



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

### CHAPTER 7

#### EFFECT OF LIFE SENTENCE

#### **269 Determination of minimum term in relation to mandatory life sentence**

- (1) This section applies where after the commencement of this section a court passes a life sentence in circumstances where the sentence is fixed by law.
- (2) The court must, unless it makes an order under subsection (4), order that the provisions of section 28(5) to (8) of the Crime (Sentences) Act 1997 (referred to in this Chapter as “the early release provisions”) are to apply to the offender as soon as he has served the part of his sentence which is specified in the order.
- (3) The part of his sentence is to be such as the court considers appropriate taking into account—
  - (a) the seriousness of the offence, or of the combination of the offence and any one or more offences associated with it, and
  - (b) the effect of [<sup>F1</sup>section 240ZA (crediting periods of remand in custody) or of any direction which it would have given under section 240A (crediting periods of remand on certain types of bail)] if it had sentenced him to a term of imprisonment.
- [<sup>F2</sup>(3A) The reference in subsection (3)(b) to section 240ZA includes section 246 of the Armed Forces Act 2006 (crediting periods in service custody).]
- (4) If the offender was 21 or over when he committed the offence and the court is of the opinion that, because of the seriousness of the offence, or of the combination of the offence and one or more offences associated with it, no order should be made under

*Status: Point in time view as at 08/04/2013.*

*Changes to legislation: Criminal Justice Act 2003, Chapter 7 is up to date with all changes known to be in force on or before 19 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)*

subsection (2), the court must order that the early release provisions are not to apply to the offender.

- (5) In considering under subsection (3) or (4) the seriousness of an offence (or of the combination of an offence and one or more offences associated with it), the court must have regard to—
- (a) the general principles set out in Schedule 21, and
  - (b) any guidelines relating to offences in general which are relevant to the case and are not incompatible with the provisions of Schedule 21.
- (6) The [<sup>F3</sup>Lord Chancellor] may by order amend Schedule 21.
- (7) Before making an order under subsection (6), the [<sup>F4</sup>Lord Chancellor must consult the Sentencing Council for England and Wales].

#### Textual Amendments

- F1** Words in s. 269(3)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(10\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F2** S. 269(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 110\(10\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F3** Words in s. 269(6) substituted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 177, 182](#), [Sch. 21 para. 85\(a\)](#) (with s. 180); S.I. 2010/816, [art. 2](#), Sch. paras. 14(b), 20(b) (with art. 7(4))
- F4** Words in s. 269(7) substituted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 177, 182](#), [Sch. 21 para. 85\(b\)](#) (with s. 180); S.I. 2010/816, [art. 2](#), Sch. paras. 14(b), 20(b) (with art. 7(4))

## 270 Duty to give reasons

- [<sup>F5</sup>(1) Subsection (2) applies where a court makes an order under section 269(2) or (4).]
- (2) [<sup>F6</sup>In complying with the duty under section 174(2) to state its reasons for deciding on the order made,] the court must, in particular—
- (a) state which of the starting points in Schedule 21 it has chosen and its reasons for doing so, and
  - (b) state its reasons for any departure from that starting point.

#### Textual Amendments

- F5** S. 270(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 64\(3\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)
- F6** Words in s. 270(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 64\(3\)\(b\)](#), 151(1); S.I. 2012/2906, art. 2(a)

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

- C1** S. 270 excluded (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 73\(7\)](#), 178; S.I. 2006/378, [art. 5\(1\)](#)
- C2** S. 270 applied (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), [ss. 74\(14\)](#), 178; S.I. 2005/378, [art. 5\(1\)](#) (with art. 5(2))

*Status: Point in time view as at 08/04/2013.*

*Changes to legislation: Criminal Justice Act 2003, Chapter 7 is up to date with all changes known to be in force on or before 19 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)*

## 271 Appeals

- (1) In section 9 of the Criminal Appeal Act 1968 (c. 19) (appeal against sentence following conviction on indictment), after subsection (1) there is inserted—

“(1A) In subsection (1) of this section, the reference to a sentence fixed by law does not include a reference to an order made under subsection (2) or (4) of section 269 of the Criminal Justice Act 2003 in relation to a life sentence (as defined in section 277 of that Act) that is fixed by law.”.

- (2) In section 8 of the Courts-Martial (Appeals) Act 1968 (c. 20) (right of appeal from court-martial to Courts-Martial Appeal Court) after subsection (1) there is inserted—

“(1ZA) In subsection (1) above, the reference to a sentence fixed by law does not include a reference to an order made under subsection (2) or (4) of section 269 of the Criminal Justice Act 2003 in relation to a life sentence (as defined in section 277 of that Act) that is fixed by law.”.

## 272 Review of minimum term on a reference by Attorney General

- (1) In section 36 of the Criminal Justice Act 1988 (c. 33) (reviews of sentencing) after subsection (3) there is inserted—

“(3A) Where a reference under this section relates to an order under subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence), the Court of Appeal shall not, in deciding what order under that section is appropriate for the case, make any allowance for the fact that the person to whom it relates is being sentenced for a second time.”.

- (2) <sup>F7</sup> .....
- (3) <sup>F7</sup> .....

### Textual Amendments

**F7** S. 272(2)(3) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, Sch. 16 para. 229, [Sch. 17](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

## 273 Life prisoners transferred to England and Wales

- (1) The Secretary of State must refer the case of any transferred life prisoner to the High Court for the making of one or more relevant orders.

- (2) In subsection (1) “transferred life prisoner” means a person—

(a) on whom a court in a country or territory outside the British Islands has imposed one or more sentences of imprisonment or detention for an indeterminate period, and

(b) who has been transferred to England and Wales after the commencement of this section in pursuance of—

(i) an order made by the Secretary of State under section 2 of the Colonial Prisoners Removal Act 1884 (c. 31), or

*Status: Point in time view as at 08/04/2013.*

*Changes to legislation: Criminal Justice Act 2003, Chapter 7 is up to date with all changes known to be in force on or before 19 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)*

- (ii) a warrant issued by the Secretary of State under the Repatriation of Prisoners Act 1984 (c. 47),  
 there to serve his sentence or sentences or the remainder of his sentence or sentences.
- (3) In subsection (1) “a relevant order” means—
- (a) in the case of an offence which appears to the court to be an offence for which, if it had been committed in England and Wales, the sentence would have been fixed by law, an order under subsection (2) or (4) of section 269, and
  - (b) in any other case, an order under subsection (2) or (4) of section 82A of the Sentencing Act.
- (4) In section 34(1) of the Crime (Sentences) Act 1997 (c. 43) (meaning of “life prisoner” in Chapter 2 of Part 2 of that Act) at the end there is inserted “ and includes a transferred life prisoner as defined by section 273 of the Criminal Justice Act 2003 ”.
- [<sup>F8</sup>(5) The reference in subsection (2)(b) above to a person who has been transferred to England and Wales in pursuance of a warrant issued under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in England and Wales in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).]

#### Textual Amendments

- F8** S. 273(5) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 148, 153, [Sch. 26 para. 73](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), [Sch. 1 para. 48\(a\)](#)

### 274 Further provisions about references relating to transferred life prisoners

- (1) A reference to the High Court under section 273 is to be determined by a single judge of that court without an oral hearing.
- (2) In relation to a reference under that section, any reference to “the court” in subsections (2) to (5) of section 269, in Schedule 21 or in section 82A(2) to (4) of the Sentencing Act is to be read as a reference to the High Court.
- (3) A person in respect of whom a reference has been made under section 273 may with the leave of the Court of Appeal appeal to the Court of Appeal against the decision of the High Court on the reference.
- (4) Section 1(1) of the Administration of Justice Act 1960 (c. 65) (appeal to [<sup>F9</sup>Supreme Court] from decision of High Court in a criminal cause or matter) and section 18(1) (a) of the Supreme Court Act 1981 (c. 54) (exclusion of appeal from High Court to Court of Appeal in a criminal cause or matter) do not apply in relation to a decision to which subsection (3) applies.
- (5) The jurisdiction conferred on the Court of Appeal by subsection (3) is to be exercised by the criminal division of that court.
- (6) Section 33(3) of the Criminal Appeal Act 1968 (c. 19) (limitation on appeal from criminal division of Court of Appeal) does not prevent an appeal to the [<sup>F9</sup>Supreme Court] under this section.

*Status: Point in time view as at 08/04/2013.*

*Changes to legislation: Criminal Justice Act 2003, Chapter 7 is up to date with all changes known to be in force on or before 19 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)*

- (7) In relation to appeals to the Court of Appeal or the [<sup>F9</sup>Supreme Court] under this section, the Secretary of State may make an order containing provision corresponding to any provision in the Criminal Appeal Act 1968 (subject to any specified modifications).

#### Textual Amendments

- F9** Words in s. 274 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(5\)](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

### 275 Duty to release certain life prisoners

- (1) Section 28 of the Crime (Sentences) Act 1997 (c. 43) (duty to release certain life prisoners) is amended as follows.

- (2) For subsection (1A) there is substituted—

“(1A) This section applies to a life prisoner in respect of whom a minimum term order has been made; and any reference in this section to the relevant part of such a prisoner’s sentence is a reference to the part of the sentence specified in the order.”

- (3) In subsection (1B)(a)—

- (a) for the words from the beginning to “applies” there is substituted “this section does not apply to him”, and  
(b) for the words from “such an order” to “appropriate stage” there is substituted “a minimum term order has been made in respect of each of those sentences”.

- (4) After subsection (8) there is inserted—

“(8A) In this section “minimum term order” means an order under—

- (a) subsection (2) of section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of minimum term in respect of life sentence that is not fixed by law), or  
(b) subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in respect of mandatory life sentence).”

### 276 Mandatory life sentences: transitional cases

Schedule 22 (which relates to the effect in transitional cases of mandatory life sentences) shall have effect.

### 277 Interpretation of Chapter 7

In this Chapter—

“court” includes [<sup>F10</sup>the Court Martial];

[<sup>F11</sup>“guidelines” means sentencing guidelines issued by the Sentencing Council for England and Wales as definitive guidelines under section 120 of the Coroners and Justice Act 2009, as revised by any subsequent guidelines so issued;]

---

**Status:** Point in time view as at 08/04/2013.

**Changes to legislation:** Criminal Justice Act 2003, Chapter 7 is up to date with all changes known to be in force on or before 19 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)

---

“life sentence” means—

- (a) a sentence of imprisonment for life,
- (b) a sentence of detention during Her Majesty’s pleasure, or
- (c) a sentence of custody for life passed before the commencement of section 61(1) of the Criminal Justice and Court Services Act 2000 (c. 43) (which abolishes that sentence).

#### Textual Amendments

- F10** S. 277: words in definition of "court" substituted (28.3.2009 for certain purposes, and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 230](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F11** S. 277: definition of "guidelines" substituted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 177, 182, [Sch. 21 para. 86](#) (with s. 180); S.I. 2010/816, [art. 2](#), Sch. paras. 14(b), 20(b) (with art. 7(4))

**Status:**

Point in time view as at 08/04/2013.

**Changes to legislation:**

Criminal Justice Act 2003, Chapter 7 is up to date with all changes known to be in force on or before 19 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.