

CRIMINAL JUSTICE (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT THE ACT IS IN 12 PARTS.

Part 4 – Prisoners

Consecutive sentences

Section 26 – Consecutive sentences: life prisoners etc.

122. **Section 26** amends the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) to provide a new power for a court, when sentencing a person for an offence committed after the section comes into force and where that person is already serving a sentence of imprisonment, to order that:
 - a life sentence may commence, in the case of an existing life prisoner, on the expiry of the punishment part of the existing life sentence or, if the prisoner is already serving a determinate sentence, at the point at which the Scottish Ministers would otherwise be required to release the prisoner; and
 - a determinate sentence may commence, in the case of an existing life prisoner, on the expiry of the punishment part of the existing life sentence.
123. At present, a life sentence may not be ordered to commence at a date after the date of sentence, nor may a determinate sentence be ordered to run consecutively to it. The new power will be in addition to the sentencing powers which courts already have.
124. **Section 26(1)** inserts a new section 204B into the 1995 Act to provide courts with this new power. Where the second bullet point above applies, the new section will only apply to solemn proceedings, since summary proceedings are covered elsewhere in the 1995 Act, as explained below.
125. **Section 26(2)** amends section 167 in Part IX (Summary Proceedings) of the 1995 Act to provide that, in summary proceedings, where a sentence is imposed in the circumstances described in the second bullet point (paragraph 124) above, the court may order the later sentence to start on the expiry of the punishment part of the life sentence .