

CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 2 - Confinement and Release of Prisoners Chapter 2

Confinement, Review and Release of Prisoners

Life Prisoners

Section 20 - Setting of punishment part

50. This section sets out the provisions for setting the punishment part of a life sentence. The period will be specified in an order made by the court. Subsection (1) provides that this section applies where the court imposes on a person a life sentence. Subsection (2) requires the court to specify the punishment part in an order after imposing the sentence. Subsection (3) defines the punishment part as being that part of the sentence which, taking into account certain specified matters, the court considers appropriate to satisfy the requirements for retribution and deterrence but ignoring any period of confinement that the court feels may be necessary for protection of the public. It is only once this period has been served in full that the offender can be released on life licence, but this will only happen following a direction from the Parole Board, as explained below.
51. Subsection (4) details the matters the court must take account of when setting a punishment part for someone with a mandatory life sentence (for murder), namely
- the seriousness of the offence, or of the offence combined with other offences of which the person is convicted on the same indictment;
 - any previous convictions;
 - where appropriate, the timing of any guilty plea;
- Subsection (5) deals with the relevant matters for those with a discretionary life sentence (for offence other than murder) or an order for lifelong restriction. They are:
- the determinate period of imprisonment the court considers would have been appropriate had the court not imposed a discretionary life sentence or an order for lifelong restriction; and
 - the part of that period of imprisonment which the court would have specified as the custody part, by reference to the matters set out in section 6(4)
52. Subsections (6), (7) and (8) provide that the punishment part, which must be expressed in years and months, may exceed the person's life expectancy, and forms part of the person's sentence for the purposes of any appeal or review.