



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

### CHAPTER 6

#### RELEASE ON LICENCE

##### *Release on licence*

#### **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 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, <sup>[F1]</sup> and
  - (b) he has served—
    - (i) at least 4 weeks of that period, and
    - (ii) at least one-half of that 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.

*Status: Point in time view as at 03/11/2008. This version of this provision has been superseded.*

*Changes to legislation: Criminal Justice Act 2003, Section 246 is up to date with all changes known to be in force on or before 27 June 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)*

- (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 [F<sup>2</sup> or 240A] 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—
- (a) the number of custodial days specified under section 183, or
  - (b) in the case of two or more sentences of intermittent custody [F<sup>3</sup> which are consecutive], the aggregate of the numbers so specified [F<sup>4</sup>, or
  - (c) in the case of two or more sentences of intermittent custody which are wholly or partly concurrent, the aggregate of the numbers so specified less the number of days that are to be served concurrently;]
- “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.

#### Textual Amendments

**F1** S. 246(2)(b) and word substituted (14.7.2008) for s. 246(2)(b) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 24**, 153; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 11

---

*Status: Point in time view as at 03/11/2008. This version of this provision has been superseded.*

*Changes to legislation: Criminal Justice Act 2003, Section 246 is up to date with all changes known to be in force on or before 27 June 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)*

---

- F2** Words in s. 246(4)(i) inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 22(2)**, 153; [S.I. 2008/2712](#), **art. 2**, [Sch. para. 2](#) (subject to [arts. 3, 4](#))
- F3** In s. 246(6) in definition of "the required custodial days" words inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 31, 60](#), **Sch. 6 para. 3(a)**; [S.I. 2005/579](#), **art. 3(e)**
- F4** In s. 246(6) in definition of "the required custodial days" para. (c) and preceding word inserted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), [ss. 31, 60](#), **Sch. 5 para. 3(b)**; [S.I. 2005/579](#), **art. 3(e)**

---

#### **Commencement Information**

- I1** 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](#))

**Status:**

Point in time view as at 03/11/2008. This version of this provision has been superseded.

**Changes to legislation:**

Criminal Justice Act 2003, Section 246 is up to date with all changes known to be in force on or before 27 June 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.