



Criminal Justice Act 2003

2003 CHAPTER 44

PART 12

SENTENCING

CHAPTER 6

RELEASE ON LICENCE

Effect of remand in custody

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—
 - (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

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- (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)

- C1** 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
- C2** 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
- C3** 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
- C4** 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
- C5** 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

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Commencement Information

- II** 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

[^{F1}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.
- (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.

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- (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](#))

Modifications etc. (not altering text)

- C6** S. 240A(2) excluded (3.11.2008) by [The Remand on Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), **art. 2**

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

- C9** S. 241 modified (26.1.2004) by [The Intermittent Custody \(Transitory Provisions\) Order 2003 \(S.I. 2003/3283\)](#), [art. 3](#)

Commencement Information

- I2** 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](#))

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—
- (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

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(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

I3 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) ^{F2}

Textual Amendments

F2 S. 243(3) repealed (27.7.2004) by [The Extradition Act 2003 \(Repeals\) Order 2004 \(S.I. 2004/1897\)](#), [art. 3](#)

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