



Criminal Justice Act 1991

1991 CHAPTER 53

PART II

EARLY RELEASE OF PRISONERS

Special cases

43 Young offenders

- (1) Subject to subsections (4) and (5) below, this Part applies to persons serving sentences of detention in a young offender institution, or determinate sentences of detention under section 53 of the 1933 Act, as it applies to persons serving equivalent sentences of imprisonment.
- (2) Subject to subsection (5) below, this Part applies to persons serving—
 - (a) sentences of detention during Her Majesty's pleasure or for life under section 53 of the 1933 Act; or
 - (b) sentences of custody for life under section 8 of the 1982 Act, as it applies to persons serving sentences of imprisonment for life.
- (3) References in this Part to prisoners (whether short-term, long-term or life prisoners), or to prison or imprisonment, shall be construed in accordance with subsections (1) and (2) above.
- (4) In relation to a short-term prisoner under the age of 18 years to whom subsection (1) of section 33 above applies, that subsection shall have effect as if it required the Secretary of State—
 - (a) to release him unconditionally if his sentence is for a term of twelve months or less; and
 - (b) to release him on licence if that sentence is for a term of more than twelve months.
- (5) In relation to a person under the age of 22 years who is released on licence under this Part, section 37(4) above shall have effect as if the reference to supervision by

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a probation officer included a reference to supervision by a social worker of a local authority social services department.

44 Sexual offenders

Where, in the case of a long-term or short-term prisoner—

- (a) the whole or any part of his sentence was imposed for a sexual offence; and
- (b) the court by which he was sentenced for that offence, having had regard to the matters mentioned in section 32(6)(a) and (b) above, ordered that this section should apply,

sections 33(3) and 37(1) above shall each have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the whole of that sentence.

45 Fine defaulters and contemnors

- (1) Subject to subsection (2) below, this Part (except sections 35 and 40 above) applies to persons committed to prison or to be detained under section 9 of the 1982 Act—

- (a) in default of payment of a sum adjudged to be paid by a conviction; or
- (b) for contempt of court or any kindred offence,

as it applies to persons serving equivalent sentences of imprisonment; and references in this Part to short-term or long-term prisoners, or to prison or imprisonment, shall be construed accordingly.

- (2) In relation to persons committed as mentioned in subsection (1) above, the provisions specified in subsections (3) and (4) below shall have effect subject to the modifications so specified.

- (3) In section 33 above, for subsections (1) to (4) there shall be substituted the following subsections—

“(1) As soon as a person committed as mentioned in section 45(1) below has served the appropriate proportion of his term, that is to say—

- (a) one-half, in the case of a person committed for a term of less than twelve months;
- (b) two-thirds, in the case of a person committed for a term of twelve months or more,

it shall be the duty of the Secretary of State to release him unconditionally.

(2) As soon as a person so committed who—

- (a) has been released on licence under section 36(1) below; and
- (b) has been recalled under section 38(2) or 39(1) below,

would (but for his release) have served the appropriate proportion of his term, it shall be the duty of the Secretary of State to release him unconditionally.”

- (4) In section 37 above, for subsections (1) to (3) there shall be substituted the following subsection—

“(1) Where a person committed as mentioned in section 45(1) below is released on licence under section 36(1) above, the licence shall, subject to—

- (a) any suspension under section 38(2) below; or
- (b) any revocation under section 39(1) below,

continue in force until the date on which he would (but for his release) have served the appropriate proportion of his term; and in this subsection “appropriate proportion” has the meaning given by section 33(1) above.”

46 Persons liable to removal from the United Kingdom

- (1) In relation to a long-term prisoner who is liable to removal from the United Kingdom, section 35 above shall have effect as if the words “if recommended to do so by the Board” were omitted.
- (2) In relation to a person who is liable to removal from the United Kingdom, section 37(4) above shall have effect as if the words in parentheses were omitted.
- (3) A person is liable to removal from the United Kingdom for the purposes of this section if—
 - (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 and has been notified of a decision to make a deportation order against him;
 - (b) he is liable to deportation under section 3(6) of that Act;
 - (c) he has been notified of a decision to refuse him leave to enter the United Kingdom; or
 - (d) he is an illegal entrant within the meaning of section 33(1) of that Act.

47 Persons extradited to the United Kingdom

- (1) A short-term or long-term prisoner is an extradited prisoner for the purposes of this section if—
 - (a) he was tried for the offence in respect of which his sentence was imposed—
 - (i) after having been extradited to the United Kingdom; and
 - (ii) without having first been restored or had an opportunity of leaving the United Kingdom; and
 - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a) above.
- (2) If, in the case of an extradited prisoner, the court by which he was sentenced so ordered, section 67 of the 1967 Act (computation of sentences of imprisonment) shall have effect in relation to him as if a period specified in the order were a relevant period for the purposes of that section.
- (3) The period that may be so specified is such period as in the opinion of the court is just in all the circumstances and does not exceed the period of custody mentioned in subsection (1)(b) above.
- (4) In this section—

“extradited to the United Kingdom” means returned to the United Kingdom—

 - (i) in pursuance of extradition arrangements;
 - (ii) under any law of a designated Commonwealth country corresponding to the Extradition Act 1989;
 - (iii) under that Act as extended to a colony or under any corresponding law of a colony; or

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- (iv) in pursuance of a warrant of arrest endorsed in the Republic of Ireland under the law of that country corresponding to the Backing of Warrants (Republic of Ireland) Act 1965;
- “extradition arrangements” has the meaning given by section 3 of the Extradition Act 1989;
- “designated Commonwealth country” has the meaning given by section 5(1) of that Act.

48 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) he had been sentenced for his offence in England and Wales after the commencement of section 34 above; and
 - (b) the reference in subsection (1)(a) of that section to a violent or sexual offence the sentence for which is not fixed by law were a reference to any offence the sentence for which is not so fixed,
 the court by which he was so 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 section applies, this Part except section 35(2) above shall apply as if—
 - (a) the transferred life prisoner were a discretionary life prisoner for the purposes of this Part; and
 - (b) the relevant part of his sentence within the meaning of section 34 of this Act were the part specified in the certificate.
- (3) 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 section 26 of the Criminal Justice Act 1961 or section 2 of the Colonial Prisoners Removal Act 1884; or
 - (ii) a warrant issued by the Secretary of State under the Repatriation of Prisoners Act 1984,
 there to serve his sentence or sentences or the remainder of his sentence or sentences.
- (4) A person who is required so to serve the whole or part of two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of this Part unless the requirements of subsection (1) above are satisfied as respects each of those sentences; and subsections (3) and (5) of section 34 above shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.