



# Crime (Sentences) Act 1997

## 1997 CHAPTER 43

### PART II

#### EFFECT OF CUSTODIAL SENTENCES

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

- C1** Pt. II applied in part (with modifications) (1.10.1997) by S.I. 1997/1776, art. 2, Sch. 1 paras. 2-4; S.I. 1997/2200, art. 2(1)

### CHAPTER I

#### DETERMINATE SENTENCES

##### *General*

#### **8 Time to be served.**

- (1) Subject to the following provisions of this Chapter, a prisoner shall be released when he has served his sentence.
- (2) In this Chapter “prisoner” means any person who is sentenced to imprisonment for a term in respect of an offence committed after the commencement of this Chapter.

#### **9 Crediting of periods of remand in custody.**

- (1) This section applies where—
  - (a) a court sentences an offender to imprisonment for a term in respect of an offence committed after the commencement of this section; and

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- (b) the offender has been remanded in custody in connection with the offence or a related offence, that is to say, any other offence the charge for which was founded on the same facts or evidence.
- (2) It is immaterial for that purpose whether the offender—
  - (a) has also been remanded in custody in connection with other offences; or
  - (b) has also been detained in connection with other matters.
- (3) Subject to subsection (4) below, the court shall direct that the number of days for which the offender was remanded in custody in connection with the offence or a related offence shall count as time served by him as part of the sentence.
- (4) Subsection (3) above shall not apply if and to the extent that—
  - (a) rules made by the Secretary of State so provide in the case of—
    - (i) a remand in custody which is wholly or partly concurrent with a sentence of imprisonment; or
    - (ii) sentences of imprisonment for consecutive terms or for terms which are wholly or partly concurrent; or
  - (b) it is in the opinion of the court just in all the circumstances not to give a direction under that subsection.
- (5) Where the court gives a direction under subsection (3) above, it shall state in open court—
  - (a) the number of days for which the offender was remanded in custody; and
  - (b) the number of days in relation to which the direction is given.
- (6) Where the court does not give a direction under subsection (3) above, or gives such a direction in relation to a number of days less than that for which the offender was remanded in custody, it shall state in open court—
  - (a) that its decision is in accordance with rules made under paragraph (a) of subsection (4) above; or
  - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.
- (7) The power to make rules under subsection (4)(a) above shall be exercisable by statutory instrument; but no such rules shall be made unless a draft of the rules has been laid before and approved by a resolution of each House of Parliament.
- [<sup>F1</sup>(7A) Such rules may make such incidental, supplemental and consequential provisions as may appear to the Secretary of State to be necessary or expedient.]
- (8) For the purposes of this section a suspended sentence shall be treated as a sentence of imprisonment when it takes effect under section 23 of the <sup>M1</sup>Powers of Criminal Courts Act 1973 (“the 1973 Act”) and as being imposed by the order under which it takes effect.
- (9) References in this section to an offender being remanded in custody are references to his being—
  - (a) held in police detention; or
  - (b) remanded in or committed to custody by an order of a court.
- (10) A person is in police detention for the purposes of this section—
  - (a) at any time when he is in police detention for the purposes of the <sup>M2</sup>Police and Criminal Evidence Act 1984; and

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- (b) at any time when he is detained under section 14 of the <sup>M3</sup>Prevention of Terrorism (Temporary Provisions) Act 1989.

[<sup>F2</sup>(11) In this section “sentence of imprisonment” does not include a committal—

- (a) in default of payment of any sum of money other than one adjudged to be paid by a conviction;  
(b) for want of sufficient distress to satisfy any sum of money; or  
(c) for failure to do or abstain from doing anything required to be done or left undone;

and cognate expressions shall be construed accordingly.

(12) For the purposes of any reference in this section, however expressed, to the term of imprisonment to which a person has been sentenced, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—

- (a) the sentences were passed on the same occasion; or  
(b) where they were passed on different occasions, the person has not been released under Part II of the 1991 Act at any time during the period beginning with the first and ending with the last of those occasions.]

#### Textual Amendments

**F1** S. 9(7A) inserted (30.9.1998) by 1998 c. 37, s. 107(3); S.I. 1998/2327, art. 2(1)(w).

**F2** S. 9(11)(12) inserted (30.9.1998) by 1998 c. 37, s. 107(4); S.I. 1998/2327, art. 2(1)(w).

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

**C2** S. 9 modified (*prosp.*) by 1991 c. 53, s. 47(2) (as inserted (*prosp.*) by 1998 c. 37, ss. 119, 121(2), Sch. 8 para. 90).

#### Marginal Citations

**M1** 1973 c.62.

**M2** 1984 c.60.

**M3** 1989 c.4.

## 9 Crediting of periods of remand in custody. **E+W**

(1) This section applies where—

- (a) a court sentences an offender to imprisonment for a term in respect of an offence committed after the commencement of this section; and  
(b) the offender has been remanded in custody in connection with the offence or a related offence, that is to say, any other offence the charge for which was founded on the same facts or evidence.

(2) It is immaterial for that purpose whether the offender—

- (a) has also been remanded in custody in connection with other offences; or  
(b) has also been detained in connection with other matters.

(3) Subject to subsection (4) below, the court shall direct that the number of days for which the offender was remanded in custody in connection with the offence or a related offence shall count as time served by him as part of the sentence.

(4) Subsection (3) above shall not apply if and to the extent that—

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- (a) rules made by the Secretary of State so provide in the case of—
    - (i) a remand in custody which is wholly or partly concurrent with a sentence of imprisonment; or
    - (ii) sentences of imprisonment for consecutive terms or for terms which are wholly or partly concurrent; or
  - (b) it is in the opinion of the court just in all the circumstances not to give a direction under that subsection.
- (5) Where the court gives a direction under subsection (3) above, it shall state in open court—
- (a) the number of days for which the offender was remanded in custody; and
  - (b) the number of days in relation to which the direction is given.
- (6) Where the court does not give a direction under subsection (3) above, or gives such a direction in relation to a number of days less than that for which the offender was remanded in custody, it shall state in open court—
- (a) that its decision is in accordance with rules made under paragraph (a) of subsection (4) above; or
  - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.
- (7) The power to make rules under subsection (4)(a) above shall be exercisable by statutory instrument; but no such rules shall be made unless a draft of the rules has been laid before and approved by a resolution of each House of Parliament.
- (8) For the purposes of this section a suspended sentence shall be treated as a sentence of imprisonment when it takes effect under section 23 of the <sup>M29</sup>Powers of Criminal Courts Act 1973 (“the 1973 Act”) and as being imposed by the order under which it takes effect.
- (9) References in this section to an offender being remanded in custody are references to his being—
- (a) held in police detention; or
  - (b) remanded in or committed to custody by an order of a court.
- (10) A person is in police detention for the purposes of this section—
- (a) at any time when he is in police detention for the purposes of the <sup>M30</sup>Police and Criminal Evidence Act 1984; and
  - (b) at any time when he is detained under section 14 of the <sup>M31</sup>Prevention of Terrorism (Temporary Provisions) Act 1989.

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

**C12** S. 9 modified (*prosp.*) by 1991 c. 53, s. 47(2) (as inserted (*prosp.*) by 1998 c. 37, ss. 119, 121(2), **Sch. 8 para.90**).

**Marginal Citations**

**M29** 1973 c.62.

**M30** 1984 c.60.

**M31** 1989 c.4.

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VALID FROM 30/09/1998

**[<sup>F3</sup>9A Provision supplementary to section 9.**

- (1) Section 9 above applies to—
  - (a) a sentence of detention in a young offender institution; and
  - (b) a determinate sentence of detention under section 53 of the <sup>M4</sup>Children and Young Persons Act 1933 (“the 1933 Act”),  
as it applies to an equivalent sentence of imprisonment.
- (2) Section 9 above applies to—
  - (a) persons remanded or committed to local authority accommodation under section 23 of the <sup>M5</sup>Children and Young Persons Act 1969 (“the 1969 Act”) and placed and kept in secure accommodation; and
  - (b) persons remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the <sup>M6</sup>Mental Health Act 1983 (“the 1983 Act”),  
as it applies to persons remanded in or committed to custody by an order of a court.
- (3) In this section “secure accommodation” has the same meaning as in section 23 of the 1969 Act.]

**Textual Amendments**

**F3** S. 9A inserted (30.9.1998) by 1998 c. 37, s. 107(5); S.I. 1998/2327, art. 2(1)(w).

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

**C3** S. 9A modified (30.9.1998) by 1998 c. 37, s. 120(1), Sch. 9 para.6; S.I. 1998/2327, art. 2(1)(z).

**Marginal Citations**

**M4** 1933 c.12.

**M5** 1969 c.54.

**M6** 1983 c.20.

*Early release*

**10 Early release on compassionate grounds.**

- (1) The Secretary of State may at any time release a prisoner if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.
- (2) Before releasing under subsection (1) above a prisoner who is serving a sentence of imprisonment for a term of three years or more, the Secretary of State shall consult the Parole Board, unless the circumstances are such as to render such consultation impracticable.

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## **11 Award of early release days for good behaviour.**

- (1) This section applies where a prisoner is serving a sentence of imprisonment for a term of more than two months and less than three years.
- (2) For each initial assessment period, the prescribed person may award the prisoner such number of early release days, not exceeding twelve, as he may determine having regard to the extent to which the prisoner's behaviour during the period has attained the prescribed minimum standard.
- (3) For each subsequent assessment period, the prescribed person may award the prisoner—
  - (a) such number of early release days, not exceeding six, as he may determine having regard to the extent to which the prisoner's behaviour during the period has attained the prescribed minimum standard; and
  - (b) such number of such days, not exceeding six, as he may determine having regard to the extent to which the prisoner's behaviour during the period has exceeded that standard.
- (4) Where at any time this section applies in place of section 12, 28 or 29 below because a sentence is set aside or varied on appeal, then, for each assessment period for the purposes of this section beginning before that time, the prescribed person shall assume, for the purposes of subsection (2) or (3) above, that the prisoner's behaviour was such as to entitle him to the maximum number of early release days available under that subsection.
- (5) Where any early release days are awarded to a prisoner, any period which he must serve before becoming entitled to be released shall be reduced by the aggregate of those days; but nothing in this subsection shall entitle a prisoner to be released on the basis of an award before the day after that on which the award is made.
- (6) Prison rules may—
  - (a) require determinations under this section to be made at prescribed times, and to be notified to the prisoners concerned in the prescribed manner; and
  - (b) make provision for enabling prisoners to appeal against such determinations to prescribed persons.
- (7) The Secretary of State may by order provide that subsections (2) and (3) above shall have effect subject to such amendments as may be specified in the order; but no amendment so specified shall reduce—
  - (a) the number of days specified in subsection (2) or (3)(a); or
  - (b) the total number of days specified in subsection (3).
- (8) The power to make an order 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.
- (9) In this section, in relation to a prisoner—
 

“assessment period” means—

  - (a) the period of two months beginning with the day on which he was sentenced; and
  - (b) each successive period of two months ending before his release;

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“initial assessment period” means an assessment period beginning less than twelve months after the day on which he was sentenced and “subsequent assessment period” shall be construed accordingly.

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

- C4 S. 11 modified (*prosp.*) by 1984 c. 47, **Sch. para. 3** (as modified by 1997 c. 43, ss. 42, 57(2), **Sch. 2 paras. 4(1)(4)**)

**12 Early release on Parole Board recommendation.**

- (1) This section applies where a prisoner is serving a sentence of imprisonment for a term of three years or more.
- (2) As soon as the prisoner has served five-sixths of his sentence, the Secretary of State shall, if recommended to do so by the Parole Board, release him.

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

- C5 S. 12 modified (*prosp.*) by 1984 c. 47, **Sch. para. 2** (as modified by 1997 c. 43, ss. 42, 57(2), **Sch. 2 paras. 4(1)(4)**)

**13 Provisional early release days for remand prisoners.**

- (1) This section applies where an accused is remanded in custody in connection with one or more offences—
  - (a) which are alleged to have been committed after the commencement of this Chapter; and
  - (b) in respect of which he would be liable, if convicted, to a life sentence or to imprisonment for a term of more than two months.
- (2) For the purpose of enabling early release days to be awarded on a provisional basis, subsections (2) and (3) of section 11 above shall have effect as if—
  - (a) the accused had been convicted of, or of an offence related to, the offence or any of the offences, and had been sentenced to imprisonment for a term of more than two months and less than three years, on the day on which he was remanded in custody;
  - (b) any days falling after that day for which he is not remanded in custody were disregarded; and
  - (c) references in that section to periods of two months were references to periods of 60 days.
- (3) Subsections (4) to (6) below shall apply if, and only if, each of the following conditions is fulfilled, namely—
  - (a) the accused is convicted of, or of an offence related to, the offence or any of the offences;
  - (b) he is sentenced to imprisonment for a term of more than two months and less than three years; and
  - (c) a direction is given under section 9 above.

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- (4) For the purposes of section 11(5) above, any early release days provisionally awarded under subsection (2) above shall be treated as early release days awarded on the day on which the direction under section 9 above is given.
- (5) For the purpose of securing that any days for which the accused was remanded in custody are taken into account in determining assessment periods for the purposes of section 11 above, that section shall have effect as if—
- (a) the accused had been convicted and sentenced on the day on which he was remanded in custody;
  - (b) any days which fell before the day on which he was sentenced, and for which he was not remanded in custody, were disregarded; and
  - (c) references to periods of two months, in their application to periods beginning before that day, were references to periods of 60 days.
- (6) If the direction under section 9 above is given in relation to a number of days less than that for which the accused was remanded in custody—
- (a) subsection (4) above shall have effect as if the reference to any early release days provisionally awarded under subsection (2) above were a reference to the appropriate proportion of those days (rounded up to the nearest whole day); and
  - (b) subsection (5) above shall have effect as if the reference to days for which he was not remanded in custody included a reference to the complementary proportion of the days for which he was so remanded (rounded down to the nearest whole day).
- (7) Where for any period the accused has been held in police detention, the prescribed person shall assume, for the purposes of section 11(2) and (3) above as modified by subsection (2) above, that during that period—
- (a) the prisoner had been in prison; and
  - (b) his behaviour had attained, but not exceeded, the prescribed minimum standard for the purposes of that section.
- (8) In this section—
- “the appropriate proportion” means the proportion which the number of days in relation to which the direction under section 9 above is given bears to the number of days for which the accused was remanded in custody, and “the complementary proportion” shall be construed accordingly;
- “life sentence” has the same meaning as in section 34 below;
- “related”, in relation to an offence, has the same meaning as in section 9 above;
- and subsections (2), (9) and (10) of section 9 above shall apply for the purposes of this section as they apply for the purposes of that section.

#### *Additional days*

### **14 Award of additional days for disciplinary offences.**

- (1) Prison rules may include provision for the award of additional days to prisoners who are guilty of disciplinary offences.



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- (2) Subject to subsection (3) below, where any additional days are awarded to a prisoner, and are not remitted in accordance with prison rules, any period which he must serve before becoming—
  - (a) entitled to be released under section 11 above; or
  - (b) eligible to be released under section 12 above,shall be extended by the aggregate of those days.
- (3) Nothing in subsection (2) above shall have the effect of extending any such period beyond the end of the prisoner’s sentence, taking into account for this purpose any days directed by the court to count as time served as part of that sentence.

## **15 Provisional additional days for remand prisoners.**

- (1) This section applies where an accused is remanded in custody in connection with one or more offences—
  - (a) which are alleged to have been committed after the commencement of this Chapter; and
  - (b) in respect of which he would be liable, if convicted, to a life sentence or to imprisonment for a term of more than two months.
- (2) For the purpose of enabling additional days to be awarded on a provisional basis, prison rules made by virtue of section 14(1) above shall have effect as if the accused—
  - (a) had been convicted of, or of an offence related to, the offence or any of the offences; and
  - (b) had been sentenced to imprisonment for a term of more than two months, on the day on which he was remanded in custody.
- (3) Subsections (4) and (5) below shall apply if, and only if, each of the following conditions is fulfilled, namely—
  - (a) the accused is convicted of, or of an offence related to, the offence or any of the offences;
  - (b) he is sentenced to imprisonment for a term of more than two months; and
  - (c) a direction is given under section 9 above.
- (4) For the purposes of section 14(2) and (3) above, any additional days provisionally awarded under subsection (2) above shall be treated as additional days awarded on the day on which the direction under section 9 above is given.
- (5) If the direction under section 9 above is given in relation to a number of days less than that for which the accused was remanded in custody, subsection (4) above shall have effect as if the reference to any additional days provisionally awarded under subsection (2) above were a reference to the appropriate proportion of those days (rounded up to the nearest whole day).
- (6) In this section—

“the appropriate proportion” has the same meaning as in section 13 above;  
“life sentence” has the same meaning as in section 34 below;  
“related”, in relation to an offence, has the same meaning as in section 9 above;

and subsections (2), (9) and (10) of section 9 above shall apply for the purposes of this section as they apply for the purposes of that section.

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### *Supervision after release*

## **16 Release supervision orders.**

- (1) This section applies where—
  - (a) an offender who has been sentenced to imprisonment for a term of twelve months or more in respect of an offence committed after the commencement of this Chapter is released otherwise than under section 10 above;
  - (b) an offender who has been so sentenced is released under that section; or
  - (c) an offender who has been sentenced to imprisonment for a term of less than twelve months in respect of an offence committed after that commencement is released under that section.
- (2) On his release, the offender shall be subject to a release supervision order—
  - (a) in a case falling within subsection (1)(a) above, for a period equal to 25 per cent of his term of imprisonment (rounded up to the nearest whole day) or a period of three months, whichever is the greater;
  - (b) in a case falling within subsection (1)(b) above, for a period equal to the aggregate of the period mentioned in paragraph (a) above and the period mentioned in paragraph (c) below;
  - (c) in a case falling within subsection (1)(c) above, for a period equal to so much of the remainder of his term as he would have been liable to serve but for his release under section 10 above;

and in applying paragraphs (b) and (c) above account shall be taken of any early release or additional days awarded to the offender before his release.
- (3) The release supervision order, which shall be made by the Secretary of State, shall provide that, throughout the period for which the order is in force (“the release supervision period”), the offender, so long as he is at large—
  - (a) shall be under the supervision of a probation officer; and
  - (b) shall comply with such conditions as are for the time being specified in the order.
- (4) The Secretary of State—
  - (a) shall not specify any condition which—
    - (i) requires the offender to live in an approved probation hostel; or
    - (ii) makes such provision as is made by a curfew order,

except in accordance with recommendations of the Parole Board made after an oral hearing at which the offender had the opportunity to be heard or represented; and
  - (b) in the case of an offender who has been sentenced to imprisonment for a term of three years or more, shall not specify any other condition except in accordance with recommendations of that Board.
- (5) The Secretary of State may make rules for regulating the supervision under this section of any description of offenders.
- (6) 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.
- (7) In this section—

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“approved probation hostel” has the same meaning as in the <sup>M7</sup>Probation Service Act 1993;

“curfew order” has the same meaning as in the <sup>M8</sup>Criminal Justice Act 1991 (“the 1991 Act”).

#### Marginal Citations

M7 1993 c.47.

M8 1991 c.53.

### 17 Breach of conditions of release supervision order.

- (1) If any offender in respect of whom a release supervision order is in force fails without reasonable excuse to comply with any of the conditions of the order, he shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding the relevant period or a fine or both;
  - (b) on summary conviction, to imprisonment for a term not exceeding the relevant period or a fine not exceeding level 3 on the standard scale or both.
- (2) An offence under subsection (1) above shall not be triable on indictment unless—
  - (a) the relevant period would be longer than six months; or
  - (b) the act or omission in question constitutes another offence which is punishable with imprisonment and is triable on indictment.
- (3) A magistrates’ court by which an offender is convicted of an offence under subsection (1) above which could have been tried on indictment may commit him in custody or on bail to the Crown Court for sentence; and the Crown Court to which he has been so committed may impose on him such a sentence as is mentioned in subsection (1)(a) above.
- (4) A court shall not impose a sentence of imprisonment under subsection (1) above unless—
  - (a) it considers it expedient to do so in the interests of protecting the public from serious harm from the offender; or
  - (b) the offender’s failure to comply with the condition in question consisted of the commission of an offence punishable with imprisonment.
- (5) Nothing in section 1 or 2 of the 1991 Act shall apply in relation to such a sentence; and nothing in section 6 of that Act shall prevent a court from dealing with the offender in respect of an offence under subsection (1) above in any one of the following ways, namely—
  - (a) where the offender is 16 or over—
    - (i) by making a community service order, probation order or combination order in respect of him; or
    - (ii) by making a curfew order in respect of him; or
    - (iii) by doing both of those things;
  - (b) where the offender is under 18—
    - (i) by making a supervision order in respect of him; or
    - (ii) by making both such an order and a curfew order in respect of him;and

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- (c) where the case is one to which section 17 of the 1982 Act applies—
- (i) by making an order under that section requiring the offender to attend at an attendance centre; or
  - (ii) by making both such an order and a curfew order in respect of him.
- (6) In this section—
- “combination order” and “curfew order” have the same meanings as in the 1991 Act;
- “community service order” and “probation order” have the same meanings as in the 1973 Act;
- “supervision order” means a supervision order under the <sup>M9</sup>Children and Young Persons Act 1969 (“the 1969 Act”);
- “the relevant period” means—
- (a) on conviction on indictment, so much of the release supervision period as falls after the day on which the offender failed to comply with the condition;
  - (b) on summary conviction, so much of that period as so falls or six months, whichever is the shorter.

**Marginal Citations**

M9 1969 c.54.

**18 Powers of arrest and search warrants.**

- (1) A constable may arrest without warrant any person whom he has reasonable grounds for suspecting to have committed an offence under section 17 above.
- (2) If a justice of the peace is by written information on oath satisfied that there is reasonable ground for suspecting that a person who is liable to be arrested under subsection (1) above is to be found on any premises, he may grant a warrant authorising any constable to enter, if need be by force, the premises named in the warrant for the purposes of searching for and arresting that person.
- (3) Section 8 of the <sup>M10</sup>Police and Criminal Evidence Act 1984 (power of justice to authorise entry and search of premises) shall have effect as if the reference in subsection (1) of that section to a serious arrestable offence included a reference to an offence under section 17 above.

**Marginal Citations**

M10 1984 c.60.

*Special cases*

**19 Young offenders.**

- (1) Subject to the provisions of this section, this Chapter applies to—
  - (a) a sentence of detention in a young offender institution; and

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- (b) a determinate sentence of detention under section 53 of the <sup>M11</sup>Children and Young Persons Act 1933 (“the 1933 Act”),  
as it applies to an equivalent sentence of imprisonment.
- (2) References in this Chapter to prisoners, or to prison or imprisonment, shall be construed in accordance with subsection (1) above.
- (3) Section 9 above applies to periods of detention which offenders are liable to serve under secure training orders as it applies to sentences of imprisonment; and sections 9, 13 and 15 above apply to persons—
- (a) remanded or committed to local authority accommodation under section 23 of the 1969 Act or section 37 of the <sup>M12</sup>Magistrates’ Courts Act 1980 (“the 1980 Act”); and
- (b) placed and kept in secure accommodation,  
as they apply to persons remanded in or committed to custody by an order of a court.
- (4) For each assessment period for the purposes of section 11 above during the whole or part of which the prisoner—
- (a) is under 16; or
- (b) is detained in local authority accommodation, or a home provided by the Secretary of State under section 82(5) of the <sup>M13</sup>Children Act 1989,  
the prescribed person shall assume, for the purposes of subsection (2) or (3) of that section, that the prisoner’s behaviour had been such as to entitle him to the maximum number of early release days available under that subsection.
- (5) For each assessment period for the purposes of section 13 above during the whole or part of which the accused—
- (a) is under 16; or
- (b) is a person to whom section 9 applies by virtue of subsection (3) above,  
the prescribed person shall assume, for the purposes of subsection (2) or (3) of section 11 above as modified by section 13(2) above, that the accused’s behaviour had been such as to entitle him to the maximum number of early release days available under that subsection.
- (6) In relation to a released offender who is under 22, section 16 above shall have effect as if—
- (a) in subsection (1), paragraph (c) and, in paragraph (a), the words “of twelve months or more” were omitted; and
- (b) in subsection (3)(a), the reference to supervision by a probation officer included a reference to supervision by a social worker of a local authority social services department.
- (7) Where a released offender who is under 18 and whose sentence was a determinate sentence of detention under section 53 of the 1933 Act commits an offence under section 17 above, the court may deal with him as if subsection (3) of section 53 applied; but no sentence of detention imposed by virtue of this subsection shall be for a term exceeding the relevant period within the meaning of section 17 above.
- (8) In relation to a released offender who is under 22 and whose sentence—
- (a) was a sentence of detention in a young offender institution, or a sentence of detention under section 53 of the 1933 Act, for a term of less than 12 months; and

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- (b) was not imposed in respect of a sexual offence committed after the commencement of this Chapter,  
 section 17 above shall have effect as if the relevant period for the purposes of that section were a period of 30 days.
- (9) Where an offender is released from a sentence of detention imposed under section 17 above as modified by subsection (8) above, he shall not be liable to a release supervision order in consequence of his conviction under that section.
- (10) In this section “secure accommodation” has the same meaning as in section 23 of the 1969 Act, and—
- (a) any reference to a sentence of detention in a young offender institution includes a reference to a sentence under a custodial order within the meaning of section 71AA of the <sup>M14</sup>Army Act 1955 or the <sup>M15</sup>Air Force Act 1955 or section 43AA of the <sup>M16</sup>Naval Discipline Act 1957; and
- (b) any reference (however expressed) to a determinate sentence of detention under section 53 of the 1933 Act includes a reference to a sentence of detention under subsection (4) of section 71A of the Army Act 1955 or the Air Force Act 1955 or section 43A of the Naval Discipline Act 1957.

#### Marginal Citations

- M11** 1933 c.12.  
**M12** 1980 c.43.  
**M13** 1989 c.41.  
**M14** 1955 c.18.  
**M15** 1955 c.19.  
**M16** 1957 c.53.

## 20 Sexual offenders.

- (1) Subsection (2) below applies where—
- (a) there is released under this Chapter an offender who has been sentenced to imprisonment for a term in respect of a sexual offence committed after the commencement of this Chapter; and
- (b) the court by which he was so sentenced gave a direction under subsection (3) below.
- (2) Section 16 above shall have effect in relation to the offender as if—
- (a) in subsection (1), paragraph (c) and, in paragraph (a), the words “of twelve months or more” were omitted; and
- (b) for subsection (2) there were substituted the following subsection—
- “(2) On his release, the offender shall be subject to a release supervision order—
- (a) where he is released otherwise than under section 10 above, for such period as is specified in the direction under section 20(3) below;
- (b) where he is released under section 10 above, for a period equal to the aggregate of—
- (i) the period mentioned in paragraph (a) above; and

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(ii) a period equal to so much of the remainder of his term as he would have been liable to serve but for his release under section 10 above;

and in applying paragraph (b) above account shall be taken of any early release or additional days awarded to the offender before his release.”

- (3) Where a court sentences an offender to imprisonment for a term in respect of a sexual offence committed after the commencement of this Chapter, it shall give a direction under this subsection unless it is of the opinion that there are exceptional circumstances which justify its not doing so.
- (4) Where the court does not give a direction under subsection (3) above, it shall state in open court that it is of that opinion and what the exceptional circumstances are.
- (5) A direction under subsection (3) above shall direct that the offender’s release supervision period shall be such period as is specified in the direction.
- (6) The period so specified shall be—
- (a) a period equal to 50 per cent of the offender’s term of imprisonment (rounded up to the nearest whole day) or a period of twelve months, whichever is the longer; or
  - (b) if the court considers a longer period necessary for the purpose of preventing the commission by the offender of further offences and of securing his rehabilitation, such longer period, not exceeding ten years, as it may determine.

## **21 Violent offenders.**

- (1) Subsection (2) below applies where—
- (a) there is released under this Chapter an offender who has been sentenced to imprisonment for a term of three years or more in respect of a violent offence committed after the commencement of this Chapter; and
  - (b) the court by which he was so sentenced gave a direction under subsection (3) below.
- (2) Section 16 above shall have effect in relation to the offender as if for subsection (2) there were substituted the following subsection—
- “(2) On his release, the offender shall be subject to a release supervision order—
- (a) where he is released otherwise than under section 10 above, for such period as is specified in the direction under section 21(3) below;
  - (b) where he is released under section 10 above, for a period equal to the aggregate of—
    - (i) the period mentioned in paragraph (a) above; and
    - (ii) a period equal to so much of the remainder of his term as he would have been liable to serve but for his release under section 10 above.”
- (3) Where a court sentences an offender to imprisonment for a term of three years or more in respect of a violent offence committed after the commencement of this Chapter, it may give a direction under this subsection if it considers a longer release supervision

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period necessary for the purpose of preventing the commission by the offender of further offences and of securing his rehabilitation.

- (4) A direction under subsection (3) above shall direct that the offender's release supervision period shall be such period, not more than 50 per cent of the offender's term of imprisonment, as is specified in the direction.
- (5) In this section "violent offence" has the same meaning as in Part I of the 1991 Act.

## 22 **Mentally disordered offenders.**

- (1) Subject to subsection (3) below, sections 9 and 13 above apply to persons—
- (a) remanded to hospital under section 35 or 36 (remands to hospital) of the <sup>M17</sup>Mental Health Act 1983 ("the 1983 Act");
  - (b) admitted to hospital under section 38 of that Act (interim hospital orders); or
  - (c) removed to hospital under section 48 of that Act (removal to hospital),
- as they apply to persons remanded in or committed to custody by an order of a court.
- (2) In the case of a prisoner who for any period is detained in a hospital under section 45A of the 1983 Act (power of courts to direct hospital admission), or under section 47 (removal of prisoners to hospital) and section 49 (restriction on discharge of prisoners removed to hospital) of that Act—
- (a) section 11 above shall apply as if references to the prescribed person in subsections (2) and (3) were references to the Secretary of State and subsection (6) were omitted; and
  - (b) the Secretary of State shall assume, for the purposes of subsection (2) or (3) of that section as so modified, that during that period—
    - (i) the prisoner had been in prison; and
    - (ii) his behaviour had been such as to entitle him to the maximum number of early release days available under that subsection.
- (3) In the case of an accused who for any period is a person to whom section 13 above applies by virtue of subsection (1) above—
- (a) that section shall apply as if references to the prescribed person in section 11(2) and (3) above as modified by section 13(2) above were references to the Secretary of State; and
  - (b) the Secretary of State shall assume, for the purposes of section 11(2) or (3) above as modified by section 13(2) above, that during that period—
    - (i) the accused had been in prison; and
    - (ii) his behaviour had been such as to entitle him to the maximum number of early release days available under that subsection.
- (4) Where, immediately before the expiration of his sentence, a prisoner is detained in a hospital under section 45A of the 1983 Act, or under section 47 and 49 of that Act, section 16 above shall have effect as if—
- (a) the prisoner had been released on the expiration of his sentence;
  - (b) the reference in subsection (3)(a) to supervision by a probation officer included a reference to supervision by a social worker of a local authority social services department;
  - (c) the reference in subsection (4)(a) to an approved probation hostel included a reference to any hostel or home whose residents are subject to supervision; and



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(d) subsection (4)(b) were omitted.

(5) In this section references to the expiration of the prisoner’s sentence shall be construed in accordance with subsection (3) of section 50 of the 1983 Act (prisoners under sentence).

**Marginal Citations**

M17 1983 c.20.

**23 Fine defaulters and contemnors.**

This Chapter (except sections 16 to 18 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 Chapter to prisoners, or to prison or imprisonment, shall be construed accordingly.

**24 Persons liable to removal from the United Kingdom.**

(1) In relation to an offender who is liable to removal from the United Kingdom—

- (a) section 12 above shall have effect as if, in subsection (2), for the words “shall, if recommended to do so by the Parole Board,” there were substituted the word “ may ”; and
- (b) section 16 above shall have effect as if, in subsection (2), for the words “On his release, the offender shall” there were substituted the words “ If the Secretary of State thinks fit, the offender shall, on his release, ”.

(2) An offender 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 <sup>M18</sup>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.

**Marginal Citations**

M18 1971 c.77.

**25 Persons extradited to the United Kingdom.**

(1) A 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

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- (ii) without having first been restored or had an opportunity of leaving the United Kingdom; and
  - (b) he was 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, this Chapter shall have effect in relation to him as if a number of days specified in the order were a number of days in relation to which a direction under section 9 above had been given.
- (3) The number of days that may be so specified is such number as in the opinion of the court is just in all the circumstances and does not exceed the number of days for which he was kept in custody as 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 <sup>M19</sup>Extradition Act 1989;
    - (iii) under that Act as extended to a colony or under any corresponding law of a colony;
    - (iv) in pursuance of a warrant of arrest endorsed in the Republic of Ireland under the law of that country corresponding to the <sup>M20</sup>Backing of Warrants (Republic of Ireland) Act 1965; or
    - (v) in pursuance of arrangements with a foreign state in respect of which an Order in Council under section 2 of the <sup>M21</sup>Extradition Act 1870 is in force;
  - “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.

#### **Marginal Citations**

**M19** 1989 c.33.

**M20** 1965 c.45.

**M21** 1970 c.52.

### *Supplemental*

#### **26 Continuity of sentencing.**

- (1) This section has effect for the purpose of securing that, where a person is sentenced to a term of imprisonment in respect of an offence—
- (a) to which this section applies; and
  - (b) which is committed after the commencement of this Chapter,
- he serves approximately the same time in prison as he would have served if the offence had been committed immediately before that commencement.

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- (2) Subject to sections 3(2) and 4(2) above, the court by which a person is so sentenced at any time shall impose a term which is equal to two-thirds of the term which, at that time, it would have considered to be appropriate if the offence had been so committed.
- (3) This section applies to any offence other than one—
  - (a) which did not subsist, or was not punishable with imprisonment, immediately before the commencement of this Chapter; or
  - (b) for which the maximum sentence of imprisonment that may be imposed has been varied after that commencement.

## 27 Interpretation of Chapter I.

- (1) In this Chapter—
  - “court”, except in sections 9, 17 and 19 above, includes a court-martial and a Standing Civilian Court;
  - “prescribed” means prescribed by prison rules;
  - “prison rules” means rules made under section 47 of the <sup>M22</sup>Prison Act 1952;
  - “prisoner” has the meaning given by section 8(2) above;
  - “sentence of imprisonment” does not include a committal—
    - (a) in default of payment of any sum of money;
    - (b) for want of sufficient distress to satisfy any sum of money; or
    - (c) for failure to do or abstain from doing anything required to be done or left undone;
  - and cognate expressions shall be construed accordingly;
  - “sexual offence” has the same meaning as in Part I of the 1991 Act.
- (2) Subject to subsections (3) and (4) below, for the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which a person has been or could be sentenced, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.
- (3) Subsection (4) below applies where—
  - (a) an offender sentenced to two or more concurrent or consecutive terms of imprisonment is released from prison; and
  - (b) a direction was given under section 20(3) or 21(3) above in respect of one or more of those terms.
- (4) The offender’s release supervision period shall be equal to the aggregate of the following, namely—
  - (a) the period which would be applicable if he had been sentenced only to the term or terms in respect of which such a direction was given; and
  - (b) the period which would be applicable if he had not been sentenced to the following, namely—
    - (i) the term or terms mentioned in paragraph (a) above; and
    - (ii) so much of any other term as was concurrent with, or with any part of, the term or any of the terms so mentioned.

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- (5) Any order, rules or prison rules made under or by virtue of this Chapter may make such incidental, supplemental and consequential provisions as may appear to the Secretary of State to be necessary or expedient.

**Marginal Citations**

M22 1952 c.52.

**CHAPTER II**

LIFE SENTENCES

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

C6 Pt. II Ch. II excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 3(1)** (with s. 78); S.I. 2001/2161, **art. 2**

*Release on licence*

**28 Duty to release certain life prisoners.**

- (1) A life prisoner is one to whom this section applies if—
- (a) the conditions mentioned in subsection (2) below are fulfilled; or
  - (b) he was under 18 at the time when he committed the offence for which his sentence was imposed.
- (2) The conditions referred to in subsection (1)(a) above are—
- (a) that the prisoner’s sentence was imposed for an offence the sentence for which is not fixed by law; and
  - (b) that the court by which he was sentenced for that offence ordered that this section should apply to him as soon as he had served a part of his sentence specified in the order.
- (3) A part of a sentence specified in an order under subsection (2)(b) above shall be such part as the court considers appropriate taking into account—
- (a) the seriousness of the offence, or the combination of the offence and other offences associated with it; and
  - (b) the effect of any direction which it would have given under section 9 above if it had sentenced him to a term of imprisonment.
- (4) Where in the case of a life prisoner to whom this section applies the conditions mentioned in subsection (2) above are not fulfilled, the Secretary of State shall direct that this section shall apply to him as soon as he has served a part of his sentence specified in the direction.
- (5) As soon as, in the case of a life prisoner to whom this section applies—
- (a) he has served the part of his sentence specified in the order or direction (“the relevant part”); and
  - (b) the Parole Board has directed his release under this section,

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

- (6) The Parole Board shall not give a direction under subsection (5) above with respect to a life prisoner to whom this section applies unless—
- (a) the Secretary of State has referred the prisoner’s case to the Board; and
  - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (7) A life prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole Board at any time—
- (a) after he has served the relevant part of his sentence; and
  - (b) where there has been a previous reference of his case to the Board, after the end of the period of two years beginning with the disposal of that reference; and
  - (c) where he is also serving a sentence of imprisonment or detention for a term, after the time when, but for his life sentence, he would be entitled to be released;
- and in this subsection “previous reference” means a reference under subsection (6) above or section 32(4) below.
- (8) In determining for the purpose of subsection (5) or (7) above whether a life prisoner to whom this section applies has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large within the meaning of section 49 of the <sup>M23</sup>Prison Act 1952.
- (9) An offence is associated with another for the purposes of this section if it is so associated for the purposes of Part I of the 1991 Act.

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**Marginal Citations**

**M23** 1952 c.52.

**29 Power to release other life prisoners.**

- (1) If recommended to do so by the Parole Board, the Secretary of State may, after consultation with the Lord Chief Justice together with the trial judge if available, release on licence a life prisoner who is not one to whom section 28 above applies.
- (2) The Parole Board shall not make a recommendation under subsection (1) above unless the Secretary of State has referred the particular case, or the class of case to which that case belongs, to the Board for its advice.

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

- C7** S. 29: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), **Sch. 4 Pt. I para. 1(1)**
- C8** S. 29(1) modified (*prosp.*) by 1984 c. 47, **Sch. para. 2** (as modified by 1997 c. 43, ss. 42, 57(2), **Sch. 2 paras. 4(1)(5)**)

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### 30 Power to release life prisoners on compassionate grounds.

- (1) The Secretary of State may at any time release a life prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.
- (2) Before releasing a life prisoner under subsection (1) above, the Secretary of State shall consult the Parole Board, unless the circumstances are such as to render such consultation impracticable.

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

- C9** S. 30: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. I para. 1(1)

#### *Licences and recall*

### 31 Duration and conditions of licences.

- (1) Where a life prisoner is released on licence, the licence shall, unless previously revoked under section 32(1) or (2) below, remain in force until his death.
- (2) A life prisoner subject to a licence shall comply with such conditions (which shall include on his release conditions as to his supervision by a probation officer) 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.
- (3) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a life prisoner, or vary or cancel any such condition, except—
  - (a) in the case of the inclusion of a condition in the licence of a life prisoner to whom section 28 above applies, in accordance with recommendations of the Parole Board; and
  - (b) in any other case, after consultation with the Board.
- (4) For the purposes of subsection (3) above, the Secretary of State shall be treated as having consulted the Parole Board about a proposal to include, insert, vary or cancel 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.
- (5) 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.
- (6) In relation to a life prisoner who is liable to removal from the United Kingdom (within the meaning given by section 24(2) above), subsection (2) above shall have effect as if the words in parentheses were omitted.

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

- C10** S. 31(6) modified (1.1.1998) by S.I. 1997/2200, art. 5(3)(a)  
 S. 31(6) modified (19.9.1998) by S.I. 1998/2327, art. 5(1)(b).

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### **32 Recall of life prisoners while on licence.**

- (1) If recommended to do so by the Parole Board in the case of a life prisoner who has been released on licence under this Chapter, the Secretary of State may revoke his licence and recall him to prison.
- (2) The Secretary of State may revoke the licence of any life prisoner and recall him to prison without a recommendation by the Parole Board, where it appears to him that it is expedient in the public interest to recall that person before such a recommendation is practicable.
- (3) A life prisoner recalled to prison under subsection (1) or (2) above—
  - (a) may make representations in writing with respect to his recall; and
  - (b) on his return to prison, shall be informed of the reasons for his recall and of his right to make representations.
- (4) The Secretary of State shall refer to the Parole Board—
  - (a) the case of a life prisoner recalled under subsection (1) above who makes representations under subsection (3) above; and
  - (b) the case of a life prisoner recalled under subsection (2) above.
- (5) Where on a reference under subsection (4) above the Parole Board—
  - (a) directs in the case of a life prisoner to whom section 28 above applies; or
  - (b) recommends in the case of any other life prisoner,his immediate release on licence under this section, the Secretary of State shall give effect to the direction or recommendation.
- (6) On the revocation of the licence of any life prisoner under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

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

**C11** S. 32: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. I para. 1

*Miscellaneous and supplemental*

### **33 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) the prisoner's offence had been committed after the commencement of this Chapter; and
  - (b) he had been sentenced for it in England and Wales,the court by which he was so sentenced would have ordered that section 28 above should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) This section also applies where, in the case of a transferred life prisoner, the Secretary of State certifies his opinion that, if—

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**Status:** Point in time view as at 01/10/1997. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Crime (Sentences) Act 1997, Part II is up to date with all changes known to be in force on or before 01 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- (a) the prisoner’s offence had been committed after the commencement of this Chapter; and
  - (b) he had been sentenced for it in England and Wales,
- the Secretary of State would have directed that section 28 above 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 section applies, this Chapter except section 29(1) above shall apply as if—
- (a) the transferred life prisoner were a life prisoner to whom section 28 above applies; and
  - (b) the relevant part of his sentence within the meaning of section 28 above 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 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 paragraph 1 of Schedule 1 to this Act or section 2 of the <sup>M24</sup>Colonial Prisoners Removal Act 1884; or
    - (ii) a warrant issued by the Secretary of State under the <sup>M25</sup>Repatriation of Prisoners Act 1984,
 there to serve his sentence or sentences or the remainder of his sentence or sentences.
- (5) A person who is required so to serve the whole or part of two or more such sentences shall not be treated as a life prisoner to whom section 28 above applies unless the requirements of subsection (1) or (2) above are satisfied as respects each of those sentences; and subsections (5) and (7) of section 28 above shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

#### Marginal Citations

**M24** 1884 c.31.

**M25** 1984 c.47.

## 34 Interpretation of Chapter II.

- (1) In this Chapter “life prisoner” means a person serving one or more life sentences; but—
- (a) a person serving two or more such sentences shall not be treated as a life prisoner to whom section 28 above applies unless the requirements of section 28(1) above are satisfied as respects each of those sentences; and
  - (b) subsections (5) and (7) of that section shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.
- (2) In this section “life sentence” means any of the following imposed for an offence, whether committed before or after the commencement of this Chapter, namely—
- (a) a sentence of imprisonment for life;
  - (b) a sentence of detention during Her Majesty’s pleasure or for life under section 53 of the 1933 Act; and



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- (c) a sentence of custody for life under section 8 of the 1982 Act.
- (3) In this Chapter “court” includes a court-martial and “trial judge” includes a trial judge advocate; and in subsection (2) above—
- (a) the reference to section 53 of the 1933 Act includes a reference to subsections (3) and (4) of section 71A of the <sup>M26</sup>Army Act 1955 and the <sup>M27</sup>Air Force Act 1955 and section 43A of the <sup>M28</sup>Naval Discipline Act 1957; and
  - (b) the reference to section 8 of the 1982 Act includes a reference to subsections (1A) and (1B) of those sections.

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**Marginal Citations**

**M26** 1955 c.18.

**M27** 1955 c.19.

**M28** 1957 c.53.

**Status:**

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**Changes to legislation:**

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