

*Status: Point in time view as at 14/07/2008.*

*Changes to legislation: Crime (Sentences) Act 1997, SCHEDULE 2 is up to date with all changes known to be in force on or before 22 June 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)*

## SCHEDULES

### SCHEDULE 2

Section 42.

#### REPATRIATION OF PRISONERS TO THE BRITISH ISLANDS

##### *Preliminary*

- 1 Any reference in this Schedule to prisoners repatriated to any part of the United Kingdom is a reference to prisoners transferred there in pursuance of a warrant issued under the <sup>M1</sup>Repatriation of Prisoners Act 1984 (“the 1984 Act”).

##### Marginal Citations

**M1** 1984 c.47.

##### *Prisoners repatriated to England and Wales*

F12 .....

##### Textual Amendments

**F1** Sch. 2 para. 2 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 86, Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 paras. 42\(32\), 44\(4\)\(o\)](#) (with saving in [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1)); and [Sch. 2 para. 2\(2\)](#) (in so far as it continues to have effect in relation to persons to whom it applied before 4.4.2005) amended (9.6.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 33\(2\)](#); [S.I. 2008/1466](#), art. 2(c)(iii)

F23 .....

##### Textual Amendments

**F2** Sch. 2 para. 3 repealed (4.4.2005) by [Criminal Justice Act 2003 \(c. 44\)](#), s. 336(3)(4), [Sch. 32 para. 86, Sch. 37 Pt. 7](#); [S.I. 2005/950](#), art. 2(1), [Sch. 1 paras. 42\(32\), 44\(4\)\(o\)](#) (with saving in [Sch. 2](#)) (as explained (29.7.2005) by [S.I. 2005/2122](#), art. 2; and as amended: (14.7.2008) by [2008 c. 4](#), [Sch. 26 para. 78](#), [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [Sch. 1 paras. 48\(s\), 50\(2\)\(d\)](#); (30.11.2009) by [S.I. 2009/3111](#), art. 2; (3.12.2012) by [S.I. 2012/2905](#), art. 4; (3.12.2012) by [2012 c. 10](#), [Sch. 14 para. 17](#); [S.I. 2012/2906](#), art. 2(1)); and [Sch. 2 para. 3\(2\)](#) (in so far as it continues to have effect in relation to persons to whom it applied before 4.4.2005) amended (9.6.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 33\(3\)](#); [S.I. 2008/1466](#), art. 2(c)(iii)

F34 .....

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#### Textual Amendments

**F3** Sch. 2 para. 4 repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 136, **Sch.10**; S.I. 1998/2327, **art. 2(2)(pp)(3)(x)**.

#### *Prisoners repatriated to Scotland*

- 5 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed before 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
  - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date.
  - [<sup>F4</sup>(c) prisoners detained in Scotland in pursuance of warrants which—
    - (i) are issued by the Scottish Ministers under section 4A of the Repatriation of Prisoners Act 1984 (warrant transferring responsibility for detention and release); and
    - (ii) relate to sentences that were imposed before 1 October 1993.]
- (2) Paragraph 2 of the Schedule to the 1984 Act, as originally enacted, shall have effect, and shall be deemed to have had effect since 16th February 1990, as if—
- (a) in sub-paragraph (1), for the words “section 60 of the Criminal Justice Act 1967” there were substituted the words “ section 22 of the Prisons (Scotland) Act 1989 ”; and
  - (b) at the end there were added the following sub-paragraph—
 

“(3) In this paragraph “sentence” means the provision included in a warrant which is equivalent to a sentence.”

#### Textual Amendments

**F4** Sch. 2 para. 5(1)(c) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), **Sch. 26 para. 33(4)**; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(n)

- 6 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed on or after 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
  - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date and before the commencement of this Schedule.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the omission of sub-paragraph (1A) and the insertion after sub-paragraph (2) of the following sub-paragraphs—
- “(3) The question whether the prisoner is a short-term or long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.

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(4) For the purposes of Schedule 6 to the <sup>M2</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner's sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.

(5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

#### Marginal Citations

M2 1993 c.9.

7 (1) This paragraph applies in relation to prisoners repatriated to Scotland after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed on or after 1st October 1993 [<sup>F5</sup>but before the commencement of section 33 of the Criminal Justice (Scotland) Act 2003 (asp 7)].

(2) In paragraph 2 of the Schedule to the 1984 Act, for sub-paragraphs (1A) and (2) there shall be substituted the following sub-paragraphs—

“(2) If the warrant specifies a period to be taken into account for the purposes of sections 1(3) and 2(2) and (7) of the <sup>M3</sup>Prisoners and Criminal Proceedings (Scotland) Act 1993—

(a) the amount of time the prisoner has served; and

(b) where his sentence is a determinate one, his sentence,

shall, so far only as the question whether he has served any particular proportion or part of his sentence is concerned, be deemed to be increased by that period.

(3) The question whether the prisoner is a long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.

(4) For the purposes of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner's sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.

(5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

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**Textual Amendments**

**F5** Words in Sch. 2 para. 7(1) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 33\(4\)](#), [89\(2\)](#); [S.S.I. 2003/288](#), [art. 2](#), [sch.](#)

**Marginal Citations**

**M3** [1993 c.9](#).

<sup>F6</sup>8 .....

**Textual Amendments**

**F6** [Sch. 2 para. 8](#) repealed (30.9.1998) by [1998 c. 37](#), [ss. 119](#), [120\(2\)](#), [Sch. 8 para. 136](#), [Sch.10](#); [S.I. 1998/2327](#), [art. 2\(2\)\(pp\)\(3\)\(x\)](#).

*Prisoners repatriated to Northern Ireland*

- 9 (1) This paragraph applies in relation to—
  - (a) prisoners repatriated to Northern Ireland before 25th October 1996 who were still serving their sentences on that date; and
  - (b) prisoners repatriated to Northern Ireland on or after that date.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the insertion after sub-paragraph (2) of the following sub-paragraph—
  - “(3) In this paragraph “sentence” means the provision included in the warrant which is equivalent to a sentence.”

<sup>F7</sup>10 .....

**Textual Amendments**

**F7** [Sch. 2 para. 10](#) repealed (8.10.2001) by [S.I. 2001/2565](#), [arts. 1\(2\)](#), [3\(4\)](#); [S.R. 2001/337](#), [art. 2](#)

*Prisoners repatriated to the Islands*

- 11 (1) This paragraph applies where any Order in Council under section 9(4) of the 1984 Act extends the provisions of that Act to any of the Channel Islands or the Isle of Man.
- (2) The modifications of that Act made by the Order may include modifications broadly corresponding to those made by any of paragraphs 1 to 10 above.

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