

CRIMINAL JUSTICE AND COURTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Criminal Justice

Release and recall of prisoners

Section 11: Initial release and release after recall: life sentences

183. *Subsection (1)* amends section 28(7) of the Crime (Sentences) Act 1997 to refer to the ‘requisite custodial period’ which is defined in section 268(1A) of the Criminal Justice Act 2003 (as inserted by section 14). Section 28(7)(c) of the Crime (Sentences) Act 1997 makes provision in relation to the point at which a life prisoner may require the Secretary of State to refer their case to the Parole Board to consider their release, where such a prisoner is also serving a determinate sentence of imprisonment or detention. This amendment is a consequence of the creation of the new sentencing arrangements set out in new section 236A and the release arrangements in new section 244A of the Criminal Justice Act 2003 (as inserted by Schedule 1); and of the creation of the extended determinate sentence under section 226A and 226B of that Act, as inserted by the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
184. *Subsection (2)* amends section 32 of the Crime (Sentences) Act 1997 by inserting the public protection release test applied when considering initial release so that it also applies where the Board is considering the release of recalled life sentence prisoners. This includes prisoners serving sentences of Imprisonment for Public Protection (IPP) who have been recalled.
185. *Subsection (3)* inserts a new paragraph in section 128(3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which allows the release test to be changed by an order subject to the affirmative procedure. This ensures that the power to change the release test applies equally to the test as it appears in new subsection (5A) of section 32 of the 1997 Act, in relation to the release of recalled IPP prisoners. The power to amend the release test in section 128 does not apply to the test in respect of those serving life sentences, which cannot be amended by order.
186. *Subsections (4) and (5)* provide that the amendments made by subsections (1) and (2) of this section apply to those sentenced or recalled before the day on which these changes are brought into force, as well as those sentenced or recalled after that date.