

## SCHEDULES

### SCHEDULE 17

Section 121

#### CRIMINAL JUSTICE ACT 2003: RESTATEMENT OF TRANSITIONAL PROVISION

- 1 The Criminal Justice Act 2003 is amended as follows.
- 2 In section 244 (duty to release prisoners on licence), after subsection (3) insert—
  - “(4) This section is subject to paragraphs 5, 6, 8, 25 and 28 of Schedule 20B (transitional cases).”
- 3 In section 247 (release on licence of prisoner serving extended sentence), after subsection (7) insert—
  - “(8) In its application to a person serving a sentence imposed before 14 July 2008, this section is subject to the modifications set out in paragraph 15 of Schedule 20B (transitional cases).”
- 4 In section 249 (duration of licence), at the end insert—
  - “(5) This section is subject to paragraphs 17, 19 and 26 of Schedule 20B (transitional cases).”
- 5 (1) Section 258 (early release of fine defaulters and contemnors) is amended as follows.
  - (2) After subsection (2) insert—
    - “(2A) Subsection (2) is subject to paragraph 35 of Schedule 20B (transitional cases).”
  - (3) In subsection (3) after “in this section” insert “or in paragraph 35 of Schedule 20B”.
- 6 In section 260 (early removal of prisoners liable to removal from UK), after subsection (7) insert—
  - “(8) Paragraphs 36 and 37 of Schedule 20B (transitional cases) make further provision about early removal of certain prisoners.”
- 7 In section 263 (concurrent terms), after subsection (4) insert—
  - “(5) This section is subject to paragraphs 21, 31 and 32 of Schedule 20B (transitional cases).”
- 8 In section 264 (consecutive terms), after subsection (7) insert—
  - “(8) This section is subject to paragraphs 21, 22, 31, 32 and 33 of Schedule 20B (transitional cases).”
- 9 After section 267A (inserted by Schedule 16) insert—

**“267B Modification of Chapter 6 in certain transitional cases**

Schedule 20B (which modifies this Chapter so as to restate, with minor amendments, the effect of transitional provisions relating to the coming into force of this Chapter) has effect.”

10 After Schedule 20A (inserted by Schedule 16) insert—

“SCHEDULE  
20B

Section 267B

MODIFICATIONS OF CHAPTER 6 OF PART 12 IN CERTAIN TRANSITIONAL CASES

**PART 1**

INTRODUCTORY

**Interpretation**

- 1 (1) The following provisions apply for the purposes of this Schedule.
- (2) “The commencement date” means the date on which section 121 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force.
- (3) “The 1967 Act” means the Criminal Justice Act 1967.
- (4) “The 1991 Act” means the Criminal Justice Act 1991.
- (5) A “section 85 extended sentence” means an extended sentence under section 85 of the Sentencing Act and includes (in accordance with paragraph 1(3) of Schedule 11 to that Act) a sentence under section 58 of the Crime and Disorder Act 1998.
- (6) In relation to a section 85 extended sentence, “the custodial term” and “the extension period” have the meaning given by that section.
- (7) References to section 86 of the Sentencing Act include (in accordance with paragraph 1(3) of Schedule 11 to that Act) section 44 of the 1991 Act as originally enacted.
- (8) A “1967 Act sentence” is a sentence imposed before 1 October 1992.
- (9) A “1991 Act sentence” is a sentence which is—
  - (a) imposed on or after 1 October 1992 but before 4 April 2005, or
  - (b) imposed on or after 4 April 2005 but before the commencement date and is either—
    - (i) imposed in respect of an offence committed before 4 April 2005, or
    - (ii) for a term of less than 12 months.
- (10) A “2003 Act sentence” is a sentence which is—
  - (a) imposed on or after the commencement date, or

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- (b) imposed on or after 4 April 2005 but before the commencement date and is both—
    - (i) imposed in respect of an offence committed on or after 4 April 2005, and
    - (ii) for a term of 12 months or more.
- (11) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it is to be taken for the purposes of this Schedule to have been committed on the last of those days.

### **Explanation of dates**

- 2 The following dates (which are mentioned in this Schedule) are dates on which changes to the law relating to the release and recall of prisoners came into force—
- 1 October 1992 is the date on which Part 2 of the 1991 Act came into force;
  - 30 September 1998 is the date on which certain provisions of the Crime and Disorder Act 1998 came into force;
  - 4 April 2005 is the date on which this Chapter came into force;
  - 9 June 2008 is the date on which section 26 of the Criminal Justice and Immigration Act 2008 came into force;
  - 14 July 2008 is the date on which certain other provisions of that Act came into force;
  - 2 August 2010 is the date on which section 145 of the Coroners and Justice Act 2009 came into force.

## **PART 2**

### **PRISONERS SERVING 1991 ACT SENTENCES ETC**

- 3 (1) This Part applies to certain persons serving a 1991 Act sentence.
- (2) This Part also applies to a person serving a 2003 Act sentence which is—
- (a) a section 85 extended sentence, or
  - (b) an extended sentence imposed under section 227 or 228 before 14 July 2008.
- (3) But this Part does not apply to a person who—
- (a) has been released on licence under Part 2 of the 1991 Act,
  - (b) has been recalled to prison, and
  - (c) (whether or not having returned to custody in consequence of that recall) is unlawfully at large on the commencement date.

### **Duty to release on licence at two-thirds of sentence**

- 4 (1) This paragraph applies to a person in relation to whom—
- (a) all the conditions in sub-paragraph (2) are met, and
  - (b) the condition in any one or more of sub-paragraphs (3) to (5) is met.

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- (2) The conditions in this sub-paragraph are that—
- (a) the person has been convicted of an offence committed before 4 April 2005,
  - (b) the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992 but before the commencement date,
  - (c) the sentence or (in the case of a section 85 extended sentence) the custodial term is for a term of 4 years or more, and
  - (d) the person has not previously been released from prison on licence in respect of that sentence.
- (3) The condition in this sub-paragraph is that the offence (or one of the offences) in respect of which the sentence was imposed is—
- (a) an offence specified in Schedule 15 (specified violent offences and specified sexual offences) as it had effect on 4 April 2005,
  - (b) an offence under any of sections 11, 12, 15 to 18, 54 and 56 to 63 of the Terrorism Act 2000,
  - (c) an offence under any of sections 47, 50 and 113 of the Anti-terrorism, Crime and Security Act 2001,
  - (d) an offence under section 12 of the Sexual Offences Act 1956,
  - (e) an offence of aiding, abetting counselling, procuring or inciting the commission of an offence listed in any of paragraphs (b) to (d), or
  - (f) an offence of conspiring or attempting to commit an offence listed in any of paragraphs (b) to (d).
- (4) The condition in this sub-paragraph is that the person has served one-half of the sentence or (in the case of a section 85 extended sentence) of the custodial term before 9 June 2008.
- (5) The condition in this sub-paragraph is that—
- (a) the person is serving the sentence by virtue of having been transferred to the United Kingdom in pursuance of a warrant under section 1 of the Repatriation of Prisoners Act 1984,
  - (b) the warrant was issued before 9 June 2008, and
  - (c) the offence (or one of the offences) for which the person is serving the sentence corresponds to murder or to any offence specified in Schedule 15 as it had effect on 4 April 2005.
- 5 (1) As soon as a person to whom paragraph 4 applies has served two-thirds of the sentence, it is the duty of the Secretary of State to release the person on licence under this paragraph.
- (2) If the person is serving a section 85 extended sentence, the reference in sub-paragraph (1) to two-thirds of the sentence is a reference to two-thirds of the custodial term.
- (3) Sub-paragraphs (1) and (2) apply in place of section 244 (release on licence of prisoners serving 12 months or more).

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### **Duty to release on direction of Parole Board**

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- (1) After a person to whom paragraph 4 applies has served one-half of the sentence, the Secretary of State must, if directed to do so by the Board, release the person on licence under this paragraph.
  - (2) The Board must not give a direction under sub-paragraph (1) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
  - (3) If the person is serving a section 85 extended sentence, the reference in sub-paragraph (1) to one-half of the sentence is a reference to one-half of the custodial term.
  - (4) Sub-paragraphs (1) to (3) apply in place of section 244 (release on licence of prisoners serving 12 months or more).

### **Release on licence at one-half of sentence: section 85 extended sentence prisoners**

- 7
- (1) This paragraph applies to a person if—
    - (a) the person has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
    - (b) the person is serving a section 85 extended sentence in respect of that offence,
    - (c) the person has not previously been released from prison on licence in respect of that sentence, and
    - (d) paragraph 4 does not apply to the person.
- 8
- (1) As soon as a person to whom paragraph 7 applies has served one-half of the custodial term, it is the duty of the Secretary of State to release the person on licence under this paragraph.
  - (2) Sub-paragraph (1) applies in place of section 243A or 244, as the case may be (release of prisoners serving less than 12 months, or serving 12 months or more).

### **Duty to release unconditionally at three-quarters of sentence**

- 9
- (1) This paragraph applies to a person if—
    - (a) the person has been convicted of an offence committed before 30 September 1998,
    - (b) the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992,
    - (c) the sentence is for a term of 12 months or more,
    - (d) the person has been released on licence under Part 2 of the 1991 Act, and
    - (e) the person has been recalled before 14 July 2008 (and has not been recalled after that date).
  - (2) But this paragraph does not apply if the court by which the person was sentenced ordered that section 86 of the Sentencing Act (extension of

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periods in custody and on licence in the case of certain sexual offences) should apply.

- 10 As soon as a person to whom paragraph 9 applies would (but for the earlier release) have served three-quarters of the sentence, it is the duty of the Secretary of State to release the person unconditionally.

**Duty to release on licence at three-quarters of sentence**

- 11 (1) This paragraph applies to a person who—
- (a) has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
  - (b) is serving a sentence of imprisonment for a term of 12 months or more imposed in respect of that offence,
  - (c) has been released on licence under Part 2 of the 1991 Act, and
  - (d) has been recalled before 14 July 2008 (and has not been recalled after that date).
- (2) But this paragraph does not apply if the person has been released and recalled more than once.
- (3) Nor does this paragraph apply if the sentence is a section 85 extended sentence (paragraph 13 applying to such a case instead).

- 12 As soon as a person to whom paragraph 11 applies would (but for the earlier release) have served three-quarters of the sentence, it is the duty of the Secretary of State to release the person on licence.

**Release on licence: re-release of section 85 extended sentence prisoners**

- 13 (1) This paragraph applies to a person who—
- (a) has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
  - (b) is serving a section 85 extended sentence imposed in respect of that offence,
  - (c) has been released on licence under Part 2 of the 1991 Act, and
  - (d) has been recalled before 14 July 2008 (and has not been recalled after that date).
- (2) But this paragraph does not apply if the person has been released and recalled more than once.
- 14 (1) If a person to whom paragraph 13 applies is serving a sentence with a custodial term of less than 12 months, it is the duty of the Secretary of State to release the person on licence as soon as the person would (but for the earlier release) have served the period found by adding—
- (a) one-half of the custodial term, and
  - (b) the extension period.
- (2) If a person to whom paragraph 13 applies is serving a sentence with a custodial term of 12 months or more, it is the duty of the Secretary of State to release the person on licence as soon as the person would (but for the earlier release) have served the period found by adding—
- (a) three-quarters of the custodial term, and

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- (b) the extension period.

**Release of section 227 or 228 extended sentence prisoners: Parole Board direction**

- 15 (1) This paragraph applies to a person (“P”) who is serving an extended sentence imposed under section 227 or 228 before 14 July 2008.
- (2) Section 247 (release of prisoner on licence) applies to P with the following modifications.
- (3) The Secretary of State must not release P under subsection (2) of that section unless the Board has directed P’s release under that subsection.
- (4) The Board must not give a direction under sub-paragraph (3) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
- (5) As soon as P has served the appropriate custodial term, the Secretary of State must release P on licence, unless P has previously been recalled under section 254.

**Licence to remain in force to three-quarters of sentence**

- 16 (1) This paragraph applies to a person to whom paragraph 4 applies.
- (2) This paragraph also applies to a person if—
- (a) the person has been convicted of an offence committed before 4 April 2005,
- (b) the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992 but before the commencement date,
- (c) that sentence is for a term of 12 months or more but less than 4 years, and
- (d) the person has not previously been released from prison on licence in respect of that sentence.
- (3) This paragraph also applies to a person if—
- (a) the person has been convicted of an offence committed before 4 April 2005,
- (b) the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992,
- (c) that sentence is for a term of 12 months or more,
- (d) the person has been released on licence under Part 2 of the 1991 Act, and
- (e) the person has been recalled before 14 July 2008 (and has not been recalled after that date).
- (4) But this paragraph does not apply if the person has been released and recalled more than once.
- (5) Nor does this paragraph apply if—
- (a) the person is serving a section 85 extended sentence, or

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- (b) the court by which the person was sentenced ordered that section 86 of the Sentencing Act (extension of periods in custody and on licence in the case of certain sexual offences) should apply.
- (6) If a person has been—
  - (a) released under section 34A of the 1991 Act or section 246 (home detention curfew), and
  - (b) recalled under section 38A(1)(b) of the 1991 Act or section 255(1)(b) (no longer possible to monitor curfew),
 the release and recall are to be disregarded for the purposes of this paragraph.
- 17 (1) Where a person to whom paragraph 16 applies is released on licence under section 244 or paragraph 5 or 6, the licence shall remain in force until the date on which the person would (but for the release) have served three-quarters of the sentence.
- (2) Sub-paragraph (1) is subject to any revocation under section 254.
- (3) Sub-paragraphs (1) and (2) apply in place of section 249 (duration of licence).

**Period for which licence to remain in force: section 85 extended sentence prisoners**

- 18 This paragraph applies to a person who—
  - (a) has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
  - (b) is serving a section 85 extended sentence imposed in respect of that offence, and
  - (c) has not previously been released from prison on licence in respect of that sentence.
- 19 (1) Where a person to whom paragraph 18 applies is released on licence and the custodial term is less than 12 months, the licence shall remain in force until the end of the period found by adding—
  - (a) one-half of the custodial term, and
  - (b) the extension period.
- (2) Where a person to whom paragraph 18 applies is released on licence and the custodial term is 12 months or more, the licence shall remain in force until the end of the period found by adding—
  - (a) three-quarters of the custodial term, and
  - (b) the extension period.
- (3) Sub-paragraphs (1) and (2) are subject to any revocation under section 254.
- (4) Sub-paragraphs (1) to (3) apply in place of section 249 (duration of licence).



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### **Concurrent or consecutive terms**

- 20 Paragraphs 21 and 22 apply where a person (“P”) is serving two or more sentences of imprisonment imposed on or after 1 October 1992 and—
- (a) the sentences were passed on the same occasion, or
  - (b) where they were passed on different occasions, the person has not been released under Part 2 of the 1991 Act or under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- 21
- (1) This paragraph applies if each of the sentences is a 1991 Act sentence.
  - (2) Sections 263 and 264 (consecutive and concurrent terms) do not apply in relation to the sentences.
  - (3) For the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which P has been sentenced or which, or part of which, P has served, the terms are to be treated as a single term.
  - (4) If one or more of the sentences is a section 85 extended sentence—
    - (a) for the purpose of determining the single term mentioned in sub-paragraph (3), the extension period or periods is or are to be disregarded, and
    - (b) the period for which P is to be on licence in respect of the single term is to be increased in accordance with sub-paragraph (5).
  - (5) That period is to be increased—
    - (a) if only one of the sentences is a section 85 extended sentence, by the extension period;
    - (b) if there is more than one such sentence and they are wholly or partly concurrent, by the longest of the extension periods;
    - (c) if there is more than one such sentence and they are consecutive, by the aggregate of the extension periods.
- 22
- (1) This paragraph applies where two or more sentences are to be served consecutively on each other and—
    - (a) one or more of those sentences is a 1991 Act sentence, and
    - (b) one or more of them is a 2003 Act sentence.
  - (2) Section 264 does not affect the length of the period which P must serve in prison in respect of the 1991 Act sentence or sentences.
  - (3) Nothing in this Chapter requires the Secretary of State to release P until P has served a period equal in length to the aggregate of the length of the periods which P must serve in relation to each of the sentences mentioned in sub-paragraph (1).
  - (4) If P is also serving one or more 1967 Act sentences, paragraphs 32 and 33 apply instead of this paragraph.

### PART 3

#### PRISONERS SERVING 1967 ACT SENTENCES

- 23 (1) This Part applies to certain persons serving a 1967 Act sentence.
- (2) But this Part does not apply to a person who—
- (a) has been released on licence,
  - (b) has been recalled to prison, and
  - (c) (whether or not having returned to custody in consequence of that recall) is unlawfully at large on the commencement date.
- (3) In this Part, references to release under Part 2 of the 1991 Act include release under section 60 of the 1967 Act.

#### **Sentence of more than 12 months imposed before 1 October 1992**

- 24 (1) This paragraph applies to a person if—
- (a) the person is serving a sentence of imprisonment imposed before 1 October 1992,
  - (b) the sentence is for a term of more than 12 months, and
  - (c) the person has not previously been released from prison on licence in respect of that sentence.
- (2) This paragraph also applies to a person if—
- (a) the person is serving a sentence of imprisonment imposed before 1 October 1992,
  - (b) the sentence is for a term of more than 12 months,
  - (c) the person has been released on licence under Part 2 of the 1991 Act, and
  - (d) the person has been recalled before 14 July 2008 (and has not been recalled after that date).
- (3) But this paragraph does not apply if, on the passing of the sentence, an extended sentence certificate was issued (see paragraph 27).
- (4) If a person has been—
- (a) released under section 34A of the 1991 Act or section 246 (home detention curfew), and
  - (b) recalled under section 38A(1)(b) of the 1991 Act or section 255(1)(b) (no longer possible to monitor curfew),
- the release and recall are to be disregarded for the purposes of this paragraph.
- 25 (1) It is the duty of the Secretary of State to release a person to whom paragraph 24 applies unconditionally under this paragraph—
- (a) in the case of a person falling within paragraph 24(1), as soon as the person has served two-thirds of the sentence;
  - (b) in the case of a person falling within paragraph 24(2), as soon as the person would (but for the earlier release) have served two-thirds of the sentence.

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- (2) After a person falling within paragraph 24(1) has served one-third of the sentence or six months, whichever is longer, the Secretary of State must, if directed to do so by the Board, release the person on licence under this paragraph.
  - (3) The Board must not give a direction under sub-paragraph (2) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
  - (4) Sub-paragraphs (1) to (3) apply in place of section 244 (release on licence of prisoners serving 12 months or more).
- 26
- (1) Where a person to whom paragraph 24 applies is released on licence under paragraph 25(2), the licence shall remain in force until the date on which the person would (but for the release) have served two-thirds of the sentence.
  - (2) Sub-paragraph (1) is subject to any revocation under section 254.
  - (3) Sub-paragraphs (1) and (2) apply in place of section 249 (duration of licence).

#### **Extended sentence of more than 12 months imposed before 1 October 1992**

- 27
- (1) This paragraph applies to a person if—
    - (a) the person is serving a sentence of imprisonment imposed before 1 October 1992,
    - (b) the sentence is for a term of more than 12 months,
    - (c) on the passing of the sentence an extended sentence certificate was issued, and
    - (d) the person has not previously been released from prison on licence in respect of that sentence.
  - (2) This paragraph also applies to a person if—
    - (a) the person is serving a sentence of imprisonment imposed before 1 October 1992,
    - (b) the sentence is for a term of more than 12 months,
    - (c) on the passing of the sentence an extended sentence certificate was issued,
    - (d) the person has been released on licence under Part 2 of the 1991 Act, and
    - (e) the person has been recalled before 14 July 2008 (and has not been recalled after that date).
  - (3) In this paragraph “extended sentence certificate” means a certificate was issued under section 28 of the Powers of Criminal Courts Act 1973 (punishment of persistent offenders) stating that an extended term of imprisonment was imposed on the person under that section.
- 28
- (1) It is the duty of the Secretary of State to release a person to whom paragraph 27 applies on licence under this paragraph—
    - (a) in the case of a person falling within paragraph 27(1), as soon as the person has served two-thirds of the sentence;

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- (b) in the case of a person falling within paragraph 27(2), as soon as the person would (but for the earlier release) have served two-thirds of the sentence.
- (2) After a person falling within paragraph 27(1) has served one-third of the sentence or six months, whichever is longer, the Secretary of State must, if directed to do so by the Board, release the person on licence under this paragraph.
- (3) The Board must not give a direction under sub-paragraph (2) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
- (4) Sub-paragraphs (1) to (3) apply in place of section 244 (release on licence of prisoners serving twelve months or more).

#### **Additional days**

- 29 (1) Prison rules made by virtue of section 257 may include provision for applying any provisions of this Chapter, in relation to any person falling within sub-paragraph (2), as if the person had been awarded such number of additional days as may be determined by or under the rules.
- (2) A person falls within this sub-paragraph if—
  - (a) the person was released on licence under section 60 of the 1967 Act before 1 October 1992 and the licence was in force on that date, or
  - (b) the person was, on that date, serving a custodial sentence, and (in either case) the person has forfeited any remission of the sentence.

#### **Concurrent or consecutive terms**

- 30 Paragraphs 31 to 33 apply where a person (“P”) is serving two or more sentences of imprisonment and—
  - (a) the sentences were passed on the same occasion, or
  - (b) where they were passed on different occasions, the person has not been released under Part 2 of the 1991 Act or under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- 31 (1) This paragraph applies where each of the sentences is a 1967 Act sentence.
- (2) Sections 263 and 264 (consecutive and concurrent terms) do not apply in relation to the sentences.
- (3) For the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which P has been sentenced or which, or part of which, P has served, the terms are to be treated as a single term.
- 32 (1) This paragraph applies where—
  - (a) one or more of the sentences is a 1967 Act sentence, and
  - (b) one or more of them is a 1991 Act sentence.

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- (2) Sections 263 and 264 (consecutive and concurrent terms) do not apply in relation to the sentences mentioned in sub-paragraph (1).
  - (3) For the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which P has been sentenced or which, or part of which, P has served—
    - (a) the terms mentioned in sub-paragraph (1) are to be treated as a single term, and
    - (b) that single term is to be treated as if it were a 1967 Act sentence.
  - (4) If one or more of the sentences is a section 85 extended sentence—
    - (a) for the purpose of determining the single term mentioned in sub-paragraph (3), the extension period or periods is or are to be disregarded, and
    - (b) the period for which P is to be on licence in respect of the single term is to be increased in accordance with sub-paragraph (5).
  - (5) That period is to be increased—
    - (a) if only one of the sentences is a section 85 extended sentence, by the extension period;
    - (b) if there is more than one such sentence and they are wholly or partly concurrent, by the longest of the extension periods;
    - (c) if there is more than one such sentence and they are consecutive, by the aggregate of the extension periods.
  - (6) If P is also serving a 2003 Act sentence, sub-paragraph (3) is to be applied before the period mentioned in section 263(2)(c) (concurrent terms) or paragraph 33(3) (consecutive terms) is calculated.
- 33 (1) This paragraph applies where two or more sentences are to be served consecutively on each other and—
  - (a) one or more of those sentences is a 1967 Act sentence, and
  - (b) one or more of them is a 2003 Act sentence.
- (2) Section 264 does not affect the length of the period which P must serve in prison in respect of the 1967 Act sentence or sentences.
  - (3) Nothing in this Chapter requires the Secretary of State to release P until P has served a period equal in length to the aggregate of the length of the periods which P must serve in relation to each of the sentences mentioned in sub-paragraph (1).

## PART 4

### PROVISIONS APPLYING GENERALLY

#### Licence conditions

- 34 (1) This paragraph applies to any licence (a “Parole Board licence”) which falls within sub-paragraph (2) or (3).
- (2) A licence falls within this sub-paragraph if—

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- (a) it is or was granted to a person (“P”) on P’s release (at any time) on the recommendation or direction of the Board, and
  - (b) P has not been released otherwise than on such a recommendation or direction.
- (3) A licence falls within this sub-paragraph if—
- (a) it is or was granted to a person (“P”) on P’s release (at any time), and
  - (b) condition A or condition B is met.
- (4) Condition A is that, before 2 August 2010, the Board exercised the function under section 37(5) of the 1991 Act of making recommendations as to any condition to be included or inserted as a condition in a licence granted to P (including by making a recommendation that no condition should be included in such a licence).
- (5) Condition B is that, before 2 August 2010—
- (a) P was released on licence under section 33(2), (3) or (3A) or 35(1) of the 1991 Act, and
  - (b) the Board exercised the function under section 37(5) of that Act of—
    - (i) making recommendations as to the inclusion or insertion of a condition in a licence granted to P (including by making a recommendation that no condition should be included in such a licence), or
    - (ii) making recommendations as to the variation or cancellation of any such condition (including a recommendation that the condition should not be varied or cancelled).
- (6) The Secretary of State must not—
- (a) include on release, or subsequently insert, a condition in a Parole Board licence, or
  - (b) vary or cancel any such condition,
- except in accordance with directions of the Board.

### **Fine defaulters and contemnors**

- 35 (1) This paragraph applies to any person if—
- (a) the person has been committed to prison or to be detained under section 108 of the Sentencing Act—
    - (i) in default of payment of a sum adjudged to be paid by a conviction, or
    - (ii) for contempt of court or any kindred offence,
  - (b) the person was so committed or detained before 4 April 2005, and
  - (c) the term for which the person was committed or detained is 12 months or more.
- (2) As soon as a person to whom this paragraph applies has served two-thirds of the term, it is the duty of the Secretary of State to release the person unconditionally.

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

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- (3) Sub-paragraph (2) applies in place of section 258(2) (early release of fine defaulters and contemnors).

**Early removal of prisoners liable to removal from UK**

- 36 (1) This paragraph applies to any person who—
- (a) has served one-half of a sentence of imprisonment, and
  - (b) has not been released on licence under this Chapter.
- (2) The reference in sub-paragraph (1)(a) to one-half of a sentence is—
- (a) in the case of a section 85 extended sentence, a reference to one-half of the custodial term;
  - (b) in the case of an extended sentence imposed under section 227 or 228, a reference to one-half of the appropriate custodial term.
- 37 (1) If a person to whom paragraph 36 applies—
- (a) is liable to removal from the United Kingdom, and
  - (b) has not been removed from prison under section 260 during the period mentioned in subsection (1) of that section,
- the Secretary of State may remove the person from prison under that section at any time after the end of that period.
- (2) Sub-paragraph (1) applies whether or not the Board has directed the person's release under paragraph 6, 15, 25 or 28."