



Crime and Disorder Act 1998

1998 CHAPTER 37

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

106 Pre-consolidation amendments

The enactments mentioned in Schedule 7 to this Act shall have effect subject to the amendments there specified, being amendments designed to facilitate, or otherwise desirable in connection with, the consolidation of certain enactments relating to the powers of courts to deal with offenders or defaulters.

107 Amendments to Chapter I of Part II of 1997 Act

(1) Chapter I of Part II of the 1997 Act (which relates to the effect of determinate custodial sentences) shall be amended as follows.

(2) Sections 8 and 10 to 27 are hereby repealed.

(3) After subsection (7) of section 9 (crediting of periods of remand in custody) there shall be inserted the following subsection—

“(7A) Such rules may make such incidental, supplemental and consequential provisions as may appear to the Secretary of State to be necessary or expedient.”

(4) After subsection (10) of that section there shall be inserted the following subsections—

“(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

Status: This is the original version (as it was originally enacted).

- (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.”

- (5) After that section there shall be inserted the following section—

“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 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 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 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.”

108 Repeal of Chapter I of Part III of Crime and Punishment (Scotland) Act 1997

Chapter I of Part III of the Crime and Punishment (Scotland) Act 1997 (early release of prisoners) shall cease to have effect.

109 Transitional provisions in relation to certain life prisoners

- (1) Section 16 of the Crime and Punishment (Scotland) Act 1997 (designated life prisoners) shall have effect and shall be deemed always to have had effect with the amendments made by subsections (2) and (3) below.
- (2) In subsection (2), at the beginning there shall be inserted the words “Except in a case to which subsection (3A) or (3B) below applies,”.
- (3) After subsection (3) there shall be inserted the following subsections—

“(3A) This subsection applies in a case where a person—

- (a) was sentenced, prior to 20 October 1997, in respect of a murder committed by him before he attained the age of 18 years; and
- (b) has been released on licence, other than under section 3 of the 1993 Act, whether before or on that date.

(3B) This subsection applies in a case where a person—

- (a) was sentenced, prior to 20 October 1997, in respect of a murder committed by him before he attained the age of 18 years; and
- (b) has been released on licence, other than under section 3 of the 1993 Act, after that date without his case having been considered under subsection (2) above.

(3C) In a case to which subsection (3A) or (3B) applies, Part I of the 1993 Act shall apply as if the person were a designated life prisoner, within the meaning of section 2 of that Act, whose licence had been granted under subsection (4) of that section on his having served the designated part of his sentence.”

- (4) Where, prior to the commencement of this section, a certificate has been issued under subsection (2) of section 16 of the Crime and Punishment (Scotland) Act 1997 in respect of a case to which subsection (3A) of that section applies, the certificate shall be disregarded.

110 Calculation of period of detention at customs office etc. where person previously detained

In section 24 of the Criminal Law (Consolidation) (Scotland) Act 1995 (detention and questioning by customs officers), in subsection (4)—

- (a) for the words from “he” to “be” there shall be substituted the words “and is”; and
- (b) after the word “detention” there shall be inserted the words “, the period of six hours mentioned in subsection (2) above shall be reduced by the length of that earlier detention”.

111 Early release in Scotland: two or more sentences

- (1) After section 1 of the 1993 Act there shall be inserted the following section—

“1A Application to persons serving more than one sentence

Where a prisoner has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term by virtue of section 27(5) of this Act—

- (a) nothing in this Part of this Act shall require the Secretary of State to release him in respect of any of the terms unless and until the Secretary of State is required to release him in respect of each of the other terms;
- (b) nothing in this Part of this Act shall require the Secretary of State or the Parole Board to consider his release in respect of any of the terms unless and until the Secretary of State or the Parole Board is required to consider his release, or the Secretary of State is required to release him, in respect of each of the other terms; and

Status: This is the original version (as it was originally enacted).

- (c) where he is released on licence under this Part of this Act, he shall be on a single licence which—
- (i) shall (unless revoked) remain in force until the date on which he would (but for his release) have served in full all the sentences in respect of which he has been so released; and
 - (ii) shall be subject to such conditions as may be specified or required by this Part of this Act in respect of any of the sentences.”
- (2) After subsection (7) of section 16 of the 1993 Act (orders for return to prison on commission of further offence) there shall be inserted the following subsection—
- “(8) Where a prisoner has been sentenced to two or more terms of imprisonment which are wholly or partly concurrent and do not fall to be treated as a single term by virtue of section 27(5) of this Act, the date mentioned in subsection (1) (a) above shall be taken to be that on which he would (but for his release) have served all of the sentences in full.”
- (3) For subsection (5) of section 27 of the 1993 Act (interpretation of Part I) there shall be substituted the following subsection—
- “(5) For the purposes of any reference, however expressed, in this Part of this Act to the term of imprisonment or other detention to which a person has been sentenced or which, or any part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—
- (a) the sentences were passed at the same time; or
 - (b) where the sentences were passed at different times, the person has not been released under this Part of this Act at any time during the period beginning with the passing of the first sentence and ending with the passing of the last.”
- (4) In sub-paragraph (1) of paragraph 6B of Schedule 6 to the 1993 Act (aggregation of old and new sentences)—
- (a) for the words “a prisoner” there shall be substituted the words “an existing prisoner”;
 - (b) the word “and” after head (a) shall cease to have effect;
 - (c) in head (b), for the words “that date” there shall be inserted the words “the date on which section 111 of the Crime and Disorder Act 1998 comes into force”; and
 - (d) after head (b) there shall be inserted the following—
- “; 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.”
- (5) After that paragraph there shall be inserted the following paragraph—
- (1) This paragraph applies where—

Status: This is the original version (as it was originally enacted).

- (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.”
- (6) Subject to subsection (7) below, the amendments made by subsections (1) to (5) above apply where one or more of the sentences concerned was passed after the commencement of this section.
- (7) Where the terms of two or more sentences passed before the commencement of this section have been treated, by virtue of section 27(5) of, or paragraph 6B of Schedule 6 to, the 1993 Act, as a single term for the purposes of Part I of that Act, they shall continue to be so treated after that commencement.

Status: This is the original version (as it was originally enacted).

- (8) In relation to a prisoner released on licence at any time under section 16(7)(b) of the 1993 Act, section 17(1)(a) of that Act shall have effect as if after the word “Act” there were inserted the words “or a short term prisoner has been released on licence by virtue of section 16(7)(b) of this Act”.

112 Restriction on consecutive sentences for released prisoners: Scotland

After section 204 of the 1995 Act there shall be inserted the following section—

“204A Restriction on consecutive sentences for released prisoners

A court sentencing a person to imprisonment or other detention shall not order or direct that the term of imprisonment or detention shall commence on the expiration of any other such sentence from which he has been released at any time under the existing or new provisions within the meaning of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993.”

113 Deputy authorising officer under Part III of Police Act 1997

- (1) In subsection (1) of section 94 of the Police Act 1997 (authorisations given in absence of authorising officer), for the words “(f) or (g)” there shall be substituted the words “(f), (g) or (h)”.
- (2) In subsection (3) of that section, for paragraphs (a) and (b) there shall be substituted the words “he holds the rank of assistant chief constable in that Service or Squad”.
- (3) In subsection (4) of that section, the word “and” immediately preceding paragraph (c) shall cease to have effect and after that paragraph there shall be inserted the words “and
- (d) in the case of an authorising officer within paragraph (h) of section 93(5), means the customs officer designated by the Commissioners of Customs and Excise to act in his absence for the purposes of this paragraph.”