



Criminal Justice Act 1982

1982 CHAPTER 48

PART II

PARTIAL SUSPENSION OF SENTENCES, EARLY RELEASE, RELEASE ON LICENCE OR BAIL ETC.

Bail

29 Power of Crown Court to grant bail pending appeal

- (1) In subsection 81 of the Supreme Court Act 1981—
- (a) in subsection (1) (which lists cases in which the Crown Court may grant bail) at the end of paragraph (e) there shall be added—
 - “or
 - (f) to whom the Crown Court has granted a certificate under section 1(2) or 11(1 A) of the Criminal Appeal Act 1968 or under subsection (1B) below;”;
 - (b) the following subsections shall be inserted after that subsection—
 - “(1A) The power conferred by subsection (1)(f) does not extend to a case to which section 12 or 15 of the Criminal Appeal Act 1968 (appeal against verdict of not guilty by reason of insanity or against finding of disability) applies.
 - (1B) A certificate under this subsection is a certificate that a case is fit for appeal on a ground which involves a question of law alone.
 - (1C) The power conferred by subsection (1)(f) is to be exercised—
 - (a) where the appeal is under section 1 or 9 of the Criminal Appeal Act 1968, by the judge who tried the case ; and
 - (b) where it is under section 10 of that Act, by the judge who passed the sentence.

Status: This is the original version (as it was originally enacted).

- (1D) The power may only be exercised within twenty-eight days from the date of the conviction appealed against, or in the case of appeal against sentence, from the date on which sentence was passed or, in the case of an order made or treated as made on conviction, from the date of the making of the order.
- (1E) The power may not be exercised if the appellant has made an application to the Court of Appeal for bail in respect of the offence or offences to which the appeal relates.
- (1F) It shall be a condition of bail granted in the exercise of the power that, unless a notice of appeal has previously been lodged in accordance with sub section (1) of section 18 of the Criminal Appeal Act 1968—
 - (a) such a notice shall be so lodged within the period specified in subsection (2) of that section; and
 - (b) not later than 14 days from the end of that period, the appellant shall lodge with the Crown Court a certificate from the registrar of criminal appeals that a notice of appeal was given within that period.
- (1G) If the Crown Court grants bail to a person in the exercise of the power, it may direct him to appear
 - (a) if a notice of appeal is lodged within the period specified in section 18(2) of the Criminal Appeal Act 1968 at such time and place as the Court of Appeal may require ; and
 - (b) if no such notice is lodged within that period, at such time and place as the Crown Court may require.”.
- (2) In the Criminal Appeal Act 1968—
 - (a) in section 11—
 - (i) in subsection (1), for the word " An " there shall be substituted the words " Subject to subsection (1A) below, an "; and
 - (ii) the following subsection shall be inserted after that subsection—

“(1A) If the judge who passed the sentence grants a certificate that the case is fit for appeal under section 9 or 10 of this Act, an appeal lies under this section without the leave of the Court of Appeal.”;
 - (b) the following section shall be substituted for section 19—

“19 Bail

- (1) The Court of Appeal may, if they think fit.—
 - (a) grant an appellant bail pending the determination of his appeal; or
 - (b) revoke bail granted to an appellant by the Crown Court under paragraph (f) of section 81(1) of the Supreme Court Act 1981; or
 - (c) vary the conditions of bail granted to an appellant in the exercise of the power conferred by that paragraph.
- (2) The powers conferred by subsection (1) above may be exercised—

- (a) on the application of an appellant; or
 - (b) if it appears to the registrar of criminal appeals of the Court of Appeal (hereafter referred to as " the registrar ") that any of them ought to be exercised, on a reference to the court by him.”;
 - (c) the following paragraph shall be substituted for section 31(2)(e)—
 - “(e) to exercise the powers conferred by section 19 of this Act.”.
- (3) The following subsection shall be inserted after section 30(7) of the Legal Aid Act 1974—
- “(7A) Where a certificate that a case is fit for appeal has been issued under the Criminal Appeal Act 1968 or under section 81(1B) of the Supreme Court Act 1981, legal aid which may be ordered to be given by a legal aid order under section 28(7) above shall include legal aid for the purposes of an application for the grant of bail by the Crown Court.”.

Suspended sentences

30 Prison sentence partly served and partly suspended

- (1) Section 47 of the Criminal Law Act 1977 (which gives a court sentencing an offender to imprisonment for not less than six months and not more than two years power to suspend part of the sentence) shall have effect subject to the following amendments.
- (2) In subsection (1), for the word " Where " there shall be substituted the words " Subject to subsection (1A) below, where ".
- (3) In the said subsection (1), for the word " six " there shall be substituted the word " three ".
- (4) The following subsections shall be inserted after that subsection—
 - “(1A) A court shall not make an order under this section unless the case appears to the court to be one in which an order under section 22 of the Powers of Criminal Courts Act 1973 (sentences wholly suspended) would be inappropriate.
 - (1B) Subsection (1A) above is without prejudice to section 20 of the Powers of Criminal Courts Act 1973 (restriction on imposing sentences of imprisonment on persons who have not previously served prison sentences).”.
- (5) In subsection (2), for the words from the beginning to " that", there shall be substituted the words " The part of the sentence to be served in prison shall be not less than twenty-eight days and the part to be held in suspense shall be not less than one-quarter of the whole term, and the offender shall not be required to serve the latter ".
- (6) In subsection (3), for the words " subsection (4)", there shall be substituted the words " subsections (4) and (4A) ".
- (7) The following subsection shall be inserted after subsection (4)—
 - “(4A) If an order restoring part of a sentence has been made under subsection (3) above, no order restoring any further part of it may be made.”.

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

(8) The following subsections shall be added after subsection (8)—

- “(9) The Secretary of State may by order made by statutory instrument vary—
- (a) the minimum term of imprisonment for the time being specified in subsection (1) above ;
 - (b) the minimum part of the sentence to be served in prison for the time being specified in subsection (2) above.
- (10) An order made by virtue of subsection (9) (b) above may provide that the minimum part of the sentence to be served in prison shall be a specified length of time or a specified fraction of the whole sentence.
- (11) An order shall not be made under subsection (9) above unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.”.

31 Activation of suspended sentence

In section 23(1) of the Powers of Criminal Courts Act 1973, the words " which have arisen since the suspended sentence was passed " shall be omitted.

Early release

32 Early release of prisoners

- (1) The Secretary of State may order that persons of any class specified in the order who are serving a sentence of imprisonment, other than—
- (a) imprisonment for life ; or
 - (b) imprisonment to which they were sentenced—
 - (i) for an excluded offence ;
 - (ii) for attempting to commit such an offence ;
 - (iii) for conspiracy to commit such an offence; or
 - (iv) for aiding or abetting, counselling, procuring or inciting the commission of such an offence,
- shall be released from prison at such time earlier (but not more than six months earlier) than they would otherwise be so released as may be fixed by the order; but the Secretary of State shall not make an order under this section unless he is satisfied that it is necessary to do so in order to make the best use of the places available for detention.
- (2) In this section " excluded offence " means—
- (a) an offence (whether at common law or under any enactment) specified in Part I of Schedule 1 to this Act; and
 - (b) an offence under an enactment specified in Part II of that Schedule; and
 - (c) an offence specified in Part III of that Schedule.
- (3) No person may be released under this section if—
- (a) he is subject to more than one sentence of imprisonment ; and
 - (b) at least one of the terms that he has to serve is for an offence mentioned in subsection (1)(b)(i), (ii), (iii) or (iv) above.
- (4) An order under this section—

- (a) may define a class of persons in any way ;
 - (b) may relate to one or more specified prisons, or to prisons of a specified class (however defined), or to prisons generally; and
 - (c) may make the time at which a person of any specified class is to be released depend on any circumstances whatever.
- (5) Where a person who is to be released from prison in pursuance of an order under this section is a person serving a sentence of imprisonment in respect of whom an extended sentence certificate (within the meaning of the Powers of Criminal Courts Act 1973) was issued when the sentence was passed, his release shall be a release on licence under section 60 of the Criminal Justice Act 1967, irrespective of whether at the time of his release he could have been released on licence under that section by virtue of subsection (3) thereof.
- (6) Where a person not within subsection (5) above is released from prison in pursuance of an order under this section, his sentence shall expire on his release.
- (7) Subsections (1), (4) and (6) above shall apply in relation to any institution to which the Prison Act 1952 applies and to persons detained in any such institutions other than persons serving sentences of custody for life, as they apply in relation to prisons and persons serving such sentences of imprisonment as are mentioned in subsection (1) above.
- (8) An order under this section shall be made by statutory instrument.
- (9) No order under this section shall be made unless—
- (a) a draft of the order has been laid before Parliament and approved by resolution of each House of Parliament ; or
 - (b) the expedited procedure conditions are satisfied.
- (10) The expedited procedure conditions are satisfied if—
- (a) the order does not provide for the release of any persons before one month earlier than they would otherwise be released; and
 - (b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.
- (11) Every such order (except such an order of which a draft has been so approved)—
- (a) shall be laid before Parliament; and
 - (b) shall cease to have effect at the expiry of a period of 40 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new order.
- (12) In reckoning for the purposes of subsection (11) above any period of 40 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (13) An order under this section shall not remain in force after the expiration of 6 months beginning with the date on which it is made, but without prejudice to the power of the Secretary of State to revoke it or to make a further order under this section.
- (14) Section 5 of the Imprisonment (Temporary Provisions) Act 1980 (which is superseded by this section) shall cease to have effect.

Release on licence

33 Power to alter minimum period for eligibility for release on licence

In the Criminal Justice Act 1967—

- (a) in section 60 (release of persons serving determinate sentences)—
 - (i) in subsection (1), for the words " twelve months thereof " there shall be substituted the words " the specified period "; and
 - (ii) the following subsections shall be inserted after that subsection—
 - “(1A) In subsection (1) of this section " the specified period " means twelve months or such period, not more than twelve months, as the Secretary of State may by order provide.
 - (1B) An order under subsection (1A) of this section may make such incidental or supplementary provision (including provision amending enactments) as the Secretary of State considers appropriate.”;
- (b) the following subsection shall be inserted after section 100(2)—
 - “(2A) An order shall not be made under section 60(1 A) of this Act unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.”; and
- (c) in section 106(2) (provisions extending to Scotland) the following paragraph shall be inserted after paragraph (e)—
 - “(ee) section 100 ;”.

Computation of sentences

34 Reduction of sentence of imprisonment by periods spent in custody

In section 67(1) of the Criminal Justice Act 1967 (computation of sentences of imprisonment passed in England and Wales) after the word " arose" there shall be inserted the words " or by reason of his having been so committed and having been concurrently detained otherwise than by order of a court ".