

## SCHEDULES

### SCHEDULE 16

Section 121

#### AMENDMENTS OF CRIMINAL JUSTICE ACT 2003: TRANSITIONAL AND CONSEQUENTIAL PROVISION

#### PART 1

##### TRANSITIONAL PROVISION

- 1 The Criminal Justice Act 2003 is amended as follows.
- 2 After section 267 insert—

#### **“267A Application of Chapter 6 to pre-4 April 2005 cases**

Schedule 20A (which modifies certain provisions of this Chapter as they apply to persons serving a sentence for an offence committed before 4 April 2005) has effect.”

- 3 After Schedule 20 insert—

#### “SCHEDULE 20A

Section 267A

##### APPLICATION OF CHAPTER 6 OF PART 12 TO PRE-4 APRIL 2005 CASES

- 1 In this Schedule—
  - “the 1991 Act” means the Criminal Justice Act 1991;
  - “the commencement date” means the date on which section 121 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.
- 2 Paragraphs 3 to 9 apply in relation to any person serving a sentence for an offence committed before 4 April 2005, whenever that sentence was imposed (see section 121(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012).
- 3 (1) Any relevant period is to be treated, for the purposes of section 240ZA, as if it were a period for which the offender was remanded in custody in connection with the offence.  
  
(2) “Relevant period” means any period which would (but for the repeal of section 67 of the Criminal Justice Act 1967) be a relevant period within the meaning of that section (reduction of sentences by period spent in custody etc).
- 4 Section 246 applies as if, in subsection (4)—

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- (a) the reference in paragraph (a) to section 227 or 228 were a reference to section 85 of the Sentencing Act;
  - (b) the reference in paragraph (d) to paragraph 9(1)(b) or (c) or 10(1)(b) or (c) of Schedule 8 were a reference to paragraph 4(1)(d) or 5(1)(d) of Schedule 3 to the Sentencing Act;
  - (c) in paragraph (g)—
    - (i) the reference to section 246 included a reference to section 34A of the 1991 Act,
    - (ii) the reference to section 255(1)(a) included a reference to section 38A(1)(a) or 39(1) or (2) of the 1991 Act, and
    - (iii) the reference to section 255(3) included a reference to section 38A(3) of the 1991 Act;
  - (d) the references in paragraph (h) to sections 248 and 254 included references to, respectively, sections 36 and 39(1) or (2) of the 1991 Act; and
  - (e) in paragraph (i), the words from “in the case of” to “relates” were omitted.
- 5
- (1) Where the person has been released on licence under Part 2 of the 1991 Act or under section 60 of the Criminal Justice Act 1967 before the commencement date, the person is to be treated as if the release had been under this Chapter.
  - (2) In particular, the following provisions apply.
  - (3) A licence under section 34A of the 1991 Act is to be treated as if it were a licence under section 246.
  - (4) A licence under section 36 of the 1991 Act is to be treated as if it were a licence under section 248.
  - (5) Any condition of a licence specified under section 37 of the 1991 Act is to have effect as if it were included under section 250 (whether or not the condition is of a kind which could otherwise be included under that section).
  - (6) Where the licence is, on the commencement date, subject to a suspension under section 38(2) of the 1991 Act, the suspension continues to have effect for the period specified by the court despite the repeal of that section.
  - (7) A licence under section 40A of the 1991 Act is to be treated as if it were a licence under this Chapter, except that in respect of any failure (before or after the commencement date) to comply with the conditions of the licence, the person is liable to be dealt with in accordance with section 40A(4) to (6) (despite the repeal of that section) and is not liable to be dealt with in any other way.
  - (8) Sub-paragraph (1) does not affect the duration of the licence.
- 6
- (1) Where a person has been recalled under Part 2 of the 1991 Act before the commencement date, the person is to be treated as if the recall had been under section 254.
  - (2) In particular, the following provisions apply.

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- (3) If the Secretary of State has not referred the person's case to the Board under section 39(4) or 44A of the 1991 Act, the Secretary of State must refer the case under section 255C(4).
  - (4) If the Secretary of State has referred the person's case to the Board under section 39(4) or 44A of the 1991 Act, that reference is to be treated as if it had been made under section 255C(4).
  - (5) A determination of a reference under section 39(4) or 44A of the 1991 Act is to be treated as a determination under section 256(1).
  - (6) If the person is released on licence, the duration of that licence is determined in accordance with section 249 (subject to paragraphs 17, 19 and 26 of Schedule 20B).
- 7 Rules made by virtue of section 42 of the 1991 Act have effect as if made by virtue of section 257.
- 8 (1) A person removed from prison under section 46A of the 1991 Act before the commencement date is to be treated as having been removed from prison under section 260.
- (2) Section 260 applies as if, in subsection (7)—
- (a) the reference to an extended sentence imposed under section 227 or 228 were a reference to an extended sentence imposed under section 85 of the Sentencing Act, and
  - (b) the reference to the appropriate custodial term determined under section 227 or 228 were a reference to the custodial term determined under section 85.
- 9 An order made under section 47 of the 1991 Act is to have effect as if it were an order made under section 243.
- 10 Section 264 applies as if the definition of "custodial period" in subsection (6) included, in relation to an extended sentence imposed under section 85 of the Sentencing Act, one-half of the custodial term determined under that section."

## PART 2

### CONSEQUENTIAL AMENDMENTS

#### *Repatriation of Prisoners Act 1984 (c. 47)*

- 4 In section 2(4)(b)(i) of the Repatriation of Prisoners Act 1984 (power to provide for prisoner to be treated as having been released) for "section 244 or 246" substitute "Chapter 6 of Part 12".

#### *Criminal Justice Act 1991 (c. 53)*

- 5 In Schedule 12 to the Criminal Justice Act 1991, omit paragraphs 8 to 13 (transitional provisions relating to the coming into force of Part 2 of that Act).

*Crime (Sentences) Act 1997 (c. 43)*

- 6 Schedule 1 to the Crime (Sentences) Act 1997 (transfer of prisoners within the British Islands) is amended as follows.
- 7 In paragraph 8 (transfers to Scotland)—
- (a) in sub-paragraph (2)(a), after “246 to 264A” insert “, 267A and 267B”;
  - (b) in sub-paragraph (4)(a), for “and 249 to 264A” substitute “, 249 to 264A, 267A and 267B”.
- 8 In paragraph 9(2)(a) and (4)(a) (transfers to Northern Ireland), for “and 254 to 264A” substitute “, 254 to 264A, 267A and 267B”.

*Extradition Act 2003 (c. 41)*

- 9 The Extradition Act 2003 is amended as follows.
- 10 In section 59 (return of person to serve remainder of sentence), in subsection (11)—
- (a) omit paragraph (a);
  - (b) in paragraph (b), for “section 244” substitute “Chapter 6 of Part 12”.
- 11 In section 132 (return of person to serve remainder of sentence), in subsection (11)—
- (a) omit paragraph (a);
  - (b) in paragraph (b), for “section 244” substitute “Chapter 6 of Part 12”.
- 12 In section 153B (return of person in pursuance of undertaking), in subsection (10) (a)—
- (a) omit sub-paragraph (i);
  - (b) in sub-paragraph (ii), for “section 244” substitute “Chapter 6 of Part 12”.

*Criminal Justice Act 2003 (c. 44)*

- 13 The Criminal Justice Act 2003 is amended as follows.
- 14 In section 240A(1)(a) (crediting of periods of remand on bail), omit the words “committed on or after 4th April 2005”.
- 15 (1) The repeal by section 25 of the Criminal Justice and Immigration Act 2008 of provisions in section 247 of the Criminal Justice Act 2003 comes fully into force.
- (2) Accordingly, in paragraph 2 of Schedule 2 to the Criminal Justice and Immigration Act 2008 (Commencement No.2 and Transitional and Savings Provisions) Order 2008 (S.I. 2008/1586), omit “and 25”.
- 16 Omit section 262 and Schedule 20 (prisoners liable to removal from United Kingdom).
- 17 Omit section 265(1A) (restriction on consecutive sentences for released prisoners).

*Domestic Violence, Crime and Victims Act 2004 (c. 28)*

- 18 Omit paragraph 46 of Schedule 10 to the Domestic Violence, Crime and Victims Act 2004.

*Police and Justice Act 2006 (c. 48)*

- 19 Omit paragraph 33 of Schedule 13 to the Police and Justice Act 2006.

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*Criminal Justice and Immigration Act 2008 (c. 4)*

- 20 In the Criminal Justice and Immigration Act 2008, omit—
- (a) sections 20(4)(b), 26 to 28, 32 and 33(1), (3), (5) and (6);
  - (b) paragraph 29(2) to (5) of Schedule 26;
  - (c) paragraphs 8 and 9 of Schedule 27.

*Coroners and Justice Act 2009 (c. 25)*

- 21 In the Coroners and Justice Act 2009, omit—
- (a) section 145;
  - (b) paragraph 43 of Schedule 22.

*Criminal Justice and Immigration Act 2008 (Commencement No.1 and Transitional Provisions) Order 2008 (S.I. 2008/1466)*

- 22 Article 3 of the Criminal Justice and Immigration Act 2008 (Commencement No.1 and Transitional Provisions) Order 2008 (S.I. 2008/1466) is revoked.