



# Crime (Sentences) Act 1997

## 1997 CHAPTER 43

### PART II

#### EFFECT OF CUSTODIAL SENTENCES

#### CHAPTER II

#### LIFE SENTENCES

#### *Release on licence*

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

[<sup>F1</sup>]<sup>[F2]</sup>(1A) This section applies to a life prisoner in respect of whom a minimum term order has been made; and any reference in this section to the relevant part of such a prisoner's sentence is a reference to—

- [<sup>F3</sup>(a) the part of the sentence specified in the minimum term order, or
- (b) in a case where one or more reduction orders has been made in relation to the prisoner (see section 27B), the part of the sentence specified in the most recent of those orders.]]

(1B) But if a life prisoner is serving two or more life sentences—

- (a) [<sup>F4</sup>this section does not apply to him] unless [<sup>F5</sup>a minimum term order has been made in respect of each of those sentences]; and
- (b) the provisions of subsections (5) to (8) below do not apply in relation to him until he has served the relevant part of each of them.

(5) As soon as—

- (a) a life prisoner to whom this section applies has served the relevant part of his sentence; and]
- (b) the Parole Board has directed his release under this section,

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

*Changes to legislation: Crime (Sentences) Act 1997, Section 28 is up to date with all changes known to be in force on or before 10 May 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) View outstanding changes*

- (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.

[<sup>F6</sup>(6A) Sections 28A and 28B contain provision that relates to the Parole Board's function of giving directions under subsection (5) for the release of life prisoners.]

- (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;

<sup>F7</sup>(c) .....

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>M1</sup>Prison Act 1952.

[<sup>F8</sup>(8A) In this section “minimum term order” means an order under—

- (a) subsection (2) of section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of minimum term in respect of life sentence that is not fixed by law), or
- (b) subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in respect of mandatory life sentence) [<sup>F9</sup>, or
- (c) subsection (2) of section 321 of the Sentencing Code (life sentence: minimum term order etc).]]

<sup>F10</sup>(9) .....

**Textual Amendments**

- F1** S. 28(1A)(1B)-(5)(a) substituted for s. 28(1)-(5)(a) (30.11.2000 with effect as mentioned in Sch. 7 para. 145 of the substituting Act) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 136(a)**
- F2** S. 28(1A) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), s. 275(1)(2), 336(2)**
- F3** S. 28(1A)(a)(b) substituted for words in s. 28(1A) (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 128(2), 208(5)(l)**
- F4** Words in s. 28(1B)(a) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), ss. 275(3)(a), 336(2)**
- F5** Words in s. 28(1B)(a) substituted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), ss. 275(3)(b), 336(2)**
- F6** S. 28(6A) inserted (4.1.2021) by **Prisoners (Disclosure of Information About Victims) Act 2020 (c. 19), ss. 1(2), 3(2); S.I. 2020/1537, reg. 2**
- F7** S. 28(7)(c) and word omitted (28.6.2022) by virtue of **Police, Crime, Sentencing and Courts Act 2022 (c. 32), ss. 144(1)(a), 208(5)(p)**
- F8** S. 28(8A) inserted (18.12.2003) by **Criminal Justice Act 2003 (c. 44), s. 275(1)(4), 336(2)**

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- F9** S. 28(8A)(c) and word inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 145** (with **Sch. 27**); S.I. 2020/1236, reg. 2
- F10** S. 28(9) repealed (30.11.2000 with effect as mentioned in Sch. 7 para. 145 and notes to Sch. 8 of the repealing Act) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 136(b), **Sch. 8**

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

- C1** S. 28: 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)**
- C2** S. 28 modified (18.12.2003) by Criminal Justice Act 2003 (c. 44), s. 336(2), **Sch. 22 para. 16**
- C3** S. 28(1B) modified (30.11.2000) by 2000 c. 43, ss. 74, 80(3)(d), **Sch. 7 Pt. II para. 146-148**

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**Marginal Citations**

- M1** 1952 c.52.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 28 by 2000 c. 43 Sch. 7 para. 136(a)(b)
- s. 28 by 2000 c. 43 Sch. 8
- s. 28(1B) by 2000 c. 43 Sch. 7 para. 147
- s. 28(7)(c) words substituted by 2015 c. 2 s. 11(1)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 35(5)(c)s. 35(8)(a) by 2000 c. 43 Sch. 7 para. 139(b)
- s. 8(5) by 2000 c. 43 Sch. 7 para. 143