

OFFENDER REHABILITATION ACT 2014

EXPLANATORY NOTES

COMMENTARY

Other provisions about release and supervision of offenders

Section 8: Extended sentences: length of extension period

83. **Section 8** addresses an issue whereby, in very exceptional circumstances, it would be possible prior to commencement of this section for an offender who is considered dangerous by a court and sentenced to an extended determinate sentence to serve less than 12 months under supervision in the community.
84. Subsection (2) of section 8 amends section 226A of the 2003 Act to insert a new provision requiring the extension period of the extended determinate sentence to be at least 1 year. Subsection (3) of section 8 makes the same change to section 226B of the 2003 Act in regard to persons under 18 years of age sentenced to an extended determinate sentence.

Section 9: Recall and further release of offenders

85. **Section 9** relates to the provisions for release of offenders who have been recalled to custody during their period of release on licence. Offenders serving custodial sentences of 12 months or more – who, prior to the commencement of relevant provisions of this Act, were the only prisoners who were released from custody subject to licence conditions – can be recalled until the end of their sentence or for a fixed period of 28 days.
86. Subsection (4) of section 9 amends the default period to be served by people who, while on licence, are recalled (under section 254 of the 2003 Act) and who are considered by the Secretary of State to be suitable for automatic release under section 255A of the 2003 Act. This is to take account of the introduction of licence periods (and, therefore, liability to recall to prison) for offenders with custodial sentences of less than 12 months. Subsection (4) of section 9 amends section 255A of the 2003 Act so that those offenders serving custodial sentences of less than 12 months who are recalled to custody for a fixed period are released after a period of 14 days from the day on which they return to custody (new subsection (9)(a) of section 255A). An offender serving a custodial sentence of 12 months or more who is recalled to custody will be released after a period of 28 days (new subsection (9)(b) of section 255A).
87. **Section 9** also makes provision in relation to offenders who have been recalled to custody under section 254 for breach of a condition (other than the curfew condition) after having being released before the halfway point of sentence on home detention curfew (HDC) under section 246 of the 2003 Act. With one exception these offenders will be released at the point in their sentence when they would normally be released, had they not been released early under HDC or after a period of 14 days (if the sentence is less than 12 months) or 28 days (for sentences of 12 months or more) following their recall if that period gives a later release date. In other words, for breach of a condition other than the HDC curfew condition offenders recalled during their HDC period will

*These notes refer to the Offender Rehabilitation Act 2014
(c.11) which received Royal Assent on 13 March 2014*

serve either until their normal release date at the halfway point of sentence or until the end of the 14 day or 28 day period if that falls later. Offenders who will be released unconditionally at the expiry of the HDC period (under section 243A) are the exception. These offenders will be released at the expiry of the HDC period whether or not the end of the 14 day period is after the expiry of the HDC period.

88. Subsection (2) of section 9 clarifies that the provision in sections 255A to 255C about recall and subsequent release applies to prisoners released under section 248 (compassionate release).
89. Subsection (3) of section 9 amends section 255(1)(a) of the 2003 Act so that offenders released on HDC under section 246 may only be recalled under that paragraph for breach of the curfew condition required by section 250(3).

Section 10: Arrangements for supervision and rehabilitation: female offenders

90. **Section 10** amends section 3 of the Offender Management Act 2007 (the 2007 Act), which provides the Secretary of State with powers to make arrangements for probation provision either himself or by making contractual or other arrangements with any other person.
91. **Section 10** inserts a new subsection (6A) in section 3 of the 2007 Act, which requires the Secretary of State to ensure that contracts or other arrangements providing for the supervision or rehabilitation of offenders must:
 - State that the Secretary of State has complied with the public sector equality duty in section 149 of the Equality Act 2010 as it relates to female offenders; and
 - Identify anything in the arrangements that is intended to meet the particular needs of female offenders.
92. This new duty applies where the Secretary of State enters into arrangements with any other person (under section 3(2) of the 2007 Act) and where he undertakes the provision himself (under section 3(5) of the 2007 Act). The new duty applies only in the context of arrangements for the supervision and rehabilitation of offenders, and requires the Secretary of State to record that he has complied with the public sector equality duty in the specific context of female offenders. As such, it does not affect the wider application of the public sector equality duty.