



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

### CHAPTER 6

#### RELEASE ON LICENCE

#### *Preliminary*

#### **237 Meaning of “fixed-term prisoner”**

- (1) In this Chapter “fixed-term prisoner” means—
- a person serving a sentence of imprisonment for a determinate term, or
  - a person serving a determinate sentence of detention under section 91 of the Sentencing Act or under section 228 of this Act.
- (2) In this Chapter, unless the context otherwise requires, “prisoner” includes a person serving a sentence falling within subsection (1)(b); and “prison” includes any place where a person serving such a sentence is liable to be detained.

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#### **Commencement Information**

- II** S. 237 wholly in force at 4.4.2005; s. 237 not in force at Royal Assent, see s. 336(3); s. 237 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 237 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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### Power of court to recommend licence conditions

VALID FROM 04/04/2005

#### 238 Power of court to recommend licence conditions for certain prisoners

- (1) A court which sentences an offender to a term of imprisonment of twelve months or more in respect of any offence may, when passing sentence, recommend to the Secretary of State particular conditions which in its view should be included in any licence granted to the offender under this Chapter on his release from prison.
- (2) In exercising his powers under section 250(4)(b) in respect of an offender, the Secretary of State must have regard to any recommendation under subsection (1).
- (3) A recommendation under subsection (1) is not to be treated for any purpose as part of the sentence passed on the offender.
- (4) This section does not apply in relation to a sentence of detention under section 91 of the Sentencing Act or section 228 of this Act.

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

- C1** S. 238(1) modified (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 262, 383](#) (with [s. 271\(1\)](#)); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

#### Commencement Information

- I2** S. 238 wholly in force at 4.4.2005, see [s. 336\(3\)](#) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### 239 The Parole Board

- (1) The Parole Board is to continue to be, by that name, a body corporate and as such is—
  - (a) to be constituted in accordance with this Chapter, and
  - (b) to have the functions conferred on it by this Chapter in respect of fixed-term prisoners and by Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (c. 43) (in this Chapter referred to as “the 1997 Act”) in respect of life prisoners within the meaning of that Chapter.
- (2) It is the duty of the Board to advise the Secretary of State with respect to any matter referred to it by him which is to do with the early release or recall of prisoners.
- (3) The Board must, in dealing with cases as respects which it makes recommendations under this Chapter or under Chapter 2 of Part 2 of the 1997 Act, consider—
  - (a) any documents given to it by the Secretary of State, and
  - (b) any other oral or written information obtained by it;
 and if in any particular case the Board thinks it necessary to interview the person to whom the case relates before reaching a decision, the Board may authorise one of its members to interview him and must consider the report of the interview made by that member.

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- (4) The Board must deal with cases as respects which it gives directions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act on consideration of all such evidence as may be adduced before it.
- (5) Without prejudice to subsections (3) and (4), the Secretary of State may make rules with respect to the proceedings of the Board, including proceedings authorising cases to be dealt with by a prescribed number of its members or requiring cases to be dealt with at prescribed times.
- (6) The Secretary of State may also give to the Board directions as to the matters to be taken into account by it in discharging any functions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act; and in giving any such directions the Secretary of State must have regard to—
  - (a) the need to protect the public from serious harm from offenders, and
  - (b) the desirability of preventing the commission by them of further offences and of securing their rehabilitation.
- (7) Schedule 19 shall have effect with respect to the Board.

#### Commencement Information

- I3** S. 239 wholly in force at 4.4.2005; s. 239 not in force at Royal Assent, see s. 336(3); s. 239 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 239(5)(6) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 239 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

#### *Effect of remand in custody*

VALID FROM 07/03/2005

#### **240 Crediting of periods of remand in custody: terms of imprisonment and detention**

- (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 (within the meaning given by section 242) 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), the court must direct that the number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by him as part of the sentence.
- (4) Subsection (3) does 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), 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), 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), or
  - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.
- (7) For the purposes of this section a suspended sentence—
- (a) is to be treated as a sentence of imprisonment when it takes effect under paragraph 8(2)(a) or (b) of Schedule 12, and
  - (b) is to be treated as being imposed by the order under which it takes effect.
- (8) For the purposes of the reference in subsection (3) to the term of imprisonment to which a person has been sentenced (that is to say, the reference to his “sentence”), consecutive terms and terms which are wholly or partly concurrent are to 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 this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- (9) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of subsection (1) to have been committed on the last of those days.
- (10) This section applies to a determinate sentence of detention under section 91 of the Sentencing Act or section 228 of this Act as it applies to an equivalent sentence of imprisonment.

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

- C2** S. 240 modified (31.10.2009) by The Armed Forces (Civilian Courts Dealing with Service Offences) (Modification of the Criminal Justice Act 2003) Regulations (S.I. 2009/2042), {regs. 7}, 10
- C3** S. 240(1) modified (31.10.2009) by The Armed Forces (Civilian Courts Dealing with Service Offences) (Modification of the Criminal Justice Act 2003) Regulations (S.I. 2009/2042), {regs. 5}, 10
- C4** S. 240(2)(a) modified (31.10.2009) by The Armed Forces (Civilian Courts Dealing with Service Offences) (Modification of the Criminal Justice Act 2003) Regulations (S.I. 2009/2042), {regs. 6}, 10
- C5** S. 240(5)(a) modified (31.10.2009) by The Armed Forces (Civilian Courts Dealing with Service Offences) (Modification of the Criminal Justice Act 2003) Regulations (S.I. 2009/2042), {regs. 8}, 10

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- C6** S. 240(6) modified (31.10.2009) by The Armed Forces (Civilian Courts Dealing with Service Offences) (Modification of the Criminal Justice Act 2003) Regulations (S.I. 2009/2042), {regs. 9}, 10

#### Commencement Information

- I4** S. 240 wholly in force at 4.4.2005; s. 240 not in force at Royal Assent see s. 336(3); s. 240(4)(a) in force at 7.3.2005 by S.I. 2005/373, art. 2; s. 240 in force at 4.4.2005 in so far as it is already not in force by S.I. 2005/950, art. 2(1), Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

VALID FROM 03/11/2008

### [<sup>F1</sup>240A Crediting periods of remand on bail: terms of imprisonment and detention

- (1) This section applies where—
  - (a) a court sentences an offender to imprisonment for a term in respect of an offence committed on or after 4th April 2005,
  - (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
  - (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition (“the relevant conditions”).
- (2) Subject to subsection (4), the court must direct that the credit period is to count as time served by the offender as part of the sentence.
- (3) The “credit period” is the number of days represented by half of the sum of—
  - (a) the day on which the offender's bail was first subject to conditions that, had they applied throughout the day in question, would have been relevant conditions, and
  - (b) the number of other days on which the offender's bail was subject to those conditions (excluding the last day on which it was so subject),rounded up to the nearest whole number.
- (4) Subsection (2) does not apply if and to the extent that—
  - (a) rules made by the Secretary of State so provide, 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 as a result of paragraph (a) or (b) of subsection (4) the court does not give a direction under subsection (2), it may give a direction in accordance with either of those paragraphs to the effect that a period of days which is less than the credit period is to count as time served by the offender as part of the sentence.
- (6) Rules made under subsection (4)(a) may, in particular, make provision in relation to—
  - (a) sentences of imprisonment for consecutive terms;
  - (b) sentences of imprisonment for terms which are wholly or partly concurrent;
  - (c) periods during which a person granted bail subject to the relevant conditions is also subject to electronic monitoring required by an order made by a court or the Secretary of State.

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- (7) In considering whether it is of the opinion mentioned in subsection (4)(b) the court must, in particular, take into account whether or not the offender has, at any time whilst on bail subject to the relevant conditions, broken either or both of them.
- (8) Where the court gives a direction under subsection (2) or (5) it shall state in open court—
- (a) the number of days on which the offender was subject to the relevant conditions, and
  - (b) the number of days in relation to which the direction is given.
- (9) Subsection (10) applies where the court—
- (a) does not give a direction under subsection (2) but gives a direction under subsection (5), or
  - (b) decides not to give a direction under this section.
- (10) The court shall state in open court—
- (a) that its decision is in accordance with rules made under paragraph (a) of subsection (4), or
  - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.
- (11) Subsections (7) to (10) of section 240 apply for the purposes of this section as they apply for the purposes of that section but as if—
- (a) in subsection (7)—
    - (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of the Sentencing Act relates;
    - (ii) in paragraph (a) after “Schedule 12” there were inserted or section 119(1)(a) or (b) of the Sentencing Act; and
  - (b) in subsection (8) the reference to subsection (3) of section 240 is to be read as a reference to subsection (2) of this section and, in paragraph (b), after “Chapter” there were inserted or Part 2 of the Criminal Justice Act 1991.
- (12) In this section—
- “electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person's compliance with a qualifying curfew condition;
- “qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; and
- “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.]

#### Textual Amendments

- F1** S. 240A inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 21\(4\)](#), 153; [S.I. 2008/2712](#), [art. 2](#), [Sch. para. 1](#) (subject to [arts. 3, 4](#))

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

- C7** S. 240A(2) excluded (3.11.2008) by The Remand on [Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), [art. 2](#)
- C8** S. 240A(2) excluded (3.11.2008) by The Remand on [Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), [art. 3](#)
- C9** S. 240A(2) excluded (3.11.2008) by The Remand on [Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), [art. 4](#)

**241 Effect of direction under section 240 on release on licence**

- (1) In determining for the purposes of this Chapter or Chapter 3 (prison sentences of less than twelve months) whether a person to whom a direction under section 240 relates—
- (a) has served, or would (but for his release) have served, a particular proportion of his sentence, or
- (b) has served a particular period,
- the number of days specified in the direction are to be treated as having been served by him as part of that sentence or period.
- (2) In determining for the purposes of section 183 (intermittent custody) whether any part of a sentence to which an intermittent custody order relates is a licence period, the number of custodial days, as defined by subsection (3) of that section, is to be taken to be reduced by the number of days specified in a direction under section 240.

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

- C10** S. 241 modified (26.1.2004) by [The Intermittent Custody \(Transitory Provisions\) Order 2003 \(S.I. 2003/3283\)](#), [art. 3](#)

**Commencement Information**

- I5** S. 241 wholly in force 4.4.2005; s. 241 not in force at Royal Assent, see s. 336(3); s. 241 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 241 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

**242 Interpretation of sections 240 and 241**

- (1) For the purposes of sections 240 and 241, the definition of “sentence of imprisonment” in section 305 applies as if for the words from the beginning of the definition to the end of paragraph (a) there were substituted—
- ““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 on a conviction,”;
- and references in those sections to sentencing an offender to imprisonment, and to an offender’s sentence, are to be read accordingly.
- (2) References in sections 240 and 241 to an offender’s being remanded in custody are references to his being—

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- (a) remanded in or committed to custody by order of a court,
  - (b) remanded or committed to local authority accommodation under section 23 of the Children and Young Persons Act 1969 (c. 54) and kept in secure accommodation or detained in a secure training centre pursuant to arrangements under subsection (7A) of that section, or
  - (c) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983 (c. 20).
- (3) In subsection (2), “secure accommodation” has the same meaning as in section 23 of the Children and Young Persons Act 1969.

#### Commencement Information

- I6** S. 242 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 243 Persons extradited to the United Kingdom.

- (1) A fixed-term 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
    - (ii) without having first been restored or had an opportunity of leaving the United Kingdom, and
  - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a).
- (2) In the case of an extradited prisoner, section 240 has effect as if the days for which he was kept in custody while awaiting extradition were days for which he was remanded in custody in connection with the offence, or any other offence the charge for which was founded on the same facts or evidence.
- (3) <sup>F2</sup> .....

#### Textual Amendments

- F2** S. 243(3) repealed (27.7.2004) by [The Extradition Act 2003 \(Repeals\) Order 2004 \(S.I. 2004/1897\)](#), [art. 3](#)

### Release on licence

### 244 Duty to release prisoners

- (1) As soon as a fixed-term prisoner, other than a prisoner to whom section 247 applies, has served the requisite custodial period, it is the duty of the Secretary of State to release him on licence under this section.
- (2) Subsection (1) is subject to section 245.
- (3) In this section “the requisite custodial period” means—



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- (a) in relation to a person serving a sentence of imprisonment for a term of twelve months or more or any determinate sentence of detention under section 91 of the Sentencing Act, one-half of his sentence,
- (b) in relation to a person serving a sentence of imprisonment for a term of less than twelve months (other than one to which an intermittent custody order relates), the custodial period within the meaning of section 181,
- (c) in relation to a person serving a sentence of imprisonment to which an intermittent custody order relates, any part of the term which is not a licence period as defined by section 183(3), and
- (d) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).

#### Commencement Information

- I7** S. 244 partly in force; s. 244 not in force at Royal Assent, see s. 336(3); s. 244(1)(2)(3)(c)(d) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 244(1)(2)(3)(a)(d) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 245 Restrictions on operation of section 244(1) in relation to intermittent custody prisoners

- (1) Where an intermittent custody prisoner returns to custody after being unlawfully at large within the meaning of section 49 of the Prison Act 1952 (c. 52) at any time during the currency of his sentence, section 244(1) does not apply until—
  - (a) the relevant time (as defined in subsection (2)), or
  - (b) if earlier, the date on which he has served in prison the number of custodial days required by the intermittent custody order.
- (2) In subsection (1)(a) “the relevant time” means—
  - (a) in a case where, within the period of 72 hours beginning with the return to custody of the intermittent custody prisoner, the Secretary of State or the responsible officer has applied to the court for the amendment of the intermittent custody order under paragraph 6(1)(b) of Schedule 10, the date on which the application is withdrawn or determined, and
  - (b) in any other case, the end of that 72-hour period.
- (3) Section 244(1) does not apply in relation to an intermittent custody prisoner at any time after he has been recalled under section 254, unless after his recall the Board has directed his further release on licence.

#### Commencement Information

- I8** S. 245 partly in force; s. 245 not in force at Royal Assent, see s. 336(3); s. 245 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

### 246 Power to release prisoners on licence before required to do so

- (1) Subject to subsections (2) to (4), the Secretary of State may—
  - (a) release on licence under this section a fixed-term prisoner, other than an intermittent custody prisoner, at any time during the period of 135 days ending

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- with the day on which the prisoner will have served the requisite custodial period, and
- (b) release on licence under this section an intermittent custody prisoner when 135 or less of the required custodial days remain to be served.
- (2) Subsection (1)(a) does not apply in relation to a prisoner unless—
- (a) the length of the requisite custodial period is at least 6 weeks,
- (b) he has served—
- (i) at least 4 weeks of his sentence, and
- (ii) at least one-half of the requisite custodial period.
- (3) Subsection (1)(b) does not apply in relation to a prisoner unless—
- (a) the number of required custodial days is at least 42, and
- (b) the prisoner has served—
- (i) at least 28 of those days, and
- (ii) at least one-half of the total number of those days.
- (4) Subsection (1) does not apply where—
- (a) the sentence is imposed under section 227 or 228,
- (b) the sentence is for an offence under section 1 of the Prisoners (Return to Custody) Act 1995 (c. 16),
- (c) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the Mental Health Act 1983 (c. 20),
- (d) the sentence was imposed by virtue of paragraph 9(1)(b) or (c) or 10(1)(b) or (c) of Schedule 8 in a case where the prisoner has failed to comply with a curfew requirement of a community order,
- (e) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42),
- (f) the prisoner is liable to removal from the United Kingdom,
- (g) the prisoner has been released on licence under this section during the currency of the sentence, and has been recalled to prison under section 255(1)(a),
- (h) the prisoner has been released on licence under section 248 during the currency of the sentence, and has been recalled to prison under section 254, or
- (i) in the case of a prisoner to whom a direction under section 240 relates, the interval between the date on which the sentence was passed and the date on which the prisoner will have served the requisite custodial period is less than 14 days or, where the sentence is one of intermittent custody, the number of the required custodial days remaining to be served is less than 14.
- (5) The Secretary of State may by order—
- (a) amend the number of days for the time being specified in subsection (1)(a) or (b), (3) or (4)(i),
- (b) amend the number of weeks for the time being specified in subsection (2)(a) or (b)(i), and
- (c) amend the fraction for the time being specified in subsection (2)(b)(ii) or (3)(b)(ii).
- (6) In this section—
- “the required custodial days”, in relation to an intermittent custody prisoner, means—

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- (a) the number of custodial days specified under section 183, or
  - (b) in the case of two or more sentences of intermittent custody, the aggregate of the numbers so specified;
- “the requisite custodial period” in relation to a person serving any sentence other than a sentence of intermittent custody, has the meaning given by paragraph (a), (b) or (d) of section 244(3);
- “sentence of intermittent custody” means a sentence to which an intermittent custody order relates.

#### Commencement Information

- 19** S. 246 wholly in force at 4.4.2005; s. 246 not in force at Royal Assent, see s. 336(3); s. 246(1)(b)(3) (4)(b)-(i)(5)(6) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 246(5) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 246 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1](#) para. 19 (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

#### **247 Release on licence of prisoner serving extended sentence under section 227 or 228**

- (1) This section applies to a prisoner who is serving an extended sentence imposed under section 227 or 228.
- (2) As soon as—
  - (a) a prisoner to whom this section applies has served one-half of the appropriate custodial term, and
  - (b) the Parole Board has directed his release under this section,it is the duty of the Secretary of State to release him on licence.
- (3) The Parole Board may not give a direction under subsection (2) unless the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (4) As soon as a prisoner to whom this section applies has served the appropriate custodial term, it is the duty of the Secretary of State to release him on licence unless the prisoner has previously been recalled under section 254.
- (5) Where a prisoner to whom this section applies is released on a licence, the Secretary of State may not by virtue of section 250(4)(b) include, or subsequently insert, a condition in the licence, or vary or cancel a condition in the licence, except after consultation with the Board.
- (6) For the purposes of subsection (5), the Secretary of State is to be treated as having consulted the 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.
- (7) In this section “the appropriate custodial term” means the period determined by the court as the appropriate custodial term under section 227 or 228.

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*Changes to legislation: Criminal Justice Act 2003, Chapter 6 is up to date with all changes known to be in force on or before 31 August 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)*

#### Commencement Information

- I10** S. 247 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

### 248 Power to release prisoners on compassionate grounds

- (1) The Secretary of State may at any time release a fixed-term prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.
- (2) Before releasing under this section a prisoner to whom section 247 applies, the Secretary of State must consult the Board, unless the circumstances are such as to render such consultation impracticable.

#### Commencement Information

- I11** S. 248 wholly in force at 4.4.2005; s. 248 not in force at Royal Assent, see s. 336(3); s. 248(1) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 248 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

### 249 Duration of licence

- (1) Subject to subsections (2) and (3), where a fixed-term prisoner is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force for the remainder of his sentence.
- (2) Where an intermittent custody prisoner is released on licence under section 244, the licence shall, subject to any revocation under section 254, remain in force—
  - (a) until the time when he is required to return to prison at the beginning of the next custodial period of the sentence, or
  - (b) where it is granted at the end of the last custodial period, for the remainder of his sentence.
- (3) Subsection (1) has effect subject to sections 263(2) (concurrent terms) and 264(3) and (4) (consecutive terms).
- (4) In subsection (2) “custodial period”, in relation to a sentence to which an intermittent custody order relates, means any period which is not a licence period as defined by 183(3).

#### Commencement Information

- I12** S. 249 wholly in force at 4.4.2005; s. 249 not in force at Royal Assent, see s. 336(3); s. 249 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 249 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)** Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

### 250 Licence conditions

- (1) In this section—

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- (a) “the standard conditions” means such conditions as may be prescribed for the purposes of this section as standard conditions, and
  - (b) “prescribed” means prescribed by the Secretary of State by order.
- (2) Subject to subsection (6) and section 251, any licence under this Chapter in respect of a prisoner serving one or more sentences of imprisonment of less than twelve months and no sentence of twelve months or more—
- (a) must include—
    - (i) the conditions required by the relevant court order, and
    - (ii) so far as not inconsistent with them, the standard conditions, and
  - (b) may also include—
    - (i) any condition which is authorised by section 62 of the Criminal Justice and Court Services Act 2000 (c. 43) (electronic monitoring) or section 64 of that Act (drug testing requirements) and which is compatible with the conditions required by the relevant court order, and
    - (ii) such other conditions of a kind prescribed for the purposes of this paragraph as the Secretary of State may for the time being consider to be necessary for the protection of the public and specify in the licence.
- (3) For the purposes of subsection (2)(a)(i), any reference in the relevant court order to the licence period specified in the order is, in relation to a prohibited activity requirement, exclusion requirement, residence requirement or supervision requirement, to be taken to include a reference to any other period during which the prisoner is released on licence under section 246 or 248.
- (4) Any licence under this Chapter in respect of a prisoner serving a sentence of imprisonment for a term of twelve months or more (including such a sentence imposed under section 227) or any sentence of detention under section 91 of the Sentencing Act or section 228 of this Act—
- (a) must include the standard conditions, and
  - (b) may include—
    - (i) any condition authorised by section 62 or 64 of the Criminal Justice and Court Services Act 2000, and
    - (ii) such other conditions of a kind prescribed by the Secretary of State for the purposes of this paragraph as the Secretary of State may for the time being specify in the licence.
- (5) A licence under section 246 must also include a curfew condition complying with section 253.
- (6) Where—
- (a) a licence under section 246 is granted to a prisoner serving one or more sentences of imprisonment of less than 12 months and no sentence of 12 months or more, and
  - (b) the relevant court order requires the licence to be granted subject to a condition requiring his compliance with a curfew requirement (as defined by section 204),
- that condition is not to be included in the licence at any time while a curfew condition required by section 253 is in force.

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- (7) The preceding provisions of this section have effect subject to section 263(3) (concurrent terms) and section 264(3) and (4) (consecutive terms).
- (8) In exercising his powers to prescribe standard conditions or the other conditions referred to in subsection (4)(b)(ii), the Secretary of State must have regard to the following purposes of the supervision of offenders while on licence under this Chapter—
- (a) the protection of the public,
  - (b) the prevention of re-offending, and
  - (c) securing the successful re-integration of the prisoner into the community.

#### Commencement Information

**I13** S. 250 partly in force; s. 250 not in force at Royal Assent, see s. 336(3); s. 250(1)-(3)(5)-(8) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 250(1)(2)(b)(ii)(4)(b)(ii)(8) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 250(1)(4)-(7) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 251 Licence conditions on re-release of prisoner serving sentence of less than 12 months

- (1) In relation to any licence under this Chapter which is granted to a prisoner serving one or more sentences of imprisonment of less than twelve months and no sentence of twelve months or more on his release in pursuance of a decision of the Board under section 254 or 256, subsections (2) and (3) apply instead of section 250(2).
- (2) The licence—
- (a) must include the standard conditions, and
  - (b) may include—
    - (i) any condition authorised by section 62 or 64 of the Criminal Justice and Court Services Act 2000 (c. 43), and
    - (ii) such other conditions of a kind prescribed by the Secretary of State for the purposes of section 250(4)(b)(ii) as the Secretary of State may for the time being specify in the licence.
- (3) In exercising his powers under subsection (2)(b)(ii), the Secretary of State must have regard to the terms of the relevant court order.
- (4) In this section “the standard conditions” has the same meaning as in section 250.

#### Commencement Information

**I14** S. 251 partly in force; s. 251 not in force at Royal Assent, see s. 336(3); s. 251 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#)

## 252 Duty to comply with licence conditions

A person subject to a licence under this Chapter must comply with such conditions as may for the time being be specified in the licence.

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

- C11** S. 252 applied (14.7.2008) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 50A(6)(c) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 32(1)**, 153; S.I. 2008/1586, **art. 2**, Sch. 1 para. 32)

#### Commencement Information

- I15** S. 252 wholly in force at 4.4.2005; s. 252 not in force at Royal Assent, see s. 336(3); s. 252 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2**, Sch.; s. 252 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, {art. 2(1)}, Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

### 253 Curfew condition to be included in licence under section 246

- (1) For the purposes of this Chapter, a curfew condition is a condition which—
- requires the released person to remain, for periods for the time being specified in the condition, at a place for the time being so specified (which may be premises approved by the Secretary of State under section 9 of the Criminal Justice and Court Services Act 2000 (c. 43)), and
  - includes requirements for securing the electronic monitoring of his whereabouts during the periods for the time being so specified.
- (2) The curfew condition may specify different places or different periods for different days, but may not specify periods which amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).
- (3) The curfew condition is to remain in force until the date when the released person would (but for his release) fall to be released on licence under section 244.
- (4) Subsection (3) does not apply in relation to a released person to whom an intermittent custody order relates; and in relation to such a person the curfew condition is to remain in force until the number of days during which it has been in force is equal to the number of the required custodial days, as defined in section 246(6), that remained to be served at the time when he was released under section 246.
- (5) The curfew condition must include provision for making a person responsible for monitoring the released person's whereabouts during the periods for the time being specified in the condition; and a person who is made so responsible shall be of a description specified in an order made by the Secretary of State.
- (6) Nothing in this section is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons' whereabouts in any particular part of England and Wales.

#### Commencement Information

- I16** S. 253 wholly in force at 4.4.2005; s. 253 not in force at Royal Assent, see s. 336(3); s. 253 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2**, Sch.; s. 253(5) in force at 7.3.2005 by [S.I. 2005/373](#), **art. 2**; s. 253 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, Sch. 1 para. 19 (subject to [art. 2\(2\)](#), Sch. 2)

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### *Recall after release*

#### **254 Recall of prisoners while on licence**

- (1) The Secretary of State may, in the case of any prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.
- (2) A person recalled to prison under subsection (1)—
  - (a) may make representations in writing with respect to his recall, and
  - (b) on his return to prison, must be informed of the reasons for his recall and of his right to make representations.
- (3) The Secretary of State must refer to the Board the case of a person recalled under subsection (1).
- (4) Where on a reference under subsection (3) relating to any person the Board recommends his immediate release on licence under this Chapter, the Secretary of State must give effect to the recommendation.
- (5) In the case of an intermittent custody prisoner who has not yet served in prison the number of custodial days specified in the intermittent custody order, any recommendation by the Board as to immediate release on licence is to be a recommendation as to his release on licence until the end of one of the licence periods specified by virtue of section 183(1)(b) in the intermittent custody order.
- (6) On the revocation of the licence of any person under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.
- (7) Nothing in subsections (2) to (6) applies in relation to a person recalled under section 255.

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

- C12** S. 254(2) applied (14.7.2008) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 50A(3) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 32(1)** (with [Sch. 27 para. 12](#)), 153; [S.I. 2008/1586](#), **art. 2(1)**, [Sch. 1 para. 18](#))
- C13** S. 254(6) applied (14.7.2008) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 50A(3) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 32(1)** (with [Sch. 27 para. 12](#)), 153; [S.I. 2008/1586](#), **art. 2(1)**, [Sch. 1 para. 18](#))

#### **Commencement Information**

- I17** S. 254 wholly in force at 4.4.2005; s. 254 not in force at Royal Assent, see s. 336(3); s. 254 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), **art. 2**, [Sch.](#); s. 254 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#) (as amended by [S.I. 2005/2122](#), [art. 2](#)))

#### **255 Recall of prisoners released early under section 246**

- (1) If it appears to the Secretary of State, as regards a person released on licence under section 246—
  - (a) that he has failed to comply with any condition included in his licence, or



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- (b) that his whereabouts can no longer be electronically monitored at the place for the time being specified in the curfew condition included in his licence, the Secretary of State may, if the curfew condition is still in force, revoke the licence and recall the person to prison under this section.
- (2) A person whose licence under section 246 is revoked under this section—
- (a) may make representations in writing with respect to the revocation, and
- (b) on his return to prison, must be informed of the reasons for the revocation and of his right to make representations.
- (3) The Secretary of State, after considering any representations under subsection (2)(b) or any other matters, may cancel a revocation under this section.
- (4) Where the revocation of a person’s licence is cancelled under subsection (3), the person is to be treated for the purposes of section 246 as if he had not been recalled to prison under this section.
- (5) On the revocation of a person’s licence under section 246, he is liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.

#### Commencement Information

**I18** S. 255 wholly in force at 4.4.2005; s. 255 not in force at Royal Assent, see s. 336(3); s. 255 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.; s. 255 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

VALID FROM 14/07/2008

#### [<sup>F3</sup>255A Further release after recall: introductory

- (1) This section applies for the purpose of identifying which of sections 255B to 255D governs the further release of a person who has been recalled under section 254 (“the prisoner”).
- (2) The prisoner is eligible to be considered for automatic release unless—
- (a) he is an extended sentence prisoner or a specified offence prisoner;
- (b) in a case where paragraph (a) does not apply, he was recalled under section 254 before the normal entitlement date (having been released before that date under section 246 or 248); or
- (c) in a case where neither of the preceding paragraphs applies, he has, during the same term of imprisonment, already been released under section 255B(1) (b) or (2) or section 255C(2).
- (3) If the prisoner is eligible to be considered for automatic release the Secretary of State must, on recalling him, consider whether he is suitable for automatic release.
- (4) For this purpose “automatic release” means release at the end of the period of 28 days beginning with the date on which the prisoner is returned to prison.
- (5) The person is suitable for automatic release only if the Secretary of State is satisfied that he will not present a risk of serious harm to members of the public if he is released at the end of that period.

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- (6) The prisoner must be dealt with—
- (a) in accordance with section 255B if he is eligible to be considered for automatic release and is suitable for automatic release;
  - (b) in accordance with section 255C if he is eligible to be considered for automatic release but was not considered to be suitable for it;
  - (c) in accordance with section 255C if he is a specified offence prisoner or if he is not eligible to be considered for automatic release by virtue of subsection (2) (b) or (c);
  - (d) in accordance with section 255D if he is an extended sentence prisoner.
- (7) The prisoner is an “extended sentence prisoner” if he is serving an extended sentence imposed under section 227 or 228 of this Act, section 58 of the Crime and Disorder Act 1998 or section 85 of the Powers of Criminal Courts (Sentencing) Act 2000.
- (8) The prisoner is a “specified offence prisoner” if (not being an extended sentence prisoner) he is serving a sentence imposed for a specified offence within the meaning of section 224.
- (9) The reference in subsection (8) to a specified offence (within the meaning of section 224) includes a reference to—
- (a) an offence under section 70 of the Army Act 1955, section 70 of the Air Force Act 1955 or section 42 of the Naval Discipline Act 1957 as respects which the corresponding civil offence (within the meaning of the Act in question) is a specified offence, and
  - (b) an offence under section 42 of the Armed Forces Act 2006 as respects which the corresponding offence under the law of England and Wales (within the meaning given by that section) is a specified offence.
- (10) Section 48 of the Armed Forces Act 2006 (attempts, conspiracy etc.) applies for the purposes of subsection (9)(b) as if the reference in subsection (3)(b) of that section to any of the following provisions of that Act were a reference to subsection (9)(b).
- (11) In subsection (2)(b) the “normal entitlement date” means the date on which the prisoner would (but for his earlier release) have been entitled to be released under section 244.
- (12) For the purposes of subsection (2)(c) terms of imprisonment which are consecutive and terms which are wholly or partly concurrent are to 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 prisoner has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- (13) In subsection (5) “serious harm” means death or serious personal injury, whether physical or psychological.
- (14) In this section, “term of imprisonment” includes a determinate sentence of detention under section 91 of the Sentencing Act or under section 228 of this Act.

#### Textual Amendments

- F3** Ss. 255A-255D inserted (14.7.2008 save insofar as the amending provision inserts subsections (9) and (10) of section 255A and otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#),

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**ss. 29(2)**, 153 (with Sch. 27 para. 11); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 15 (subject to Sch. 2 para. 3); S.I. 2009/2606, **art. 3(c)**

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

- C14** Ss. 255A-256A applied (with modifications) (14.7.2008) by Criminal Justice Act 1991 (c. 53), s. 50A(3)(4) (as inserted by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 32(1)**, 153 (with Sch. 27 para. 12); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 18)
- C15** S. 255A(14) modified (14.7.2008) by The Criminal Justice and Immigration Act 2008 (Transitory Provisions) Order 2008 (S.I. 2008/1587), **art. 3**

VALID FROM 14/07/2008

### 255B Automatic release

- (1) A prisoner who is suitable for automatic release must—
  - (a) on his return to prison, be informed that he will be released under this subsection, and
  - (b) at the end of the 28 day period mentioned in section 255A(4) (or such other period as is specified for the purposes of that subsection), be released by the Secretary of State on licence under this Chapter (unless he has already been released under subsection (2)).
- (2) The Secretary of State may, at any time after a prisoner who is suitable for automatic release is returned to prison, release him again on licence under this Chapter.
- (3) The Secretary of State must not release a person under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that he should remain in prison until the end of the period mentioned in subsection (1) (b).
- (4) If a prisoner who is suitable for automatic release makes representations under section 254(2) before the end of that period, the Secretary of State must refer his case to the Board on the making of those representations.
- (5) Where on a reference under subsection (4) relating to any person the Board recommends his immediate release on licence under this Chapter, the Secretary of State must give effect to the recommendation.
- (6) In the case of an intermittent custody prisoner who has not yet served in prison the number of custodial days specified in the intermittent custody order, any recommendation by the Board as to immediate release on licence is to be a recommendation as to his release on licence until the end of one of the licence periods specified by virtue of section 183(1)(b) in the intermittent custody order.

#### Textual Amendments

- F3** Ss. 255A-255D inserted (14.7.2008 save insofar as the amending provision inserts subsections (9) and (10) of section 255A and otherwise 31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 29(2)**, 153 (with Sch. 27 para. 11); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 15 (subject to Sch. 2 para. 3); S.I. 2009/2606, **art. 3(c)**

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

- C16** Ss. 255A-256A applied (with modifications) (14.7.2008) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 50A(3)(4) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 32(1)**, 153 (with Sch. 27 para. 12); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 18)

VALID FROM 14/07/2008

#### **255C Specified offence prisoners and those not suitable for automatic release**

- (1) This section applies to a prisoner who—
  - (a) is a specified offence prisoner,
  - (b) is not eligible to be considered for automatic release by virtue of section 255A(2)(b) or (c), or
  - (c) was eligible to be considered for automatic release but was not considered to be suitable for it.
- (2) The Secretary of State may, at any time after the person is returned to prison, release him again on licence under this Chapter.
- (3) The Secretary of State must not release a person under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that he should remain in prison.
- (4) The Secretary of State must refer to the Board the case of any person to whom this section applies—
  - (a) if the person makes representations under section 254(2) before the end of the period of 28 days beginning with the date on which he is returned to prison, on the making of those representations, or
  - (b) if, at the end of that period, the person has not been released under subsection (2) and has not made such representations, at that time.
- (5) Where on a reference under subsection (4) relating to any person the Board recommends his immediate release on licence under this Chapter, the Secretary of State must give effect to the recommendation.
- (6) In the case of an intermittent custody prisoner who has not yet served in prison the number of custodial days specified in the intermittent custody order, any recommendation by the Board as to immediate release on licence is to be a recommendation as to his release on licence until the end of one of the licence periods specified by virtue of section 183(1)(b) in the intermittent custody order.

#### **Textual Amendments**

- F3** Ss. 255A-255D inserted (14.7.2008 save insofar as the amending provision inserts subsections (9) and (10) of section 255A and otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 29(2)**, 153 (with Sch. 27 para. 11); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 15 (subject to Sch. 2 para. 3); S.I. 2009/2606, **art. 3(c)**

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

- C17** Ss. 255A-256A applied (with modifications) (14.7.2008) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 50A(3)(4) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 32(1)**, 153 (with Sch. 27 para. 12); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 18)

VALID FROM 14/07/2008

#### 255D Extended sentence prisoners

- (1) The Secretary of State must refer to the Board the case of any extended sentence prisoner.
- (2) Where on a reference under subsection (1) relating to any person the Board recommends his immediate release on licence under this Chapter, the Secretary of State must give effect to the recommendation.]

#### Textual Amendments

- F3** Ss. 255A-255D inserted (14.7.2008 save insofar as the amending provision inserts subsections (9) and (10) of section 255A and otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 29(2)**, 153 (with Sch. 27 para. 11); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 15 (subject to Sch. 2 para. 3); S.I. 2009/2606, **art. 3(c)**

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

- C18** Ss. 255A-256A applied (with modifications) (14.7.2008) by [Criminal Justice Act 1991 \(c. 53\)](#), s. 50A(3)(4) (as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 32(1)**, 153 (with Sch. 27 para. 12); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 18)

#### 256 Further release after recall

- (1) Where on a reference under section 254(3) in relation to any person, the Board does not recommend his immediate release on licence under this Chapter, the Board must either—
  - (a) fix a date for the person's release on licence, or
  - (b) fix a date as the date for the next review of the person's case by the Board.
- (2) Any date fixed under subsection (1)(a) or (b) must not be later than the first anniversary of the date on which the decision is taken.
- (3) The Board need not fix a date under subsection (1)(a) or (b) if the prisoner will fall to be released unconditionally at any time within the next 12 months.
- (4) Where the Board has fixed a date under subsection (1)(a), it is the duty of the Secretary of State to release him on licence on that date.
- (5) On a review required by subsection (1)(b) in relation to any person, the Board may—
  - (a) recommend his immediate release on licence, or
  - (b) fix a date under subsection (1)(a) or (b).

*Status: Point in time view as at 01/03/2005. This version of this chapter contains provisions that are not valid for this point in time.*

**Changes to legislation:** *Criminal Justice Act 2003, Chapter 6 is up to date with all changes known to be in force on or before 31 August 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)*

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

- C19** Ss. 255A-256A applied (with modifications) (14.7.2008) by 1991 (c. 53), s. 50A(3)(4) as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 32(1), 153**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 18

#### Commencement Information

- I19** S. 256 wholly in force at 4.4.2005; s. 256 not in force at Royal Assent, see s. 336(3); s. 256 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 256 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

VALID FROM 14/07/2008

### [<sup>F4</sup>256A Further review

- (1) The Secretary of State must, not later than the first anniversary of a determination by the Board under section 256(1) or subsection (4) below, refer the person's case to the Board.
- (2) The Secretary of State may, at any time before that anniversary, refer the person's case to the Board.
- (3) The Board may at any time recommend to the Secretary of State that a person's case be referred under subsection (2).
- (4) On a reference under subsection (1) or (2), the Board must determine the reference by—
  - (a) recommending the person's immediate release on licence under this Chapter,
  - (b) fixing a date for his release on licence, or
  - (c) making no recommendation as to his release.
- (5) The Secretary of State—
  - (a) where the Board makes a recommendation under subsection (4)(a) for the person's immediate release on licence, must give effect to the recommendation; and
  - (b) where the Board fixes a release date under subsection (4)(b), must release the person on licence on that date.]

#### Textual Amendments

- F4** S. 256A inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 30(6), 153**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 16 (subject to Sch. 2 para. 3)

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

- C20** Ss. 255A-256A applied (with modifications) (14.7.2008) by 1991 (c. 53), s. 50A(3)(4) as inserted by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 32(1), 153**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 18

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### *Additional days*

#### **257 Additional days for disciplinary offences**

- (1) Prison rules, that is to say, rules made under section 47 of the Prison Act 1952 (c. 52), may include provision for the award of additional days—
  - (a) to fixed-term prisoners, or
  - (b) conditionally on their subsequently becoming such prisoners, to persons on remand,who (in either case) are guilty of disciplinary offences.
- (2) Where additional days are awarded to a fixed-term prisoner, or to a person on remand who subsequently becomes such a prisoner, and are not remitted in accordance with prison rules—
  - (a) any period which he must serve before becoming entitled to or eligible for release under this Chapter,
  - (b) any period which he must serve before he can be removed from prison under section 260, and
  - (c) any period for which a licence granted to him under this Chapter remains in force,is extended by the aggregate of those additional days.

#### **Commencement Information**

**I20** S. 257 partly in force; s. 257 not in force at Royal Assent, see s. 336(3); s. 257 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 257(1) in force at 7.3.2005 by [S.I. 2005/373, art. 2](#); s. 257(1)(2)(a)(b) in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

VALID FROM 04/04/2005

### *Fine defaulters and contemnors*

#### **258 Early release of fine defaulters and contemnors**

- (1) This section applies in relation to a person committed to prison—
  - (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.
- (2) As soon as a person to whom this section applies has served one-half of the term for which he was committed, it is the duty of the Secretary of State to release him unconditionally.
- (3) Where a person to whom this section applies is also serving one or more sentences of imprisonment, nothing in this section requires the Secretary of State to release him until he is also required to release him in respect of that sentence or each of those sentences.

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- (4) The Secretary of State may at any time release unconditionally a person to whom this section applies if he is satisfied that exceptional circumstances exist which justify the person's release on compassionate grounds.

#### Commencement Information

- I21** S. 258 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

### *Persons liable to removal from the United Kingdom*

#### **259 Persons liable to removal from the United Kingdom**

For the purposes of this Chapter a person is liable to removal from the United Kingdom if—

- (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 (c. 77) 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,
- (d) he is an illegal entrant within the meaning of section 33(1) of that Act, or
- (e) he is liable to removal under section 10 of the Immigration and Asylum Act 1999 (c. 33).

#### Commencement Information

- I22** S. 259 wholly in force at 4.4.2005; s. 259 not in force at Royal Assent, see s. 336(3); s. 259 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 259 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

PROSPECTIVE

#### **[<sup>F5</sup>259A Persons eligible for removal from the United Kingdom**

- (1) For the purposes of this Chapter, to be “eligible for removal from the United Kingdom” a person must show, to the satisfaction of the Secretary of State, that the condition in subsection (2) is met.
- (2) The condition is that the person has the settled intention of residing permanently outside the United Kingdom if removed from prison under section 260.
- (3) The person must not be one who is liable to removal from the United Kingdom.]

#### Textual Amendments

- F5** S. 259A inserted (prosp.) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 34(2)**, 153



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VALID FROM 07/03/2005

## **260 Early removal of prisoners liable to removal from United Kingdom**

- (1) Subject to subsections (2) and (3), where a fixed-term prisoner is liable to removal from the United Kingdom, the Secretary of State may remove him from prison under this section at any time during the period of 135 days ending with the day on which the prisoner will have served the requisite custodial period.
- (2) Subsection (1) does not apply in relation to a prisoner unless—
  - (a) the length of the requisite custodial period is at least 6 weeks, and
  - (b) he has served—
    - (i) at least 4 weeks of his sentence, and
    - (ii) at least one-half of the requisite custodial period.
- (3) Subsection (1) does not apply where—
  - (a) the sentence is imposed under section 227 or 228,
  - (b) the sentence is for an offence under section 1 of the Prisoners (Return to Custody) Act 1995 (c. 16),
  - (c) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the Mental Health Act 1983 (c. 20),
  - (d) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42), or
  - (e) in the case of a prisoner to whom a direction under section 240 relates, the interval between the date on which the sentence was passed and the date on which the prisoner will have served the requisite custodial period is less than 14 days.
- (4) A prisoner removed from prison under this section—
  - (a) is so removed only for the purpose of enabling the Secretary of State to remove him from the United Kingdom under powers conferred by—
    - (i) Schedule 2 or 3 to the Immigration Act 1971, or
    - (ii) section 10 of the Immigration and Asylum Act 1999 (c. 33), and
  - (b) so long as remaining in the United Kingdom, remains liable to be detained in pursuance of his sentence until he has served the requisite custodial period.
- (5) So long as a prisoner removed from prison under this section remains in the United Kingdom but has not been returned to prison, any duty or power of the Secretary of State under section 244 or 248 is exercisable in relation to him as if he were in prison.
- (6) The Secretary of State may by order—
  - (a) amend the number of days for the time being specified in subsection (1) or (3)(e),
  - (b) amend the number of weeks for the time being specified in subsection (2) (a) or (b)(i), and
  - (c) amend the fraction for the time being specified in subsection (2)(b)(ii).
- (7) In this section “the requisite custodial period” has the meaning given by paragraph (a), (b) or (d) of section 244(3).

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### Commencement Information

- I23** S. 260 wholly in force at 4.4.2005; s. 260 not in force at Royal Assent, see s. 336(3); s. 260(6) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 260 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

VALID FROM 04/04/2005

### 261 Re-entry into United Kingdom of offender removed from prison early

- (1) This section applies in relation to a person who, after being removed from prison under section 260, has been removed from the United Kingdom before he has served the requisite custodial period.
- (2) If a person to whom this section applies enters the United Kingdom at any time before his sentence expiry date, he is liable to be detained in pursuance of his sentence from the time of his entry into the United Kingdom until whichever is the earlier of the following—
  - (a) the end of a period (“the further custodial period”) beginning with that time and equal in length to the outstanding custodial period, and
  - (b) his sentence expiry date.
- (3) A person who is liable to be detained by virtue of subsection (2) is, if at large, to be taken for the purposes of section 49 of the Prison Act 1952 (c. 52) (persons unlawfully at large) to be unlawfully at large.
- (4) Subsection (2) does not prevent the further removal from the United Kingdom of a person falling within that subsection.
- (5) Where, in the case of a person returned to prison by virtue of subsection (2), the further custodial period ends before the sentence expiry date, section 244 has effect in relation to him as if the reference to the requisite custodial period were a reference to the further custodial period.
- (6) In this section—
  - “further custodial period” has the meaning given by subsection (2)(a);
  - “outstanding custodial period”, in relation to a person to whom this section applies, means the period beginning with the date of his removal from the United Kingdom and ending with the date on which he would, but for his removal, have served the requisite custodial period;
  - “requisite custodial period” has the meaning given by paragraph (a), (b) or (d) of section 244(3);
  - “sentence expiry date”, in relation to a person to whom this section applies, means the date on which, but for his removal from the United Kingdom, he would have ceased to be subject to a licence.

### Commencement Information

- I24** S. 261 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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## 262 Prisoners liable to removal from United Kingdom: modifications of Criminal Justice Act 1991

Part 2 of the Criminal Justice Act 1991 (c. 53) (early release of prisoners) shall (until the coming into force of its repeal by this Act) have effect subject to the modifications set out in Schedule 20 (which relate to persons liable to removal from the United Kingdom).

*Consecutive or concurrent terms*

## 263 Concurrent terms

- (1) This section applies where—
  - (a) a person (“the offender”) has been sentenced by any court to two or more terms of imprisonment which are wholly or partly concurrent, and
  - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- (2) Where this section applies—
  - (a) nothing in this Chapter requires the Secretary of State to release the offender in respect of any of the terms unless and until he is required to release him in respect of each of the others,
  - (b) section 244 does not authorise the Secretary of State to release him on licence under that section in respect of any of the terms unless and until that section authorises the Secretary of State to do so in respect of each of the others,
  - (c) on and after his release under this Chapter the offender is to be on licence for so long, and subject to such conditions, as is required by this Chapter in respect of any of the sentences.
- (3) Where the sentences include one or more sentences of twelve months or more and one or more sentences of less than twelve months, the terms of the licence may be determined by the Secretary of State in accordance with section 250(4)(b), without regard to the requirements of any custody plus order or intermittent custody order.
- (4) In this section “term of imprisonment” includes a determinate sentence of detention under section 91 of the Sentencing Act or under section 228 of this Act.

### Commencement Information

**I25** S. 263 wholly in force at 4.4.2005; s. 263 not in force at Royal Assent, see s. 336(3); s. 263 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 263 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 264 Consecutive terms

- (1) This section applies where—
  - (a) a person (“the offender”) has been sentenced to two or more terms of imprisonment which are to be served consecutively on each other, and

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- (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- (2) Nothing in this Chapter requires the Secretary of State to release the offender on licence until he has served a period equal in length to the aggregate of the length of the custodial periods in relation to each of the terms of imprisonment.
- (3) Where any of the terms of imprisonment is a term of twelve months or more, the offender is, on and after his release under this Chapter, to be on licence—
- (a) until he would, but for his release, have served a term equal in length to the aggregate length of the terms of imprisonment, and
- (b) subject to such conditions as are required by this Chapter in respect of each of those terms of imprisonment.
- (4) Where each of the terms of imprisonment is a term of less than twelve months, the offender is, on and after his release under this Chapter, to be on licence until the relevant time, and subject to such conditions as are required by this Chapter in respect of any of the terms of imprisonment, and none of the terms is to be regarded for any purpose as continuing after the relevant time.
- (5) In subsection (4) “the relevant time” means the time when the offender would, but for his release, have served a term equal in length to the aggregate of—
- (a) all the custodial periods in relation to the terms of imprisonment, and
- (b) the longest of the licence periods in relation to those terms.
- (6) In this section—
- (a) “custodial period”—
- (i) in relation to an extended sentence imposed under section 227 or 228, means the appropriate custodial term determined under that section,
- (ii) in relation to a term of twelve months or more, means one-half of the term, and
- (iii) in relation to a term of less than twelve months complying with section 181, means the custodial period as defined by subsection (3) (a) of that section;
- (b) “licence period”, in relation to a term of less than twelve months complying with section 181, has the meaning given by subsection (3)(b) of that section.
- (7) This section applies to a determinate sentence of detention under section 91 of the Sentencing Act or under section 228 of this Act as it applies to a term of imprisonment of 12 months or more.

#### Commencement Information

**I26** S. 264 partly in force; s. 264 not in force at Royal Assent, see s. 336(3); s. 264 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 264(1)-(3)(6)(7) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

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VALID FROM 31/03/2005

### [<sup>F6</sup>264A Consecutive terms: intermittent custody

- (1) This section applies where—
  - (a) a person (“the offender”) has been sentenced to two or more terms of imprisonment which are to be served consecutively on each other,
  - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions, and
  - (c) each of the terms is a term to which an intermittent custody order relates.
- (2) The offender is not to be treated as having served all the required custodial days in relation to any of the terms of imprisonment until he has served the aggregate of all the required custodial days in relation to each of them.
- (3) After the number of days served by the offender in prison is equal to the aggregate of the required custodial days in relation to each of the terms of imprisonment, the offender is to be on licence until the relevant time and subject to such conditions as are required by this Chapter in respect of any of the terms of imprisonment, and none of the terms is to be regarded for any purpose as continuing after the relevant time.
- (4) In subsection (3) “the relevant time” means the time when the offender would, but for his release, have served a term equal in length to the aggregate of—
  - (a) all the required custodial days in relation to the terms of imprisonment, and
  - (b) the longest of the total licence periods in relation to those terms.
- (5) In this section—

“total licence period”, in relation to a term of imprisonment to which an intermittent custody order relates, means a period equal in length to the aggregate of all the licence periods as defined by section 183 in relation to that term;

“the required custodial days”, in relation to such a term, means the number of days specified under that section.]

#### Textual Amendments

- F6** S. 264A inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 31, 60, [Sch. 6 para. 7](#); [S.I. 2005/579](#), art. 3(e)

#### *Restriction on consecutive sentences for released prisoners*

### 265 Restriction on consecutive sentences for released prisoners

- (1) A court sentencing a person to a term of imprisonment may not order or direct that the term is to commence on the expiry of any other sentence of imprisonment from which he has been released early under this Chapter.

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- (2) In this section “sentence of imprisonment” includes a sentence of detention under section 91 of the Sentencing Act or section 228 of this Act, and “term of imprisonment” is to be read accordingly.

#### Commencement Information

- I27** S. 265 wholly in force at 4.4.2005; s. 265 not in force at Royal Assent, see s. 336(3); s. 265 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 265 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to saving in **art. 2(2), Sch. 2 para. 14**) (which saving fell (14.7.2008) by virtue of the amendment of S.I. 2005/950, **Sch. 2 para. 14** by 2008 (c. 4), ss. 148, 153, {Sch. 26 para. 78}); S.I. 2008/1586, **art. 2(1), Sch. 1 para. 48(s)**

PROSPECTIVE

#### *Drug testing requirements*

#### **F7 266 Release on licence etc: drug testing requirements**

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#### Textual Amendments

- F7** S. 266 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 118(2), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, **art. 2(d)**

#### *Supplemental*

VALID FROM 07/03/2005

#### **267 Alteration by order of relevant proportion of sentence**

The Secretary of State may by order provide that any reference in section 244(3) (a), section 247(2) or section 264(6)(a)(ii) to a particular proportion of a prisoner’s sentence is to be read as a reference to such other proportion of a prisoner’s sentence as may be specified in the order.

#### **268 Interpretation of Chapter 6**

In this Chapter—

- “the 1997 Act” means the Crime (Sentences) Act 1997 (c. 43);
- “the Board” means the Parole Board;
- “fixed-term prisoner” has the meaning given by section 237(1);
- “intermittent custody prisoner” means a prisoner serving a sentence of imprisonment to which an intermittent custody order relates;
- “prison” and “prisoner” are to be read in accordance with section 237(2);

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“release”, in relation to a prisoner serving a sentence of imprisonment to which an intermittent custody order relates, includes temporary release;

“relevant court order”, in relation to a person serving a sentence of imprisonment to which a custody plus order or intermittent custody order relates, means that order.

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**Commencement Information**

**I28** S. 268 wholly in force at 4.4.2005; s. 268 not in force at Royal Assent, see s. 336(3); s. 268 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 268 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1](#) para. 19 (subject to [art. 2\(2\)](#), [Sch. 2](#))

**Status:**

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**Changes to legislation:**

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