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## SCHEDULES

### SCHEDULE 1

Section 1(8).

#### CONSECUTIVE AND CONCURRENT TERMS OF IMPRISONMENT

##### *General*

- 1 This Schedule applies as respects the release of a person on whom there has been imposed—
- (a) a term of imprisonment on conviction of an offence (“his offence term”); and
  - (b) a term of imprisonment or detention mentioned in section 5(1)(a) or (b) of this Act (“his non-offence term”).

##### *Consecutive terms of imprisonment*

- 2 <sup>F1</sup>(1) Where his offence term and his non-offence term are consecutive, whichever term follows the other shall be taken as beginning on the day after he is released as respects the other term.
- (2) For the purposes of sub-paragraph (1) above, where his offence term and his non-offence term are imposed on the same date, his non-offence term shall be taken to follow his offence term.]

##### **Textual Amendments**

- F1** Sch. 1 paras. 2, 2A and cross-heading to para. 2A substituted for Sch. 1 para. 2 (2.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 32(3)(a), 89(2); S.S.I. 2006/85, art. 1(2)

##### *<sup>F2</sup>Concurrent terms of imprisonment*

##### **Textual Amendments**

- F2** Sch. 1 paras. 2, 2A and cross-heading to para. 2A substituted for Sch. 1 para. 2 (2.4.2006) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 32(3)(a), 89(2); S.S.I. 2006/85, art. 1(2)

- 2A Where his offence term and his non-offence term are wholly or partly concurrent, section 1(1) to (3) of this Act (so far as relevant to the term in question and whether or not modified by section 5(2) of this Act or as read with section 220 of the 1995 Act (reduction of term in certain circumstances)) shall apply separately to each term (that is to say, in particular, he may be released as respects one of the terms even if he is not for the time being eligible for release as respects the other term).]

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### *Wholly concurrent terms of imprisonment*

3

F3

#### **Textual Amendments**

**F3** Sch. 1 paras. 3, 4 repealed (2.4.2006) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 32(3)(b), 89(2); S.S.I. 2006/85, art. 1(2)

### *Partly concurrent terms of imprisonment*

4

F4

#### **Textual Amendments**

**F4** Sch. 1 paras. 3, 4 repealed (2.4.2006) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 32(3)(b), 89(2); S.S.I. 2006/85, art. 1(2)

## [<sup>F5</sup>SCHEDULE 1A

Section 1AB

### OFFENCES CARRYING RESTRICTED ELIGIBILITY OF TERRORIST PRISONERS FOR RELEASE ON LICENCE

#### **Textual Amendments**

**F5** Sch. 1A substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(o), Sch. 10

## PART 1

### TERRORISM OFFENCES PUNISHABLE WITH IMPRISONMENT FOR LIFE

- 1 An offence under any of the following provisions of the Terrorism Act 2000—
  - (a) section 54 (weapons training);
  - (b) section 56 (directing a terrorist organisation);
  - (c) section 59 (inciting terrorism overseas: England and Wales), other than an offence which is an offence by virtue of subsection (2)(c) of that section;
  - (d) section 60 (inciting terrorism overseas: Northern Ireland), other than an offence which is an offence by virtue of subsection (2)(c) of that section;
  - (e) section 61 (inciting terrorism overseas: Scotland).
- 2 An offence under any of the following provisions of the Terrorism Act 2006—
  - (a) section 5 (preparation of terrorist acts);
  - (b) section 6 (training for terrorism);
  - (c) section 9 (making or possession of radioactive device or material);
  - (d) section 10 (misuse of radioactive device or material for terrorist purposes etc);

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- (e) section 11 (terrorist threats relating to radioactive devices etc).
- 3 (1) An attempt to commit an offence specified in a preceding paragraph of this Part of this Schedule (“a listed offence”).
- (2) Conspiracy to commit a listed offence.
  - (3) Incitement to commit a listed offence.
  - (4) Aiding, abetting, counselling or procuring the commission of a listed offence.
  - (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence is the offence (or one of the offences) which the person intended or believed would be committed.
- 4 An offence that—
- (a) was abolished before the coming into force of this Schedule, and
  - (b) if committed on the day on which this Schedule came into force, would have constituted an offence specified in any of the preceding paragraphs of this Part of this Schedule.

## PART 2

### TERRORISM OFFENCES PUNISHABLE WITH IMPRISONMENT FOR MORE THAN TWO YEARS (BUT NOT LIFE)

- 5 An offence under any of the following provisions of the Terrorism Act 2000—
- (a) section 11 (membership of a proscribed organisation);
  - (b) section 12 (inviting or expressing support for a proscribed organisation);
  - (c) section 15 (fund-raising);
  - (d) section 16 (use of money or property for terrorist purposes);
  - (e) section 17 (involvement in terrorist funding arrangements);
  - (f) section 17A (insuring payments made in response to terrorist threats);
  - (g) section 18 (laundering of terrorist property);
  - (h) section 19 (failure to disclose professional belief or suspicion about terrorist offences);
  - (i) section 21A (failure in regulated sectors to disclose knowledge or suspicion about terrorist offences);
  - (j) section 38B (failure to disclose information about acts of terrorism);
  - (k) section 39 (disclosure of information prejudicial to a terrorist investigation etc);
  - (l) section 57 (possession of article for terrorist purposes);
  - (m) section 58 (collection of information likely to be of use to a terrorist);
  - (n) section 58A (publishing information about members of the armed forces etc);
  - (o) section 58B (entering or remaining in a designated area);
  - (p) section 59 (inciting terrorism overseas: England and Wales), in the case of an offence which is an offence by virtue of the reference in subsection (2) (c) of that section to an offence under section 23 of the Offences against the Person Act 1861;

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- (q) section 60 (inciting terrorism overseas: Northern Ireland), in the case of an offence which is an offence by virtue of the reference in subsection (2)(c) of that section to an offence under section 23 of the Offences against the Person Act 1861.
- 6 An offence under section 113 of the Anti-terrorism, Crime and Security Act 2001 (use of noxious substances to harm or intimidate).
- 7 An offence under any of the following provisions of the Terrorism Act 2006—
- (a) section 1 (encouragement of terrorism);
  - (b) section 2 (dissemination of terrorist publications);
  - (c) section 8 (attendance at a place used for terrorist training).
- 8 An offence under section 54 of the Counter-Terrorism Act 2008 (breach of police notification requirements etc).
- 9 An offence under section 23 of the Terrorism Prevention and Investigation Measures Act 2011 (breach of notices imposing terrorism prevention and investigation measures).
- 10 An offence under section 10 of the Counter-Terrorism and Security Act 2015 (breach of temporary exclusion order).
- 11 (1) An attempt to commit an offence specified in a preceding paragraph of this Part of this Schedule (“a listed offence”).
- (2) Conspiracy to commit a listed offence.
- (3) Incitement to commit a listed offence.
- (4) Aiding, abetting, counselling or procuring the commission of a listed offence.
- (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence is the offence (or one of the offences) which the person intended or believed would be committed.
- 12 An offence that—
- (a) was abolished before the coming into force of this Schedule, and
  - (b) if committed on the day on which this Schedule came into force, would have constituted an offence specified in any of the preceding paragraphs of this Part of this Schedule.

### PART 3

#### OTHER OFFENCES PUNISHABLE WITH IMPRISONMENT FOR LIFE

- 13 Culpable homicide.
- 14 Manslaughter (under the law of England and Wales or Northern Ireland).
- 15 Abduction.
- 16 Assault by explosive device.
- 17 Assault to severe injury.
- 18 Assault and poisoning.
- 19 Poisoning.

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- 20 Robbery.
- 21 Assault with intent to rob.
- 22 Wilful fire-raising.
- 23 Malicious mischief.
- 24 Kidnapping (under the law of England and Wales or Northern Ireland).
- 25 False imprisonment (under the law of England and Wales or Northern Ireland).
- 26 Riot (under the law of Northern Ireland).
- 27 Affray (under the law of Northern Ireland).
- 28 An offence under any of the following provisions of the Offences against the Person Act 1861—
- (a) section 4 (soliciting murder);
  - (b) section 18 (wounding with intent to cause grievous bodily harm);
  - (c) section 21 (attempting to choke, suffocate or strangle in order to commit or assist in the committing of an indictable offence);
  - (d) section 22 (using chloroform etc to commit or assist in the committing of any indictable offence);
  - (e) section 28 (causing bodily injury by explosives);
  - (f) section 29 (using explosives etc with intent to do grievous bodily harm);
  - (g) section 32 (endangering the safety of railway passengers).
- 29 An offence under any of the following provisions of the Explosive Substances Act 1883—
- (a) section 2 (causing explosion likely to endanger life or property);
  - (b) section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property);
  - (c) section 4 (making or possession of explosive under suspicious circumstances);
  - (d) section 5 (punishment of accessories to offences of causing or attempting to cause explosions or making or possessing explosives).
- 30 An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).
- 31 An offence under section 1 of the Infanticide Act 1938 (infanticide).
- 32 An offence under section 1 of the Infanticide Act (Northern Ireland) 1939 (c. 5 (N.I.)) (infanticide).
- 33 An offence under section 25 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) (child destruction).
- 34 An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 16 (possession of firearm with intent to endanger life);
  - (b) section 17(1) (use of firearm to resist arrest);
  - (c) section 17(2) (possession of firearm at time of committing or being arrested for offence specified in Schedule 1 to that Act);
  - (d) section 18 (carrying a firearm with criminal intent).
- 35 An offence under either of the following provisions of the Theft Act 1968—
- (a) section 8 (robbery or assault with intent to rob);

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- (b) section 10 (aggravated burglary).
- 36 An offence under either of the following provisions of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))—
- (a) section 8 (robbery);
- (b) section 10 (aggravated burglary).
- 37 (1) An offence of arson under section 1 of the Criminal Damage Act 1971.
- (2) An offence under section 1(2) of that Act (destruction or damage of property with intent or recklessness as to endangerment of life) other than an offence of arson.
- 38 An offence under section 1 of the Biological Weapons Act 1974 (developing certain biological agents and toxins or biological weapons).
- 39 (1) An offence of arson under Article 3 of the Criminal Damage (Northern Ireland) Order 1977 (S.I. 1977/426 (N.I. 4)).
- (2) An offence under Article 3(2) of that Order (destruction or damage of property with intent or recklessness as to endangerment of life) other than an offence of arson.
- 40 An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking).
- 41 An offence under any of the following provisions of the Aviation Security Act 1982—
- (a) section 1 (hijacking);
- (b) section 2 (destroying, damaging or endangering safety of aircraft);
- (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
- (d) section 6(2) (inducing or assisting the commission of offences relating to safety of aircraft).
- 42 An offence under either of the following provisions of the Nuclear Material (Offences) Act 1983—
- (a) section 1B (offences relating to damage to the environment);
- (b) section 2 (preparatory acts and threats).
- 43 An offence under section 134 of the Criminal Justice Act 1988 (torture).
- 44 An offence under any of the following provisions of the Aviation and Maritime Security Act 1990—
- (a) section 1 (endangering safety at aerodromes);
- (b) section 9 (hijacking of ships);
- (c) section 10 (seizing or exercising control of fixed platforms);
- (d) section 11 (destroying ships or fixed platforms or endangering their safety);
- (e) section 12 (other acts endangering or likely to endanger safe navigation);
- (f) section 13 (offences involving threats);
- (g) section 14(4) (inducing or assisting the commission of offences relating to hijacking of ships, or destroying ships or fixed platforms or endangering their safety).
- 45 An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (S.I. 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).
- 46 An offence under either of the following provisions of the Chemical Weapons Act 1996—
- (a) section 2 (use etc of chemical weapons);

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- (b) section 11 (premises or equipment used for producing chemical weapons).
- 47 An offence under any of the following provisions of the International Criminal Court Act 2001, other than an offence involving murder—
- (a) section 51 (genocide, crimes against humanity and war crimes: England and Wales);
  - (b) section 52 (conduct ancillary to genocide etc: England and Wales);
  - (c) section 58 (genocide, crimes against humanity and war crimes: Northern Ireland);
  - (d) section 59 (conduct ancillary to genocide etc: Northern Ireland).
- 48 An offence under either of the following provisions of the Anti-Terrorism, Crime and Security Act 2001—
- (a) section 47 (use etc of nuclear weapons);
  - (b) section 50 (assisting or inducing certain weapons-related acts overseas).
- 49 An offence under section 1 or 2 of the International Criminal Court (Scotland) Act 2001 (asp 13) (genocide, crimes against humanity, war crimes and related offences), other than one involving murder.
- 50 An offence under any of the following provisions of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3))—
- (a) Article 58(1) (possession of firearm with intent to endanger life etc);
  - (b) Article 59(1) (use of firearm to resist arrest);
  - (c) Article 59(2) (possession of firearm while committing other offence);
  - (d) Article 60 (carrying a firearm with criminal intent).
- 51 An offence under either of the following provisions of the Modern Slavery Act 2015—
- (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking).
- 52 An offence under either of the following provisions of the Human Trafficking and Exploitation (Scotland) Act 2015 (asp 12)—
- (a) section 1 (human trafficking);
  - (b) section 4 (slavery, servitude and forced or compulsory labour).
- 53 An offence under either of the following provisions of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.))—
- (a) section 1 (slavery, servitude and forced or compulsory labour);
  - (b) section 2 (human trafficking).
- 54 An offence under any of the following provisions of Schedule 4 to the Space Industry Act 2018—
- (a) paragraph 1 (hijacking of spacecraft);
  - (b) paragraph 2 (destroying, damaging or endangering the safety of spacecraft);
  - (c) paragraph 3 (other acts endangering or likely to endanger safety of spacecraft);
  - (d) paragraph 4 (endangering safety at spaceports).
- 55 (1) An attempt to commit an offence specified in a preceding paragraph of this Part of this Schedule (“a listed offence”).

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- (2) Conspiracy to commit a listed offence.
  - (3) Incitement to commit a listed offence.
  - (4) Aiding, abetting, counselling or procuring the commission of a listed offence.
  - (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which a listed offence is the offence (or one of the offences) which the person intended or believed would be committed.
- 56
- (1) An attempt to commit murder.
  - (2) Conspiracy to commit murder.
  - (3) Incitement to commit murder.
  - (4) Aiding, abetting, counselling or procuring murder.
  - (5) An offence under Part 2 of the Serious Crime Act 2007 in relation to which murder is the offence (or one of the offences) which the person intended or believed would be committed.
- 57
- An offence that—
- (a) was abolished before the coming into force of this Schedule, and
  - (b) if committed on the day on which this Schedule came into force, would have constituted an offence specified in any of the preceding paragraphs of this Part of this Schedule.]

## SCHEDULE 2

Section 20(6).

### THE PAROLE BOARD

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

- C1** 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))
- 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.))

#### *Membership*

- 1 The Parole Board shall consist of a [<sup>F6</sup>chairperson] and not less than four other members appointed by the Secretary of State.



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**Textual Amendments**

**F6** Word in Sch. 2 para. 1 substituted (1.10.2020) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 45\(2\)\(a\)](#), 63(2); S.S.I. 2020/283, reg. 2(j)

[<sup>F7</sup>1A In making those appointments, the Scottish Ministers shall comply with such requirements as to procedure and consultation as may be prescribed in regulations made by them.]

**Textual Amendments**

**F7** Sch. 2 paras. 1A, 1B inserted (27.7.2001) by [2001 asp 7, s. 5\(2\)](#) (with [Sch. paras. 79-83](#)); S.S.I. 2001/274, [art. 3\(1\)\(e\)](#)

[<sup>F8</sup>1B In making regulations under paragraph 1A above, the Scottish Ministers may make different provision for different kinds of members of the Board, including the kinds of members having the respective qualifications for office specified in paragraph 2 below.]

**Textual Amendments**

**F8** Sch. 2 paras. 1A, 1B inserted (27.7.2001) by [2001 asp 7, s. 5\(2\)](#) (with [Sch. paras. 79-83](#)); S.S.I. 2001/274, [art. 3\(1\)\(e\)](#)

2 The Parole Board shall include among its members—  
<sup>F9</sup>(a) .....  
<sup>F10</sup>(b) .....  
(c) a person appearing to the Secretary of State to have knowledge and experience of the supervision or aftercare of discharged prisoners; and  
(d) a person appearing to the Secretary of State to have made a study of the causes of delinquency or the treatment of offenders.

**Textual Amendments**

**F9** Sch. 2 para. 2(a) repealed (1.10.2020) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 42\(2\)\(a\)](#), 63(2); S.S.I. 2020/283, reg. 2(h)

**F10** Sch. 2 para. 2(b) repealed (1.10.2020) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 42\(2\)\(b\)](#), 63(2); S.S.I. 2020/283, reg. 2(h)

*[<sup>F11</sup>Limitation, termination etc. of appointment of members*

**Textual Amendments**

**F11** Sch. 2 paras. 2A-2J inserted (8.10.2001) by [2001 asp 7, s. 5\(3\)](#) (with [Sch. paras. 79-83](#)); S.S.I. 2001/274, [art. 3\(3\)](#)

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- 2A An appointment as a member of the Parole Board shall, subject to paragraphs 2B to 2D below, last for [<sup>F12</sup>the period of 5 years beginning with the date of appointment] specified in the instrument of appointment.

**Textual Amendments**

**F12** Words in Sch. 2 para. 2A substituted (1.10.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), ss. 43(2), 63(2); S.S.I. 2020/283, reg. 2(i) (with reg. 3)

- <sup>F13</sup>2B A member of the Parole Board may resign at any time by giving notice to that effect to the Scottish Ministers.

**Textual Amendments**

**F13** Sch. 2 paras. 2A-2J inserted (8.10.2001) by 2001 asp 7, s. 5(3) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(3)

- <sup>F14</sup>2C An appointment of a person as a member of the Parole Board shall not extend beyond the day when the person reaches the age of 75.

**Textual Amendments**

**F14** Sch. 2 paras. 2A-2J inserted (8.10.2001) by 2001 asp 7, s. 5(3) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(3)

- <sup>F15</sup>2D The appointment of a member of the Parole Board shall come to an end upon the member's being removed from office under paragraph 3 below.

**Textual Amendments**

**F15** Sch. 2 paras. 2A-2J inserted (8.10.2001) by 2001 asp 7, s. 5(3) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(3)

- [<sup>F16</sup>2DA (1) A person who has been a member of the Parole Board is eligible for appointment to the membership on a subsequent occasion.

- (2) The exception to this is where the person's membership has previously ceased by virtue of—  
(a) paragraph 2C, or  
(b) paragraph 2D.]

**Textual Amendments**

**F16** Sch. 2 para. 2DA inserted (31.12.2019) by Management of Offenders (Scotland) Act 2019 (asp 14), ss. 44(2), 63(2); S.S.I. 2019/417, reg. 3

- <sup>F17</sup>2E .....

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**Textual Amendments**

**F17** Sch. 2 paras. 2E-2H repealed (31.12.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 44\(3\)](#), 63(2); S.S.I. 2019/417, reg. 3

<sup>F17</sup>2F . . . . .

**Textual Amendments**

**F17** Sch. 2 paras. 2E-2H repealed (31.12.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 44\(3\)](#), 63(2); S.S.I. 2019/417, reg. 3

<sup>F17</sup>2G . . . . .

**Textual Amendments**

**F17** Sch. 2 paras. 2E-2H repealed (31.12.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 44\(3\)](#), 63(2); S.S.I. 2019/417, reg. 3

<sup>F17</sup>2H . . . . .

**Textual Amendments**

**F17** Sch. 2 paras. 2E-2H repealed (31.12.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 44\(3\)](#), 63(2); S.S.I. 2019/417, reg. 3

<sup>F18</sup> *Automatic reappointment*

**Textual Amendments**

**F18** Sch. 2 paras. 2HA, 2HB and cross-heading inserted (31.12.2019) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 44\(4\)](#), 63(2); S.S.I. 2019/417, reg. 3 (with reg. 3)

- 2HA (1) A member of the Parole Board is to be reappointed to the membership on the expiry of the period of the member's appointment, unless—
- (a) in any case, sub-paragraph (2) applies, or
  - (b) where the member is not the chairperson, sub-paragraph (3) applies.
- (2) This sub-paragraph applies if the member has declined to be reappointed.
- (3) This sub-paragraph applies if the Scottish Ministers have accepted a recommendation made to them by the chairperson that the other member should not be reappointed.
- (4) A recommendation of that kind may be made to the Scottish Ministers only if the chairperson is satisfied that—
- (a) the other member has failed to comply with any of the terms and conditions of membership by which the member is bound, or

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- (b) the number of members required for the Board to carry out its functions is such that the services of the other member are no longer needed.
- (5) The instrument of appointment of the member may be annotated or reissued so as to show that the member is reappointed under sub-paragraph (1).
- 2HB (1) Sub-paragraphs (2) and (3) apply in connection with paragraph 2HA(1).
- (2) The reference in paragraph 2HA(1) to the period of the appointment includes each period of reappointment under that paragraph.
- (3) In addition—
- (a) the provisions of paragraphs 1 to 2D apply in relation to reappointment under paragraph 2HA(1) as well as applying otherwise, and
- (b) the references in paragraphs 1 to 2D to appointment are so far as necessary for this purpose to be read as including reappointment,
- which in particular means that reappointment is for 5 years at a time.]

#### *Performance of duties*

- <sup>F19</sup>2J The [<sup>F20</sup>chairperson] of the Parole Board shall have regard to the desirability of securing that every member of the Parole Board is given the opportunity of participating appropriately in the functions of the Board under this Act on not fewer than 20 days in each successive period of 12 months beginning with the day of the member's appointment as such.]

#### **Textual Amendments**

- F19** Sch. 2 paras. 2A-2J inserted (8.10.2001) by 2001 asp 7, s. 5(3) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(3)
- F20** Word in Sch. 2 para. 2J substituted (1.10.2020) by Management of Offenders (Scotland) Act 2019 (asp 14), ss. 45(2)(b), 63(2); S.S.I. 2020/283, reg. 2(j)

#### *[<sup>F21</sup>Exercise of chairperson's functions by other members*

#### **Textual Amendments**

- F21** Sch. 2 para. 2K and cross-heading inserted (1.10.2022) by Coronavirus (Recovery and Reform) (Scotland) Act 2022 (asp 8), ss. 41(2), 59(1)

- 2K (1) A function conferred on the chairperson of the Parole Board may be exercised by another member of the Parole Board in accordance with the scheme prepared under sub-paragraph (3).
- (2) Another member's being authorised by the scheme to exercise one of the chairperson's functions does not preclude the chairperson from exercising that function.
- (3) The chairperson must prepare a scheme that authorises another member, or members, to exercise the functions conferred on the chairperson.

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- (4) The scheme—
- (a) must be framed so that a member is, or a combination of members are, authorised to discharge all of the chairperson’s functions in the following circumstances—
    - (i) there is no chairperson,
    - (ii) the chairperson is unable to exercise the functions for any reason (for example due to ill health), and
  - (b) may be framed so that, outwith those circumstances, other members are authorised to discharge any, or all, of the chairperson’s functions either at any time or in circumstances specified by the scheme.
- (5) The chairperson may modify the scheme at any time.
- (6) The Parole Board must make the scheme publicly available.
- (7) Only the chairperson may prepare and modify the scheme; accordingly, the references to the chairperson’s functions elsewhere in this paragraph do not include the functions of preparing and modifying the scheme.]

<sup>F22</sup>2L .....

**Textual Amendments**

**F22** Sch. 2 paras. 2K, 2L inserted (temp.) (7.4.2020) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 17(1), [sch. 4 para. 17\(2\)](#) (with ss. 11-13) (which affecting provision expires (1.10.2022) by virtue of [Coronavirus \(Scotland\) Act 2020 \(asp 7\)](#), s. 12(1))

*[<sup>F23</sup>Removal of members from office*

**Textual Amendments**

**F23** Sch. 2 paras. 3-3D substituted for Sch. 2 para. 3 (8.10.2001) by [2001 asp 7](#), s. 5(4) (with [Sch. paras. 79-83](#)); [S.S.I. 2001/274](#), [art. 3\(3\)](#)

3 A member of the Parole Board may be removed from office by and only by order of the tribunal constituted by and under paragraph 3B below (“the tribunal”).]

<sup>F24</sup>3A The tribunal may order the removal from office of a member only if, after investigation carried out at the request of the Scottish Ministers, it finds that the member is unfit for office by reason of inability, neglect of duty or misbehaviour.

**Textual Amendments**

**F24** Sch. 2 paras. 3-3D substituted for Sch. 2 para. 3 (8.10.2001) by [2001 asp 7](#), s. 5(4) (with [Sch. paras. 79-83](#)); [S.S.I. 2001/274](#), [art. 3\(3\)](#)

<sup>F25</sup>3B The tribunal shall consist of the following three members, who shall be appointed by the Lord President of the Court of Session—

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- (a) either a Senator of the College of Justice or a sheriff principal (who shall preside);
- (b) a person who is, and has been for at least ten years, legally qualified; and
- (c) one other person who shall not be legally qualified.

#### Textual Amendments

**F25** Sch. 2 paras. 3-3D substituted for Sch. 2 para. 3 (8.10.2001) by 2001 asp 7, s. 5(4) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(3)

<sup>F26</sup>3C For the purposes of paragraph 3B above, a person is legally qualified if that person is an advocate or a solicitor.

#### Textual Amendments

**F26** Sch. 2 paras. 3-3D substituted for Sch. 2 para. 3 (8.10.2001) by 2001 asp 7, s. 5(4) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(3)

<sup>F27</sup>3D Regulations, made by the Scottish Ministers—

- (a) may make provision enabling the tribunal, at any time during an investigation, to suspend a member from office and providing as to the effect and duration of such suspension; and
- (b) shall make such further provision as respects the tribunal as the Scottish Ministers consider necessary or expedient, including provision for the procedure to be followed by and before it.

#### Textual Amendments

**F27** Sch. 2 paras. 3-3D substituted for Sch. 2 para. 3 (8.10.2001) by 2001 asp 7, s. 5(4) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(3)

### *Remuneration and allowances*

4 There shall be paid to the members of the Board such remuneration and allowances as the Secretary of State may <sup>F28</sup> . . . determine.

#### Textual Amendments

**F28** Words in Sch. 2 para. 4 repealed (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 110, Pt. IV; S.I. 1998/3178, art. 3

5 The expenses of the Board under paragraph 4 above and any other expenses incurred by the Board in discharging the functions mentioned in section 20(1) of this Act shall be defrayed by the Secretary of State.

### *Reports*

6 The Board shall as soon as practicable after the end of each year make to the Secretary of State a report on the performance of its functions during that year, and the Secretary of State shall lay a copy of the report before Parliament.

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### <sup>F29</sup>Regulations

#### Textual Amendments

**F29** Sch. 2 paras. 6A, 6B inserted (27.7.2001) by 2001 asp 7, s. 5(5) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(1)(e)

6A Regulations under paragraphs 1A and 3D above shall be made by statutory instrument.

<sup>F30</sup>6B No such regulations shall be made unless laid in draft before, and approved by resolution of, the Scottish Parliament.]

#### Textual Amendments

**F30** Sch. 2 paras. 6A, 6B inserted (27.7.2001) by 2001 asp 7, s. 5(5) (with Sch. paras. 79-83); S.S.I. 2001/274, art. 3(1)(e)

### <sup>F31</sup>SCHEDULE 3

#### Textual Amendments

**F31** Sch. 3 repealed (1.4.1996) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5 and Sch. 3 para. 8

### <sup>F33</sup>SCHEDULE 4

#### Textual Amendments

**F33** Sch. 4 repealed (1.4.1996) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5

### SCHEDULE 5

Section 47(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Criminal Procedure (Scotland) Act 1975 (c. 21)*

<sup>F34</sup><sub>1</sub> .....

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**Textual Amendments**

**F34** Sch. 5 para. 1 repealed (S.)(1.4.1996) by 1995 c. 40, ss. 6, 7(2), Sch. 5

*Mental Health (Scotland) Act 1984 (c. 36)*

2

F35

**Textual Amendments**

**F35** Sch. 5 para. 2 repealed (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), ss. 331(2), 333(3), Sch. 5 Pt. 1; S.S.I. 2005/161, art. 3 (as substituted by S.S.I. 2005/375, art. 2)

*Repatriation of Prisoners Act 1984 (c. 47)*

3

- (1) The Repatriation of Prisoners Act 1984 shall be amended as follows.
- (2) In section 2 (transfer of prisoners out of United Kingdom), in subsection (4)(b), for sub-paragraph (ii) there shall be substituted the following sub-paragraph—
- “(ii) released on licence under section 1(2), (3) or (4), 2(4) or 7(1) or (2) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;”.
- (3) In section 3 (transfer of prisoners into United Kingdom), after subsection (8) there shall be inserted the following subsection—
- “(9) The provisions contained by virtue of subsection (1)(c) above in a warrant under this Act shall, in the case of a person who is a transferred life prisoner for the purposes of section 48 of the Criminal Justice Act 1991 or section 10 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (life prisoners transferred to England and Wales or, as the case may be, Scotland) include provision specifying the part of his sentence which is treated by virtue of section 48 or section 10 as the relevant part of his sentence.”.
- (4) In the Schedule (operation of certain enactments in relation to prisoners transferred into United Kingdom), in paragraph 2, for sub-paragraph (1) there shall be substituted the following sub-paragraphs—
- “(1) In determining for the purposes of any of the enactments relating to release on licence whether the prisoner has at any time served a particular proportion or part of his sentence specified in that provision, the prisoner’s sentence shall, subject to sub-paragraph (2) below, be deemed to begin with the day on which the relevant provisions take effect.
- (1A) In sub-paragraph (1) above “the enactments relating to release on licence” means—
- (a) sections 33(1)(b) and (2), 34(3) and (5), 35(1) and 37(1) and (2) of the Criminal Justice Act 1991; and
- (b) sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993.”; and the amendment made to sub-paragraph (2) of that paragraph by paragraph 35(3)



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(b) of Schedule 11 to the Criminal Justice Act 1991 shall extend also to Scotland.

(5) For paragraph 3 of the Schedule there shall be substituted the following paragraph—

“3 Where the relevant provisions include provision equivalent to a sentence in relation to which section 35(2) of the Criminal Justice Act 1991 or, as the case may be, section 1(4) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (power to release life prisoners who are not discretionary life prisoners) applies, section 35(2) or, as the case may be, section 1(4) shall have effect as if the reference to consulting the trial judge were omitted.”.

*Legal Aid (Scotland) Act 1986 (c. 47)*

4 In section 21(1) of the Legal Aid (Scotland) Act 1986 (definition of “criminal legal aid”), after paragraph (a) (but before the word “and” which immediately follows that paragraph) there shall be inserted the following paragraph—

“(aa) any case the referral of which is required, under section 2(6) of the Prisoners and Criminal Proceedings (Scotland) Act 1993, by a discretionary life prisoner;”.

*Road Traffic Offenders Act 1988 (c. 53)*

5 In section 12(4) of the Road Traffic Offenders Act 1988, as proposed to be inserted by paragraph 85 of Schedule 4 to the <sup>M4</sup>Road Traffic Act 1991 (proof of identity of driver in summary proceedings for certain road traffic offences), for the words “Road Traffic Act 1988” in the first place where they occur there shall be substituted the words “ this Act ”.

**Commencement Information**

**II** [Sch.5 para.5](#) in force as provided by S.48(4).

**Marginal Citations**

**M4** [1991 c. 40.](#)

*Prisons (Scotland) Act 1989 (c. 45)*

6 (1) The Prisons (Scotland) Act 1989 shall be amended as follows.

(2) In section 12 (photographing and measuring of prisoners)—

(a) for the words “The Secretary of State may make regulations as to” there shall be substituted the words “ Rules under section 39 of this Act may provide for ”; and

(b) the words “such regulations” shall cease to have effect.

(3) In section 14(1) (legalised police cells), after the word “under” there shall be inserted the words “ section 39 of ”.

<sup>F36</sup>(4) . . . . .

(5) In section 21 (transfer to prison of persons over 21 etc.)—

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- (a) in subsection (1), after the word “section” there shall be inserted the words “but without prejudice to section 20A(2) of this Act”; and
  - (b) in subsection (3), after the words “1975 Act” there shall be inserted the words “the Prisoners and Criminal Proceedings (Scotland) Act 1993”.
- (6) In section 39(1) (rules for the management of prisons and other institutions)—
- (a) the word “and”, where it occurs for the third time, shall cease to have effect; and
  - (b) at the end there shall be added the words “and for any other matter as respects which it is provided in this Act that rules may be made under this section”.
- (7) In section 40(2) (no account to be taken, in calculating period of liability to detention, of period when unlawfully at large)—
- (a) after the word “institution”, where it first occurs, there shall be inserted the words “or committed to a prison or remand centre”;
  - (b) after the word “sentence” there shall be inserted the words “or committal”;
  - (c) for the words “or young offenders institution” there shall be substituted the words “, young offenders institution or remand centre”; and
  - (d) after the words “so detained,” there shall be inserted the words “or the date on or by which a term or period of imprisonment or detention elapses or has been served,”.
- (8) In section 42(2) (procedure in relation to statutory instruments containing regulations or rules), for the words from “regulations” to the end there shall be substituted the words “an order made under section 37(1) or rules made under section 39 of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament”.
- (9) In section 43 (interpretation)—
- (a) in subsection (1), the definition of “sentence of imprisonment” shall cease to have effect; and
  - (b) in subsection (2), the words “(other than in section 25)” shall cease to have effect.

#### **Textual Amendments**

**F36** Sch. 5 para. 6(4) repealed (31.8.2015) by [The Public Services Reform \(Inspection and Monitoring of Prisons\) \(Scotland\) Order 2015 \(S.S.I. 2015/39\)](#), art. 1, [sch. para. 2](#)

#### **Commencement Information**

**I2** Sch. 5 para. 6 not in force at Royal Assent see. s. 48(2). Sch. 5 para. 6(1)-(4), (6),(8) in force at 18.8.1993, para. 6 wholly in force at 1.10.1993 by [S.I. 1993/2050](#), art. 3(2)(4), [Sch. 1](#)

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## SCHEDULE 6

Section 47(2).

### TRANSITIONAL PROVISIONS AND SAVINGS

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

- C2** 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))

#### 1 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 [<sup>F37</sup>except that an amendment or repeal effected by any amendment shall apply for the purposes of the existing provisions if expressly stated to do so];

“new provisions” means sections 1 to 21 and 27 of this Act (together with the provisions of the [<sup>F38</sup>1995 Act] and of the [<sup>F39</sup>Mental Health (Care and Treatment) (Scotland) Act 2003] which so relate and are so amended [<sup>F40</sup>by this Act][<sup>F41</sup>and the Repatriation of Prisoners Act 1984 as it has effect by virtue of paragraphs 6 and 7 of Schedule 2 to the Crime (Sentences) Act 1997][<sup>F42</sup>and section 33 of the Criminal Justice (Scotland) Act 2003 (asp 7)]);

“existing child detainee” means any child (“child” having the meaning assigned to that expression by [<sup>F43</sup>section 93(2)(b) of the Children (Scotland) Act 1995]) who, at the relevant date, is detained under section 206 of the [<sup>F38</sup>1995 Act] other than without limit of time or is detained in residential care by virtue of section 413 of the [<sup>F38</sup>1995 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>F44</sup>(other than a transferred life prisoner)] who, at the relevant date, is serving—

- (a) a sentence of imprisonment for life;
- (b) a sentence of detention without limit of time or for life under section 205 of the [<sup>F38</sup>1995 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;

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“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

- F37** Sch. 6 para. 1: words in the definition of "existing provisions" inserted (3.2.1995) by 1994 c. 33, s. 134(1)(a)(i); S.I. 1995/127, art. 2(1), Sch. 1
- F38** Words in Sch. 6 para. 1 substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 86(2)
- F39** Sch. 6 para. 1: words in the definition of "new provisions" substituted (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 2, Sch. 1 para. 23(3)
- F40** Sch. 6 para. 1: words in the definition of "new provisions" inserted (3.2.1995) by 1994 c. 33, s. 134(1)(a)(ii); S.I. 1995/127, art. 2(1), Sch. 1
- F41** Sch. 6 para. 1: words in the definition of "new provisions" inserted (1.10.1997) by 1997 c. 43, s. 55, Sch. 4 para. 16(2); S.I. 1997/2200, art. 2(1)(1)(2)(i)
- F42** Sch. 6 para. 1: words in the definition of "new provisions" inserted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. {s. 33(3)}, 89(2); S.S.I. 2003/288, art. 2, Sch.
- F43** Sch. 6 para. 1: words in the definition of "existing child detainee" substituted (1.4.1997) by 1995 c. 36, s. 105(4), Sch. 4 para. 56(3); S.I. 1996/3201, art. 3(7)
- F44** Sch. 6 para. 1: words in the definition of "existing life prisoner" inserted (27.7.1993) by 1993 c. 36, ss. 76(3)(a), 78(2)

- 2 (1) Subject to sub-paragraph (2) and [F45to 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 [F46, to the following provisions of this Schedule and to the exception in the definition of “existing provisions” in paragraph 1 above,], 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 [F47, 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

- F45** Words in Sch. 6 para 2(1) substituted (27.7.1993) by 1993 c. 36, ss. 76(3)(b), 78(2)
- F46** Words from “and to ” to “Schedule” in Sch. 6 para. 2 substituted (3.2.1995) by 1994 c. 33, s. 134(1)(b); S.I. 1995/127, art. 2(1), Sch. 1
- F47** Words in Sch. 6 para. 2(2) inserted (27.7.1993) by 1993 c. 36, ss. 75(2), 78(2)

- 3 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;
  - (b) less than one-half of that sentence, shall be so released as soon as he has served one-half of that sentence.

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- 4 (1) An existing child detainee whose sentence under section 206 of the [F48 1995 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 [F48 1995 Act] may, on the recommendation of the Parole Board made at any time, be released on licence by the Secretary of State.

#### Textual Amendments

**F48** Words in Sch. 6 para. 4(1)(2) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), Sch. 4 para. 86(2)

- 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 M5 Social Work (Scotland) Act 1968, the effect of that requirement shall commence, or as the case may be resume, upon such release.

#### Marginal Citations

**M5** 1968 c. 49.

- 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 [F49 section 2(9)] shall apply as if—
- (a) the existing life prisoner were a F50 . . . life prisoner within the meaning of section 2 of this Act; and

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- (b) the [<sup>F51</sup>punishment]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 <sup>F50</sup> . . . 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 [<sup>F51</sup>punishment] part of each of those sentences.

#### Textual Amendments

- F49** Words in Sch. 6 para. 6(2) substituted (8.10.2001) by 2001 asp 7, s. 1(7)(a)(i); S.S.I. 2001/274, art. 3(3)
- F50** Words in Sch. 6 para. 6(2)(a)(3)(a) repealed (8.10.2001) by 2001 asp 7, s. 1(7)(a)(ii); S.S.I. 2001/274, art. 3(3)
- F51** Words in Sch. 6 para. 6(2)(b)(3)(b) substituted (8.10.2001) by 2001 asp 7, s. 1(7)(a)(iii); S.S.I. 2001/274, art. 3(3)

[<sup>F52</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 <sup>F53</sup> . . . 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 [<sup>F54</sup>punishment] part of his sentence.]

#### Textual Amendments

- F52** Sch. 6 paras. 6A, 6B inserted (3.2.1995) by 1994 c. 33, s. 135; S.I. 1995/127, art. 2(1), Sch. 1
- F53** Word in Sch. 6 para. 6A(2) repealed (8.10.2001) by 2001 asp 7, s. 1(7)(b)(i); S.S.I. 2001/274, art. 3(3)
- F54** Word in Sch. 6 para. 6A(2) substituted (8.10.2001) by 2001 asp 7, s. 1(7)(b)(ii); S.S.I. 2001/274, art. 3(3)

[<sup>F55</sup>6B(1) This paragraph applies where—

- (a) [<sup>F56</sup>an existing 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; <sup>F57</sup> . . .
- (b) on or after [<sup>F58</sup>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 consecutively to, or concurrently with, the sentence or sentences mentioned in head (a) above [<sup>F59</sup>; and.
- (c) he has not at any time prior to the passing of the sentence or sentences mentioned in head (b) above been released from the sentence or sentences mentioned in head (a) above under the existing provisions.]

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- (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

- F55** Sch. 6 paras. 6A, 6B inserted (3.2.1995) by 1994 c. 33, s. 135; S.I. 1995/127, art. 2(1), Sch. 1
- F56** Words in Sch. 6 para. 6B(1)(a) substituted (30.9.1998) by 1998 c. 37, s. 111(4)(a)(6); S.I. 1998/2327, art. 2(1)(x)
- F57** Word in Sch. 6 para. 6B repealed (30.9.1998) by 1998 c. 37, ss. 111(4)(b)(6), 120(2), Sch. 10; S.I. 1998/2327, art. 2(1)(x)(aa)(3)(u)
- F58** Words in Sch. 6 para. 6B substituted (30.9.1998) by virtue of 1998 c. 37, s. 111(4)(c)(6); S.I. 1998/2327, art. 2(1)(x)
- F59** Sch. 6 para. 6B(1)(c) and the preceding word “; and” inserted (30.9.1998) by 1998 c. 37, s. 111(4)(d)(6); S.I. 1998/2327, art. 2(1)(x)

[<sup>F60</sup>6C (1) This paragraph applies where—

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- (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

**F60** Sch. 6 para. 6C inserted (30.9.1998) by 1998 c. 37, s. 111(5)(6); S.I. 1998/2327, art. 2(1)(x)

- [<sup>F61</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.]



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**Textual Amendments**

**F61** 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)**

**F62**<sup>7</sup> .....

**Textual Amendments**

**F62** Sch. 6 para. 7 repealed (8.10.2001) by 2001 asp 7, **s. 3(3)**; S.S.I. 2001/274, **art. 3(3)**

- 8 Unless revoked [<sup>F63</sup>by virtue of paragraph 10 of this Schedule], 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.

**Textual Amendments**

**F63** Words in Sch. 6 para. 8 inserted (3.2.1995) by 1994 c. 33, **s. 130(3)(a)**; S.I. 1995/127, **art. 2(1)**, **Sch. 1**

- 9 Section 12 of this Act shall apply in respect of a licence granted under this Schedule.
- [<sup>F64</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**

**F64** 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**

SCHEDULE 7

Section 47(3).

REPEALS AND REVOCATIONS

**PART I**

REPEALS

**Commencement Information**

**I3** Sch. 7 Pt. I not in force at Royal Assent see. s. 48(2). Sch. 7 Pt. I in force for certain purposes at 18.9.1993 and Pt. 1 wholly in force at 1.10.1993 by S.I. 1993/2050, **art. 3(3)(4)**, **Sch. 2** (subject to savings in **art. 4, 9**)

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<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1 Edw.8 & 1 Geo.6 c. 37.	The Children and Young Persons (Scotland) Act 1937.	In section 57(3), the words “or section 25 of the Prisons (Scotland) Act 1989”.
3 & 4 Eliz.2 c. 18.	The Army Act 1955.	Section 71AA(6B).In Schedule 5A, paragraph 10(6B).
3 & 4 Eliz.2 c. 19.	The Air Force Act 1955.	Section 71AA(6B).In Schedule 5A, paragraph 10(6B).
5 & 6 Eliz.2 c. 53.	The Naval Discipline Act 1957.	Section 43AA(6B).In Schedule 4A, paragraph 10(6B).
1963 c. 39.	The Criminal Justice (Scotland) Act 1963.	In paragraph 13 of Schedule 1, the words “(and, if that person is released from such a prison under the said section 214(7) or 423(7), section 30(3) of the Prisons (Scotland) Act 1989)”.
1965 c. 20.	The Criminal Evidence Act 1965.	The whole Act.
1969 c. 48.	The Post Office Act 1969.	Section 93(4).
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In section 108(2), the word “and” at the end of paragraph (b). Section 207(11). Section 212. Section 214. In section 270(2), the words “of two weeks or any extension thereof authorised by the High Court”. Section 289D(1A)(e). Section 328. In section 413(1) the words “for such period, not exceeding one year, as the sheriff may determine”. Section 415(11). Section 421. Section 423.

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1980 c. 55.	The Law Reform (Miscellaneous Provisions) (Scotland) Act 1980.	In Part I of Schedule 1, in Group B, paragraph (v).
1980 c. 62.	The Criminal Justice (Scotland) Act 1980.	In section 2, in subsection (5), paragraph (c) and the proviso to that paragraph; and in subsection (6) the words “or (c)”.
1981 c. 49.	The Contempt of Court Act 1981.	In Schedule 3, paragraph 12. Section 15(6).
1984 c. 36.	The Mental Health (Scotland) Act 1984.	In section 71, subsection (2) (b); and in subsection (7) (a), the words “in criminal proceedings”.
1987 c. 41.	The Criminal Justice (Scotland) Act 1987.	Section 73(3). Section 62(1).
1989 c. 45.	The Prisons (Scotland) Act 1989.	In Schedule 1, paragraph 19. In section 12, the words “such regulations”.
		Section 16(1). Section 18.
		In section 19(4), in paragraph (b), the word “24,”; and in the proviso, sub-paragraph (ii).
		In section 21(3), the proviso. Sections 22 to 32.
		In section 39, in subsection (1) the word “and” where it occurs for the third time; and subsection (4).
		In section 42, in subsection (1) the words “22(2), 30(6) or (7), 32(5) or”; and subsections (3) and (4).
		In section 43, in subsection (1), the definitions of “local review committee”, “Parole Board” and “sentence of imprisonment”; in subsection (2), the words

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1991 c. 53.	The Criminal Justice Act 1991.	“(other than in section 25)”; and in subsection (5), the words “(other than in section 30)”.  Schedule 1.  In Schedule 2, paragraphs 1, 3 to 5, 8, 13 to 15, 17 and 18.  In Schedule 11, in paragraph 35, sub-paragraphs (2), (3)(a) and (4).
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## PART II

### REVOCATIONS

Year and number	Title	Extent of revocation
S.I. 1952/565.	The Prison (Scotland) Rules 1952.	Rule 9.
S.I. 1976/1889.	The Prison (Scotland) Amendment Rules 1976.	The whole rules.

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**Changes to legislation:**

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