

Status: Point in time view as at 03/12/2012.

Changes to legislation: Legal Aid, Sentencing and Punishment of Offenders Act 2012, Paragraph 3 is up to date with all changes known to be in force on or before 03 September 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)

SCHEDULES

SCHEDULE 16

AMENDMENTS OF CRIMINAL JUSTICE ACT 2003: TRANSITIONAL AND CONSEQUENTIAL PROVISION

PART 1

TRANSITIONAL PROVISION

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)—
 - (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,

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- (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.
- (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).

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- (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.”

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