



Custodial Sentences and Weapons (Scotland) Act 2007

2007 asp 17

PART 2

CONFINEMENT AND RELEASE OF PRISONERS

CHAPTER 2

CONFINEMENT, REVIEW AND RELEASE OF PRISONERS

Life prisoners

20 Setting of punishment part

- (1) This section applies where the court imposes on a person a life sentence.
- (2) After imposing the sentence, the court must make an order specifying the punishment part of the sentence.
- (3) The punishment part is that part of the person's life sentence which, taking into account—
 - (a) in the case of a mandatory life sentence, the matters mentioned in subsection (4),
 - (b) in the case of a discretionary life sentence or an order for lifelong restriction under section 210F of the 1995 Act, the matters mentioned in subsection (5),the court considers appropriate to satisfy the requirements for retribution and deterrence (ignoring any period of confinement which may be necessary for the protection of the public).
- (4) Those matters are—
 - (a) the seriousness of the offence, or of the offence combined with other offences of which the person is convicted on the same indictment as that offence,
 - (b) any previous conviction of the person, and

Status: This is the original version (as it was originally enacted).

- (c) where appropriate, the matters mentioned in paragraphs (a) and (b) of section 196(1) of the 1995 Act.
- (5) Those matters are—
 - (a) any period of imprisonment which the court considers would have been appropriate for the offence had the court not imposed a sentence, or made an order, such as is mentioned in subsection (3)(b) for the offence, and
 - (b) the part of that period of imprisonment which, by virtue of section 6, the court would have specified as the custody part.
- (6) An order specifying a punishment part must specify the punishment part in years and months.
- (7) It does not matter that a punishment part so specified may exceed the remainder of the person's natural life.
- (8) An order specifying a punishment part constitutes part of a person's sentence within the meaning of the 1995 Act for the purposes of any appeal or review.

21 Referral to Parole Board

Before the expiry of the punishment part of a prisoner's life sentence, the Scottish Ministers must refer the prisoner's case to the Parole Board.

22 Review by Parole Board

- (1) Subsection (2) applies where a life prisoner's case is referred to the Parole Board under section 21.
- (2) Before the expiry of the punishment part of the prisoner's life sentence, the Parole Board must determine whether subsection (3) applies in respect of the prisoner.
- (3) This subsection applies if the prisoner would, if not confined, be likely to cause serious harm to members of the public.

23 Release on life licence following review by Parole Board

- (1) Subsection (2) applies where the Parole Board determines under section 22(2) or 25(3) that section 22(3) does not apply in respect of a life prisoner.
- (2) The Parole Board must—
 - (a) direct the Scottish Ministers to release the prisoner on life licence, and
 - (b) specify conditions to be included in the prisoner's licence.
- (3) Where a direction is given under subsection (2)(a) the Scottish Ministers must release the prisoner on life licence.
- (4) In the case of a determination under section 22(2) the direction must be implemented on the expiry of the punishment part of the prisoner's sentence.

24 Determination that section 22(3) applicable: consequences

- (1) This section applies where the Parole Board determines under section 22(2) or 25(3) that section 22(3) applies in respect of a life prisoner.

- (2) The Parole Board must—
 - (a) give the prisoner reasons in writing for its determination, and
 - (b) fix the date on which it will next consider the prisoner’s case.
- (3) Subject to section 26, the date fixed under subsection (2)(b) must fall within the period—
 - (a) beginning with the day falling 4 months after the day of the determination, and
 - (b) ending immediately before the second anniversary of the day of the determination.
- (4) Subsection (5) applies where the Parole Board has fixed a date under subsection (2)(b).
- (5) On the prisoner’s request, the Board may, if it considers it appropriate to do so, replace that date by fixing under subsection (2)(b) an earlier date when it will next consider the prisoner’s case.

25 Further referral to Parole Board

- (1) This section applies where the Parole Board fixes a date under section 24(2)(b) for considering a prisoner’s case.
- (2) The Scottish Ministers must refer the prisoner’s case to the Parole Board before that date.
- (3) The Parole Board must determine whether section 22(3) applies in respect of the prisoner.