

# CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### **Part 2: Sentencing**

#### ***Section 32: Release of prisoners recalled following release under Criminal Justice Act 1991***

275. This section concerns the further release of prisoners released on licence under the 1991 Act and then recalled under section 254(1) of the 2003 Act.
276. *Subsection (1)* inserts section 50A into the 1991 Act, a new section applying to prisoners released under the 1991 Act and subsequently recalled to prison under section 254(1) of the 2003 Act. Section 50A(2) specifically precludes the Secretary of State from releasing a prisoner who falls within the criteria set out in subsection (1) under any of the following 1991 Act release provisions:
- a) section 33 – the duties to release short term and long-term prisoners;
  - b) section 33A – the duty to release a prisoner released early under the Home Detention Curfew Scheme or on compassionate grounds then subsequently recalled;
  - c) section 34A – the power to release a short term prisoner early under the Home Detention Curfew Scheme;
  - d) section 35 – the duty to release long term prisoners serving less than 15 years and the power to release long term prisoners serving 15 years or more once they have served one-half of their sentence if so recommended by the Parole Board; and
  - e) section 43(4) – the duty to release short term young offenders at the halfway point of their sentence.
277. New section 50A also provides that the further release on licence of such prisoners will be governed by the 2003 Act rather than the 1991 Act. Whether such a prisoner is re-released under the 2003 Act or on compassionate grounds under section 36 of the 1991 Act, the licence will be governed by the relevant provisions of the 2003 Act. That means that it will remain in force until the end of the sentence, the conditions of the licence will be the standard conditions prescribed by the Secretary of State under section 250 of the 2003 Act, and may also include other conditions in accordance with section 250, and the offender will be subject to a duty to comply with the licence conditions (new section 50A(4) and (5)).
278. New section 50(A)(6) (7) and (8) modify sections 249 and 250 of the 2003 Act in their application to persons covered by the new section.

*These notes refer to the Criminal Justice and Immigration  
Act 2008 (c.4) which received Royal Assent on 8 May 2008*

279. New section 50A(9) ensures that the rules relating to the treatment of consecutive and concurrent terms in the 1991 Act continue to apply to prisoners released under that Act and subsequently recalled under section 254(1) of the 2003 Act.
280. New section 50A(10) requires that those prisoners who were originally released under the provisions of the 1991 Act and are subsequently recalled under the section 254(1) of the 2003 Act will not be subject to any of the provisions of Part 2 of the 1991 Act concerning licence duration and conditions, except as expressly provided by section 50A(7)(b) and (9).
281. [Paragraph 12](#) of Schedule 27 provides that new section 50A applies only to those prisoners who are recalled under section 254(1) of the 2003 Act on or after the date on which section 32 is commenced regardless of when they were initially released under Part 2 of the 1991 Act.
282. *Subsection (2)* of section 32 modifies the application of the savings in the Commencement Order which implemented Chapter 6 of Part 12 of the 2003 Act so as to remove any inconsistency with the provision made by the new section 50A.