



# Criminal Justice (Scotland) Act 2003

## 2003 asp 7

### PART 4

#### PRISONERS ETC.

##### *Consecutive sentences*

#### **26 Consecutive sentences: life prisoners etc.**

- (1) After section 204A of the 1995 Act (which restricts the ability of a court to impose consecutive sentences in the case of prisoners released on licence etc.), there is inserted—

##### **“204B Consecutive sentences: life prisoners etc.**

- (1) This section applies in respect of sentencing for offences committed after the coming into force of this section.
- (2) Where, in solemn proceedings, the court sentences a person to imprisonment or other detention, the court may—
- (a) if the person is serving or is liable to serve the punishment part of a previous sentence, frame the sentence to take effect on the day after that part of that sentence is or would be due to expire; or
  - (b) if the person is serving or is liable to serve the punishment parts of two or more previous sentences, frame the sentence to take effect on the day after the later or (as the case may be) latest expiring of those parts is or would be due to expire.
- (3) Where, in such proceedings, it falls to the court to sentence a person who is subject to a previous sentence in respect of which a punishment part requires to be (but has not been) specified, the court shall not sentence the person until such time as the part is either specified or no longer requires to be specified.
- (4) Where the court sentences a person to a sentence of imprisonment or other detention for life, for an indeterminate period or without limit of time, the court may, if the person is serving or is liable to serve for any offence—

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**Changes to legislation:** *Criminal Justice (Scotland) Act 2003, Section 26 is up to date with all changes known to be in force on or before 21 March 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) View outstanding changes*

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- (a) a previous sentence of imprisonment or other detention the term of which is not treated as part of a single term under section 27(5) of the 1993 Act; or
- (b) two or more previous sentences of imprisonment or other detention the terms of which are treated as a single term under that section of that Act,

frame the sentence to take effect on the day after the person would (but for the sentence so framed and disregarding any subsequent sentence) be entitled to be released under the provisions referred to in section 204A of this Act as respects the sentence or sentences.

(5) Subsection (4)(a) above shall not apply where the sentence is a sentence from which he has been released at any time under the provisions referred to in section 204A of this Act.

(6) In this section, any reference to a punishment part of a sentence shall be construed by reference to—

- (a) the punishment part of the sentence as is specified in an order mentioned in section 2(2) of the 1993 Act; or
- (b) any part of the sentence which has effect, by virtue of section 10 of the 1993 Act or the schedule to the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7), as if it were the punishment part so specified,

and “the 1993 Act” means the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9).

(7) This section is without prejudice to any other power under any enactment or rule of law as respects sentencing.”.

(2) Section 167 of that Act (forms of finding and sentence) is amended as follows—

- (a) in subsection (7) after the words “any previous sentence” there is inserted “for a term”; and
- (b) after that subsection, there is inserted—

“(7A) Where the court imposes a sentence as mentioned in paragraph (a) of subsection (7) above for an offence committed after the coming into force of this subsection, the court may—

- (a) if the person is serving or is liable to serve the punishment part of a previous sentence, frame the sentence to take effect on the day after that part of that sentence is or would be due to expire; or
- (b) if the person is serving or is liable to serve the punishment parts of two or more previous sentences, frame the sentence to take effect on the day after the later or (as the case may be) latest expiring of those parts is or would be due to expire.

(7B) Where it falls to the court to sentence a person who is subject to a previous sentence in respect of which a punishment part requires to be (but has not been) specified, the court shall not sentence the person until such time as the part is either specified or no longer requires to be specified.

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- (7C) In subsections (7A) and (7B) above, any reference to a punishment part of a sentence shall be construed by reference to—
- (a) the punishment part of the sentence as is specified in an order mentioned in section 2(2) of the 1993 Act; or
  - (b) any part of the sentence which has effect, by virtue of section 10 of the 1993 Act or the schedule to the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7), as if it were the punishment part so specified,
- and “the 1993 Act” means the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9).”.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) and purposes Appointed Day(s) by [S.S.I. 2003/439 art. 23Sch.](#) (Effect not applied to [legislation.gov.uk](#). This S.S.I. is revoked (1.10.2003) by S.S.I. 2003/475, art. 4)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16D inserted by [2023 asp 4 s. 14\(3\)](#)
- s. 16ZA inserted by [2023 asp 4 s. 14\(2\)](#)
- s. 17E(6) inserted by [2023 asp 4 s. 14\(7\)\(d\)](#)
- s. 17DA inserted by [2023 asp 4 s. 14\(6\)](#)
- s. 17ZA inserted by [2023 asp 4 s. 14\(4\)](#)
- s. 18A(5) inserted by [2023 asp 4 s. 14\(8\)\(b\)](#)