to one-quarter of the term;
 - (c) for a term of [^{F13}eighteen months] or more, a period that is [^{F14}135 days] less than one-half of the term.
- (5) The Secretary of State may by order made by statutory instrument—
- (a) repeal the words “aged 18 or over” in subsection (1) above;
 - (b) amend the definition of “the requisite period” in subsection (4) above; and
 - (c) make such transitional provision as appears to him necessary or expedient in connection with the repeal or amendment.
- (6) No order shall be made under subsection (5) above unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

Textual Amendments

- F8** S. 34A inserted (28.01.1999) by 1998 c. 37, s. 99 (with Sch. 9 para. 10); S.I. 1998/3263, art. 3.
- F9** Words in s. 34A(1) repealed (14.7.2003) by The Release of Short-Term Prisoners on Licence (Repeal of Age Restriction) Order 2003 (S.I. 2003/1691), art. 2
- F10** Words in s. 34A(2)(a)(c)(h) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168(1), Sch. 9
- F11** S. 34A(2)(da) inserted (1.3.2001) by 2000 c. 43, s. 65; S.I. 2001/340, art. 2
- F12** Words in s. 34A(4)(b) substituted (14.7.2003) by The Release of Short-Term Prisoners on Licence (Amendment of Requisite Period) Order 2003 (S.I. 2003/1602), art. 3(1)
- F13** Words in s. 34A(4)(c) substituted (14.7.2003) by The Release of Short-Term Prisoners on Licence (Amendment of Requisite Period) Order 2003 (S.I. 2003/1602), art. 3(2)
- F14** Words in s. 34A(4)(c) substituted (14.7.2003) by The Release of Short-Term Prisoners on Licence (Amendment of Requisite Period) Order 2003 (S.I. 2003/1602), art. 3(2)

Modifications etc. (not altering text)

- C6** S. 34A modified (30.9.1998) by 1998 c. 37, s. 120(1), Sch. 9 para. 12(5)(9); S.I. 1998/2327, art. 2(1)(z).

Marginal Citations

- M1** 1995 c.16.
M2 1983 c.20.
M3 1997 c. 51.

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[^{F15}**35** **Power to release long-term and life prisoners.** **E+W**

(1) After a long-term prisoner has served one-half of his sentence, the Secretary of State may, if recommended to do so by the Board, release him on licence.

^{F15}(2)

^{F15}(3)]

Textual Amendments

F15 S. 35 repealed (1.10.1997 as regards s. 35(2)(3) otherwise *prosp.*) by 1997 c. 43, ss. 56(2), 57(2), Sch. 6 (subject to transitional provisions and savings in s. 56(1), Sch. 5 para. 1); S.I. 1997/2200, art. 2(1)(p) (3)(b) (subject to transitional provisions and savings in art. 5) (but by 1998 c. 37, s. 120(2), Sch. 10 the entries in the said Sch. 6 of 1997 c. 43 relating to ss. 33-51 and 65 of this Act are repealed (30.9.1998); S. I. 1998/2327, art.2(1)(aa)(3)(x)).

Modifications etc. (not altering text)

C7 S. 35 modified (1.10.1992) by S.I. 1992/1829, art. 3.
Ss. 34-37 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), 57(2), Sch. 1 Pt. II paras. 8, 9(2)(a), Sch. 5 paras. 9(2)(a), 10(2)(a); S.I. 1997/2200, art. 2(1).
S. 35 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), 57(2), Sch. 1 Pt. II paras. 8, 9(2), Sch. 5 paras. 9(1)(a), 10(1)(b); S.I. 1997/2200, art. 2(1).
C8 S. 35(1) amended (*retrospectively*) by 1984 c. 47, Sch. para. 2 as modified (*retrospectively*) by 1997 c. 43, s. 42, Sch. 2 para. 2(1)(2); S.I. 1997/2200, art. 2(1).
S. 35(1) amended (1.10.1997) by 1984 c. 47, Sch. para. 2 as modified (1.10.1997) by 1997 c. 43, s. 42, Sch. 2 para. 3(1)(2); S.I. 1997/2200, art. 2(1).
S. 35(1) excluded (*prosp.*) by 1997 c. 43, ss. 56(1), 57(2), Sch. 5 para. 2(4) (by 1998 c. 37, s. 210(2), Sch. 10 the said Sch. 5 para. 2 was repealed (30.9.1998); S.I. 1998/2327, art. 2(1)(aa)(3)(x)).

Commencement Information

I2 Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), Sch. 2.

[^{F16}**36** **Power to release prisoners on compassionate grounds.** **E+W**

[^{F16}(1) The Secretary of State may at any time release a [^{F17}short-term or long-term prisoner] on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.]

(2) Before releasing a long-term ^{F16}. . . prisoner under subsection (1) above, the Secretary of State shall consult the Board, unless the circumstances are such as to render such consultation impracticable.

Textual Amendments

F16 S. 36(1) so far as relating to life prisoners, and words in s. 36(2) repealed (1.10.1997) by 1997 c. 43, ss. 56(2), 57(2), Sch. 6 (subject to transitional provisions and savings in s. 56(1), Sch. 5 para. 1); S.I. 1997/2200, art. 2(1)(p)(3)(c) (subject to transitional provisions and savings in art. 5).
F17 Words in s. 36(1) substituted (30.9.1998) by 1998 c. 37, s. 119, Sch. 8 para.82; S.I. 1998/2327, art.2(1)(y)(2)(y).

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Modifications etc. (not altering text)

- C9** Ss. 34-37 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2)(a), Sch. 5 paras. 9(2)(a), **10(2)(a)**; S.I. 1997/2200, **art. 2(1)**.
S. 36 applied (1.10.1997) by 1997 c. 43, ss. 44, 56(1), Sch. 1 Pt. II paras. 8(2), 9(2), Sch. 5 paras. 9(1)(a), **10(1)(b)**; S.I. 1997/2200, **art. 2(1)**.

Commencement Information

- I3** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, **art. 2(2)**, **Sch. 2**.

37 Duration and conditions of licences. E+W

(1) Subject to ^{F18}subsections (1A), (1B) and (2)] below, where a short-term or long-term prisoner is released on licence, the licence shall, subject to ^{F19} . . . any revocation under section 39(1) or (2) below, remain in force until the date on which he would (but for his release) have served three-quarters of his sentence.

^{F20}(1A) Where a prisoner is released on licence under section 33(3) or (3A) above, subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the whole of that sentence.]

^{F21}(1B) Where a prisoner whose sentence is for a term of twelve months or more is released on licence under section 33A(2) or 34A(3) above, subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the difference between—

- (a) that proportion of his sentence; and
- (b) the duration of the curfew condition to which he is or was subject.]

(2) Where a prisoner whose sentence is for a term of less than twelve months is released on licence under ^{F22}section 34A(3) or 36(1) above], subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to one-half of that sentence.

^{F23}(3)

^{F23}(4) A person subject to a licence ^{F24}under this Part]] 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}(4A) The conditions so specified may in the case of a person released on licence under section 34A above whose sentence is for a term of less than twelve months, and shall in any other case, include on the person’s release conditions as to his supervision by—

- (a) ^{F27}[an officer of a local probation board] appointed for or assigned to the petty sessions area within which the person resides for the time being; or
- (b) where the person is under the age of 18 years, a member of a youth offending team established by the local authority within whose area the person resides for the time being.]

^{F28}(5) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a long-term prisoner, or vary or cancel any such condition, except after consultation with the Board.]

(6) For the purposes of subsection (5) above, the Secretary of State shall be treated as having consulted the Board about a proposal to include, insert, vary or cancel

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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.

- (7) 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.

Textual Amendments

- F18** Words in s. 37(1) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 83(1)(a)**; S.I. 1998/2327, **art. 2(1)(y)(2)(z)**.
- F19** Words in s. 37(1) repealed (1.1.1999) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 83(1)(b), **Sch. 10** (with **Sch. 9 para. 12**); S.I. 1998/3263, **art. 2(b)(d)**.
- F20** S. 37(1A) inserted (30.9.1998) by 1998 c. 37, s. 104(2) (with **Sch. 9 para. 13**); S.I. 1998/2327, **art. 2(1)(w)**.
- F21** S. 37(1B) inserted (1.1.1999) by 1998 c. 37, ss. 119, 120(2), **Sch. 8 para. 83(2)**; S.I. 1998/3263, **art. 2(b)**.
- F22** Words in s. 37(2) substituted (1.1.1999) by 1998 c. 37, s. 119, **Sch. 8 para. 83(3)**; S.I. 1998/3263, **art. 2(b)**.
- F23** S. 37(3), and s. 37(4) so far as relating to life prisoners repealed (1.10.1997) by 1997 c. 43, ss. 56(2), 57(2), **Sch. 6** (subject to transitional provisions and savings in s. 56(1), **Sch. 5 para. 1**); S.I. 1997/2200, **art. 2(1)(p)(3)(d)** (subject to transitional provisions and savings in art. 5).
- F24** Words in s. 37(4) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 83(4)(a)**; S.I. 1998/2327, **art. 2(1)(y)(2)(z)**.
- F25** Words in s. 37(4) repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 83(4)(b), **Sch. 10**; S.I. 1998/2327, **art. 2(1)(y)(aa)(2)(z)(3)(t)**.
- F26** S. 37(4A) inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 83(5)**; S.I. 1998/2327, **art. 2(1)(2)(y)(2)(z)**.
- F27** Words in s. 37(4A)(a) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. I para. 4(1)(a)(2)**; S.I. 2001/919, **art. 2(f)(i)**.
- F28** S. 37(5) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 83(6)**; S.I. 1998/2327, **art. 2(1)(y)(2)(Z)**.

Modifications etc. (not altering text)

- C10** S. 37 modified (1.10.1992) by S.I. 1992/1829, **art. 3**.
S. 37 applied (1.10.1997) by 1997 c. 43, ss. 44, 56(1), Sch. 1 Pt. II paras. 8(2)(4), 9(2)(b)(4), Sch. 5 paras. 9(1)(a)(b)(2)(b), **10(1)(b)(c)(2)(b)**; S.I. 1997/2200, **art. 2(1)**.
Ss. 34-37 applied (1.10.1997) by 1997 c. 43, ss. 41, 56(1), Sch. 1 Pt. II paras. 8, 9(2)(a), Sch. 5 paras. 9(2)(a), **10(2)(a)**; S.I. 1997/2200, **art. 2(1)**.
S. 37 modified (19.9.1998) by S.I. 1998/2327, **art. 5(3)(d)**.
- C11** S. 37(1)(2) amended (retrospectively) by 1984 c. 47, **Sch. para. 2** as modified (retrospectively) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, art. 2(1)
S. 37(1)(2) amended (1.10.1997) by 1984 c. 47, **Sch. para. 2** as modified (1.10.1997) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)**.
- C12** S. 37(1) modified (25.8.2000) by 2000 c. 6, ss. 86(1), 168(1)
- C13** S. 37(1) modified (4.4.2005) by The Criminal Justice Act 2003 (Commencement No.8 and Transitional and Saving Provisions) Order 2005 (S.I. 2005/950), arts. 2, 4, **Sch. 2 para. 23** (as amended by S.I. 2005/2122, art. 2)
- C14** S. 37(4A) modified by S.I. 1998/2327, **art. 5(1)(a)**.

Commencement Information

- I4** Pt. II (ss. 32-51) wholly in force at 1.10.1992 see s. 102(2)(3) and S.I. 1992/333, art. 2(2), **Sch. 2**.

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[^{F29F29}37A] **Curfew condition to be included in licence under section 34A.** **E+W**

- (1) A person shall not be released under section 34A(3) above unless the licence includes a condition (“the curfew condition”) which—
 - (a) requires the released person to remain, for periods for the time being specified in the condition, at a place for the time being so specified (which may be an approved probation hostel); and
 - (b) includes requirements for securing the electronic monitoring of his whereabouts during the periods for the time being so specified.
- (2) The curfew condition may specify different places or different periods for different days, but shall not specify periods which amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).
- (3) The curfew condition shall remain in force until the date when the released person would (but for his release) have served one-half of his sentence.
- (4) The curfew condition shall include provision for making a person responsible for monitoring the released person’s whereabouts during the periods for the time being specified in the condition; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (5) The power conferred by subsection (4) above—
 - (a) shall be exercisable by statutory instrument; and
 - (b) shall include power to make different provision for different cases or classes of case or for different areas.
- (6) Nothing in this section shall be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons’ whereabouts in any particular part of England and Wales;

[In this section “approved probation hostel” has the same meaning as in the Probation ^{F30}(7) Service Act 1993.]]

Textual Amendments

F29 S. 37A inserted (30.9.1998 for certain purposes by S.I. 1998/2327 and 28.1.1999 to the extent that it is not already in force by S.I. 1998/3263) by 1998 c. 37, s. 100(1); S.I. 1998/2327, art. 2(1)(u); S.I. 1998/3263, art. 3.

F30 S. 37A(7) omitted (2.7.2001) by 2000 c. 43, s. 74, Sch. 7 Pt. II para. 105; S.I. 2001/2232, art. 2(k)(m)(ii) and repealed (*prosp.*) by 2000 c. 43, ss. 75, 80(1), Sch. 8

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