



# Prisoners and Criminal Proceedings (Scotland) Act 1993

## 1993 CHAPTER 9

### PART I

#### DETENTION, TRANSFER AND RELEASE OF OFFENDERS

##### *Early release*

#### **10 Life prisoners transferred to Scotland.**

- (1) In a case where a transferred life prisoner transferred from England and Wales <sup>F1</sup> . . . is, by virtue of an order under section 34 of the <sup>M1</sup>Criminal Justice Act 1991, a discretionary life prisoner for the purposes of Part II of that Act, this Part of this Act except sections 1(4) and 2(9) shall apply as if—
  - (a) the prisoner were a discretionary life prisoner within the meaning of section 2 of this Act; and
  - (b) the relevant part of his sentence within the meaning of that section were the relevant part specified in the order under the said section 34.
- (2) In the case of any other transferred life prisoner [<sup>F2</sup>, except such case as is mentioned in paragraph 7 of Schedule 6 to this Act,] subsection (3) below applies where the Lord Justice General, whom failing the Lord Justice Clerk, certifies his opinion that, if the prisoner had been sentenced for his offence in Scotland after the commencement of section 2 of this Act, 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.
- (3) In a case to which this subsection applies, this Part of this Act except sections 1(4) and 2(9) shall apply as if—
  - (a) the transferred life prisoner were a discretionary life prisoner within the meaning of section 2 of this Act; and

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- (b) the relevant part of his sentence within the meaning of that section were the part specified in the certificate.
- (4) In this section “transferred life prisoner” means a person—
- (a) on whom a court in a country or territory outside Scotland [<sup>F3</sup>or a court-martial] has [<sup>F4</sup>(whether before or after the commencement of this section)] imposed one or more sentences of imprisonment or detention for an indeterminate period; and
- (b) who has been transferred to Scotland [<sup>F5</sup>]<sup>F6</sup>, or in the case of a sentence imposed by a court martial in Scotland to a prison in Scotland (in either case whether] before or after that commencement)], in pursuance of—
- (i) an order made by the Secretary of State under section 26 of the <sup>M2</sup>Criminal Justice Act 1961 or section 2 of the <sup>M3</sup>Colonial Prisoners Removal Act 1884; or
- (ii) a warrant issued by the Secretary of State under the <sup>M4</sup>Repatriation of Prisoners Act 1984, [<sup>F7</sup>; or
- (iii) rules made under section 122(1)(a) of the <sup>M5</sup>Army Act 1955 (imprisonment and detention rules); or
- (iv) rules made under section 122(1)(a) of the <sup>M6</sup>Air Force Act 1955 (imprisonment and detention rules); or
- (v) a determination made under section 81(3) of the <sup>M7</sup>Naval Discipline Act 1957 (place of imprisonment or detention),]
- there to serve, or to serve the remainder of, his sentence or sentences [<sup>F8</sup>; and in this subsection “prison” has the same meaning as in the 1989 Act.].
- (5) Where a transferred life prisoner has been transferred to Scotland to serve the whole or part of two or more sentences referred to in subsection (4)(a) above—
- (a) he shall be treated as a discretionary life prisoner (within the meaning of section 2 of this Act) for the purposes of subsection (3) above only if the requirements of subsection (2) above are satisfied in respect of each of those sentences; and
- (b) notwithstanding the terms of any order under section 34 of the said Act of 1991 or of any certificate under subsection (2) above, subsections (4) and (6) of section 2 of this Act shall not apply to him until he has served the relevant part of each of those sentences.

#### Textual Amendments

- F1** Words in s. 10(1) repealed (27.7.1993) by 1993 c. 36, ss. 76(2)(a), 79(14), 78(2), **Sch. 6 Pt 1**
- F2** Words in s. 10(2) inserted (27.7.1993) by 1993 c. 36, ss. 76(2)(b), 78(2)
- F3** Words in s. 10(4)(a) inserted (3.2.1995) by 1994 c. 33, s. 133(a); S.I. 1995/127, art. 2(1), **Sch. 1**
- F4** Words in s. 10(4)(a) inserted (27.7.1993) by 1993 c. 36, ss. 76(2)(c), 78(2)
- F5** Words in s. 10(4)(b) inserted (27.7.1993) by 1993 c. 36, ss. 76(2)(c), 78(2)
- F6** Words in s. 10(4)(b) substituted (3.2.1995) by 1994 c. 33, s. 133(b)(i); S.I. 1995/127, art. 2(1), **Sch. 1**
- F7** S. 10(4)(b)(iii)(iv)(v) and the preceding word “; or” inserted (3.2.1995) by 1994 c. 33, s. 133(b)(ii); S.I. 1995/127, art. 2(1), **Sch. 1**
- F8** Words in s. 10(4)(b) inserted (3.2.1995) by 1994 c. 33, s. 133(b)(iii); S.I. 1995/127, art. 2(1), **Sch. 1**

#### Marginal Citations

- M1** 1991 c. 53.
- M2** 1961 c. 39.

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| <b>M3</b> | 1884 c. 31. |
| <b>M4</b> | 1984 c. 47. |
| <b>M5</b> | 1955 c. 18. |
| <b>M6</b> | 1955 c. 19. |
| <b>M7</b> | 1957 c. 53. |

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