



Victims and Prisoners Act 2024

2024 CHAPTER 21

PART 4

PRISONERS

Public protection decisions

PROSPECTIVE

59 Public protection decisions: fixed-term prisoners

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) After section 237 insert—

“237A Public protection decisions

- (1) This section applies for the purposes of any public protection decision made by a decision-maker about a prisoner under a relevant provision of this Chapter.
- (2) A “public protection decision”, in relation to a prisoner, is a decision as to whether the decision-maker is satisfied that it is not necessary, or no longer necessary, for the protection of the public that the prisoner should be confined.
- (3) The decision-maker must not be so satisfied unless the decision-maker considers that there is no more than a minimal risk that, were the prisoner no longer confined, the prisoner would commit a further offence the commission of which would cause serious harm.
- (4) In making that assessment, the decision-maker must consider the risk that the prisoner would engage in conduct which would (or, if carried out in any particular part of the United Kingdom, would) constitute an offence specified in Schedule 18B.

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- (5) When making a public protection decision about a prisoner, the following matters must be taken into account by the decision-maker—
 - (a) the nature and seriousness of the offence in respect of which the relevant sentence was imposed;
 - (b) the nature and seriousness of any other offence for which the prisoner has at any time been convicted;
 - (c) the conduct of the prisoner while serving the relevant sentence (whether in prison or on licence);
 - (d) the risk that the prisoner would commit a further offence (whether or not specified in Schedule 18B) if no longer confined;
 - (e) the risk that, if released on licence, the prisoner would fail to comply with one or more licence conditions;
 - (f) any evidence of the effectiveness in reducing the risk the prisoner poses to the public of any treatment, education or training the prisoner has received or participated in while serving the relevant sentence;
 - (g) any submissions made by or on behalf of the prisoner or the Secretary of State (whether or not on a matter mentioned in paragraphs (a) to (f)).
- (6) When making a public protection decision about a prisoner, the decision-maker must in particular have regard to the protection of any victim of the prisoner.
- (7) For the purposes of [subsection \(6\)](#), a “victim” of a prisoner is a person who meets the definition of victim in [section 1](#) of the Victims and Prisoners Act 2024 by reference to the conduct which constituted the offence for which the relevant sentence was imposed.
- (8) In [subsections \(5\)](#) and [\(7\)](#), “relevant sentence” means the sentence in respect of which the public protection decision is made.
- (9) This section does not limit the matters which the decision-maker must or may take into account when making a public protection decision.
- (10) [Section 237B](#) lists the “relevant provisions” of this Chapter under which a public protection decision may be made, and the purposes for which the decision is made.
- (11) The “decision-maker”, in relation to a public protection decision made under a relevant provision of this Chapter, is—
 - (a) if the decision is made under [section 256AZBC\(1\)](#), the High Court;
 - (b) in any other case, the Board.
- (12) [Subsection \(2\)](#) has effect in relation to a decision made by the Board—
 - (a) under [section 255B\(4A\)](#) (automatic release) as if for the words “be confined” there were substituted “remain in prison until the end of the period mentioned in [section 255B\(1\)\(b\)](#)”;
 - (b) under [section 255C\(4A\)](#) (prisoners not suitable for automatic release) or [256A\(4\)](#) (further review) as if for the words “be confined” there were substituted “remain in prison”.
- (13) The Secretary of State may by order amend [Schedule 18B](#) so as to—
 - (a) specify a further offence, or

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- (b) omit an offence for the time being specified.

237B Relevant provisions of this Chapter and corresponding purposes

In the following table—

- (a) the first column lists each provision of this Chapter which is a “relevant provision” under which a public protection decision may be made;
- (b) the second column lists, in relation to each relevant provision, the purposes for which the decision is made.

Relevant provision	Purposes
section 244ZC(4)	section 244ZC(3)
section 244ZC(5)(b)	section 244ZC(3)
section 244A(4)(b)	section 244A(3)
section 246A(6)(b)	section 246A(5)
section 247A(5)(b)	section 247A(4)
section 255B(4A)	section 255B(4A)
section 255C(4A)	section 255C(4A)
section 256A(4)	section 256A(4)
section 256AZBC(1)	section 256AZBC(1)
paragraph 6(2) of Schedule 20B	paragraph 6(1) of Schedule 20B
paragraph 15(4) of Schedule 20B	paragraph 15(3) of Schedule 20B
paragraph 25(3) of Schedule 20B	paragraph 25(2) of Schedule 20B
paragraph 28(3) of Schedule 20B	paragraph 28(2) of Schedule 20B”.

- (3) In section 246B (manslaughter: prisoner’s non-disclosure of information)—
- (a) in subsection (1), in the words before paragraph (a), after “a prisoner” insert “under section 246A(6)(b), for the purposes of section 246A(5),”;
- (b) in subsection (5), for the definition of “public protection decision” substitute—
- ““public protection decision” has the meaning given by [section 237A\(2\)](#)”.
- (4) In section 246C (indecent images: prisoner’s non-disclosure of information)—
- (a) in subsection (1), in the words before paragraph (a), after “a prisoner” insert “under section 246A(6)(b), for the purposes of section 246A(5),”;
- (b) in subsection (6), for the definition of “public protection decision” substitute—
- ““public protection decision”, in relation to a prisoner, has the meaning given by [section 237A\(2\)](#)”.
- (5) In section 255B (automatic release), after subsection (3) insert—

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- “(3A) The Secretary of State must not be satisfied as mentioned in subsection (3) unless the Secretary of State considers that there is no more than a minimal risk that, if P were released before the end of the period mentioned in subsection (1) (b), P would commit a further offence the commission of which would cause serious harm (and [section 237A\(4\)](#) applies for the purposes of that assessment).”
- (6) In section 255C (prisoners not suitable for automatic release), after subsection (3) insert—
- “(3A) The Secretary of State must not be satisfied as mentioned in subsection (3) unless the Secretary of State considers that there is no more than a minimal risk that, if P were released, P would commit a further offence the commission of which would cause serious harm (and [section 237A\(4\)](#) applies for the purposes of that assessment).”
- (7) In section 256AZB (power to change test for release following recall), after subsection (2) insert—
- “(3) Provision made in an order under subsection (1)(c) by virtue of section 330(4) (consequential etc provision) may in particular amend, or modify the application of, [section 256AZBC\(1\)](#) (powers of High Court on referral of release decisions).”
- (8) In section 330 (orders and rules), in subsection (5)(a), before “section 246(5)” insert—
“[section 237A\(13\)](#),”.
- (9) Schedule 18B (offences relevant to public protection decisions) is inserted by Schedule 2 to this Act.
- (10) Schedule 20B (modifications of Chapter 6 of Part 12 in certain transitional cases) is amended in accordance with subsections (11) and (12).
- (11) In paragraph 38 (manslaughter: prisoner’s non disclosure of information)—
- (a) in sub-paragraph (1), in the words before paragraph (a), after “making a” insert “relevant”;
 - (b) in sub-paragraph (2), in the words before paragraph (a), after “making the” insert “relevant”;
 - (c) in sub-paragraph (3), after “making a” insert “relevant”;
 - (d) in sub-paragraph (4), for the definition of “public protection decision” substitute—

““public protection decision” has the meaning given by [section 237A\(2\)](#);
“relevant public protection decision” means the public protection decision made—

 - (a) under paragraph 6(2) for the purposes of paragraph 6(1),
 - (b) under paragraph 15(4) for the purposes of paragraph 15(3),
 - (c) under paragraph 25(3) for the purposes of paragraph 25(2), or
 - (d) under paragraph 28(3) for the purposes of paragraph 28(2);”.
- (12) In paragraph 39 (indecent images: prisoner’s non disclosure of information)—
- (a) in sub-paragraph (1), in the words before paragraph (a), after “making a” insert “relevant”;

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- (b) in sub-paragraph (2), in the words before paragraph (a), after “making the” insert “relevant”;
- (c) in sub-paragraph (3), after “making a” insert “relevant”;
- (d) in sub-paragraph (5)—
 - (i) for the definition of “public protection decision” substitute—
““public protection decision”, in relation to a prisoner, has the meaning given by [section 237A\(2\)](#).”;
 - (ii) after the definition of “relevant indecent image” insert—
““relevant public protection decision”, in relation to a prisoner, means the public protection decision made—
 - (a) under paragraph 6(2) for the purposes of paragraph 6(1),
 - (b) under paragraph 15(4) for the purposes of paragraph 15(3),
 - (c) under paragraph 25(3) for the purposes of paragraph 25(2), or
 - (d) under paragraph 28(3) for the purposes of paragraph 28(2).”

Commencement Information

- II** S. 59 not in force at Royal Assent, see [s. 81\(2\)](#)

Status:

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Changes to legislation:

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