

*Status: Point in time view as at 12/04/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Repatriation of Prisoners Act 1984, SCHEDULE. (See end of Document for details)*

## SCHEDULE

### OPERATION OF CERTAIN ENACTMENTS IN RELATION TO THE PRISONER

#### [<sup>F1</sup>PART 1

#### WARRANTS UNDER SECTION 1 APPLICATION OF PART 1]

##### Textual Amendments

- F1** Sch. Pt. 1: Sch. renumbered as Sch. Pt. 1 (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 19\(2\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(g)

- 1 [<sup>F2</sup>This Part of] this Schedule applies where a warrant is issued under [<sup>F3</sup>section 1 of] this Act providing for the transfer of the prisoner into the United Kingdom; and in [<sup>F4</sup>this Part of] this Schedule “the relevant provisions” means the provisions contained in the warrant by virtue of section 3(1)(c) of this Act or, in the case of a warrant which contains such a requirement as is referred to in section 4(2) of this Act, the provisions in accordance with which the prisoner continues, in pursuance of that requirement, to be detained.

##### Textual Amendments

- F2** Words in Sch. Pt. 1 para. 1 inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [Sch. 26 para. 19\(3\)\(a\)](#).
- F3** Words in Sch. Pt. 1 para. 1 inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [Sch. 26 para. 19\(3\)\(b\)](#).
- F4** Words in Sch. Pt. 1 para. 1 inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [Sch. 26 para. 19\(3\)\(c\)](#).

*[<sup>F5</sup>Release on licence][<sup>F5</sup>Early release]*

##### Textual Amendments

- F5** Sch. para. 2 and cross-heading substituted (S.) (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), [ss. 33\(1\)\(b\)\(i\)](#), [89\(2\)](#) (with s. 33(2)); S.S.I. 2003/288, art. 2, [sch.](#)

- 2 [<sup>F5</sup>(1) In determining, for the purposes of sections 1(1) to (3), [<sup>F10</sup>1AA, 2(2) and (7), 3AA] and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9), in their application to prisoners repatriated to Scotland (eligibility for early release from a sentence), whether the prisoner has at any time served a particular proportion or part of the sentence, the sentence shall, subject to sub-paragraph (2) below, be deemed to begin with the day on which the relevant provisions take effect.
- (2) If the warrant specifies a period to be taken into account for the purposes of section 1(3) [<sup>F11</sup>, 2(2) or (7) or 3AA] of that Act (eligibility of long-term and life prisoners as respects release on licence)—
- the amount of time the prisoner has served; and
  - where the sentence is a determinate one, the sentence,

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shall, so far only as the question whether he has served any particular proportion or part of the sentence is concerned, be deemed to be increased by that period.

- (3) The question whether the prisoner is a short-term or a long-term prisoner for the purposes of any of the sections mentioned in sub-paragraph (1) above shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.
- (4) For the purposes of Schedule 6 to that Act, a prisoner's sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.
- (5) In this paragraph, "sentence", except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.]

#### Textual Amendments

- F6** Sch. para. 2(1)(1A) substituted for para. 2(1) (E.W.S.) (1.10.1993) by 1993 c. 9, s. 47(1), **Sch. 5 para. 3(4)** (with s. 47(2), **Sch. 6 paras. 1, 2**); S.I. 1993/2050, **art. 3(4)**.
- F7** Sch. para. 2(2)-(4) substituted (E.W.) (4.4.2005) for Sch. 2 para. (1A)(2) by **Criminal Justice Act 2003 (c. 44)**, s. 336(3)(4), **Sch. 32 para. 43(2)**; S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 42(19)** (with savings in **Sch. 2**) (as explained (29.7.2005) by S.I. 2005/2122, **art. 2**; and as amended: (14.7.2008) by 2008 c. 4, **Sch. 26 para. 78**, **Sch. 28 Pt. 2**; S.I. 2008/1586, **Sch. 1 paras. 48(s)**, **50(2)(d)**; (30.11.2009) by S.I. 2009/3111, **art. 2**; (3.12.2012) by S.I. 2012/2905, **art. 4**; (3.12.2012) by 2012 c. 10, **Sch. 14 para. 17**; S.I. 2012/2906, **art. 2(1)**)
- F8** Sch. para. 2(3A) inserted (E.W.) (14.7.2008) by **Criminal Justice and Immigration Act 2008 (c. 4)**, **Sch. 26 para. 19(5)**; S.I. 2008/1586, **art. 2(1)**, **Sch. 1 para. 48(g)**
- F9** Words in Sch. para. 2(3A) substituted (E.W.) (12.4.2019) by **Counter-Terrorism and Border Security Act 2019 (c. 3)**, s. 27(3), **Sch. 4 para. 4** (with s. 25(3)(4))
- F10** Words in Sch. para. 2(1) substituted (S.) (8.2.2006) by **Management of Offenders etc. (Scotland) Act 2005 (asp 14)**, **ss. 21(5)(a)**, 24(2); S.S.I. 2006/48, **art. 3(1)**, sch. Pt. 1
- F11** Words in Sch. para. 2(2) substituted (S.) (8.2.2006) by **Management of Offenders etc. (Scotland) Act 2005 (asp 14)**, **ss. 21(5)(b)**, 24(2); S.S.I. 2006/48, **art. 3(1)**, sch. Pt. 1

#### Modifications etc. (not altering text)

- C1** Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to Scotland) by 1997 c. 43, s. 42, **Sch. 2 para. 6(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)**
- Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to E.W.) by 1997 c. 43, s. 42, **Sch. 2 para. 2(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)** (and, as so modified, further modified (E.W.) (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 58**; S.I. 1998/2327, **art. 2(1)(y)(2)(s)**, and further modified by art. 5(3)(b) of that S.I., and further modified (E.W.) (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 94(1)(a)(2)**)
- Sch. para. 2 modified (1.10.1997 in relation to prisoners repatriated to E.W.) by 1997 c. 43, s. 42, **Sch. 2 para. 3(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)** (and, as so modified, further modified (E.W.) (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 59**; S.I. 1998/2327, **art. 2(1)(y)(2)(s)**, and further modified (E.W.) (25.8.2000) by 2000 c. 6, ss. 165(1), 168(1), **Sch. 9 para. 94(1)(b)(2)**)
- Sch. para. 2 modified (E.W.) (prosp.) by 1997 c. 43, s. 42, **Sch. 2 paras. 4(1)(4)** (which Sch. 2 para. 4 was repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), **Sch. 8 para. 136**, **Sch. 10**; S.I. 1998/2327, **art. 2(1)(2)(pp)(3)(y)**)
- Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to Scotland) by 1997 c. 43, s. 42, **Sch. 2 para. 5(1)(2)** (which modification shall be deemed to have had effect since 16.2.1990); S.I. 1997/2200, **art. 2(1)(h)**
- Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to Scotland) by 1997 c. 43, s. 42, **Sch. 2 para. 7(2)**; S.I. 1997/2200, **art. 2(1)(h)**

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- Sch. para. 2 modified (S.) (prosp.) by 1997 c. 43, s. 42, **Sch. 2 para. 8(1)(2)** (which amending Sch. 2 para. 8 was repealed (30.9.1998) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 136, **Sch. 10**; S.I. 1998/2327, **art. 2(1)(2)(pp)(3)(y)**)
- Sch. para. 2 modified (retrospectively in relation to prisoners repatriated to N.I.) by 1997 c. 43, s. 42, **Sch. 2 para. 9(1)(2)**; S.I. 1997/2200, **art. 2(1)(h)**
- C2** Sch. para. 2: certain functions made exercisable in or as regards Scotland (30.6.1999) by S.I. 1999/1748, arts. 4(1), 8(1), **Sch. 2 para. 1(11)**
- C3** Sch. para. 2 (as it applies in E.W. in relation to offences committed before 4.4.2005) modified (9.6.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **Sch. 26 para. 19(4)**; S.I. 2008/1466, **art. 2(c)(i)** (with art. 4)

[<sup>F12</sup>2A (1) This paragraph applies to a prisoner repatriated to Northern Ireland.

- (2) In determining for the purposes of Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 whether the prisoner has at any time served a particular proportion or part of his sentence specified in that Chapter, the prisoner's sentence shall subject to sub-paragraph (3), be deemed to begin with the day on which the relevant provisions take effect.
- (3) If the warrant specifies a period to be taken into account for the purposes of this paragraph, the amount of time the prisoner has served shall, so far only as the question whether he has served a particular proportion or part of his sentence, be deemed to be increased by that period.
- (4) Where the prisoner's sentence is for a term of less than 12 months, Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 shall apply as if the sentence were for a term of 12 months or more.
- (5) In this paragraph “sentence” means the provision included in the warrant which is equivalent to sentence.]

#### Textual Amendments

- F12** Sch. para. 2A inserted (N.I.) (15.5.2008) by The Criminal Justice (Northern Ireland) Order 2008 (S.I. 2008/1216), art. 1(4), **Sch. 5 para. 4(2)**; S.R. 2008/217, art. 2, Sch. para. 18(b)

#### [<sup>F13</sup>Life imprisonment]

#### Textual Amendments

- F13** Sch. para. 3 and cross-heading substituted (E.W.) (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 60**; S.I. 1998/2327, **art. 2(1)(h)**

<sup>F14</sup><sup>F15</sup>3 .....

#### Textual Amendments

- F14** Sch. para. 3 repealed (S.) (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. **33(1)(b)(ii)**, 89(2); S.S.I. 2003/288, art. 2, sch.
- F15** Sch. para 3 repealed (E.W.N.I) (8.10.2001) by S.I. 2001/2565, arts. **1(2)**, 2(4); S.R. 2001/337, **art. 2**

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F16

#### Textual Amendments

**F16** Sch. para. 4 repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, [Sch. 16](#) and subject to an amendment by [1995 c. 40, ss. 5, 7\(2\)](#), [Sch. 4 para. 52\(a\)](#)

#### *Mental health legislation*

5 (1) References in—

- (a) the Mental Health Act 1983, and
- (b) the Mental Health [F17(Northern Ireland) Order 1986],

to the date of an order under [F17that Act or that Order] shall have effect, in relation to any of the relevant provisions which is equivalent to such an order, as references to the day on which the relevant provisions take effect.

(2) Where the relevant provisions include provision equivalent to a hospital order within the meaning of the said Act of 1983 or such an order and a restriction order within the meaning of that Act, the prisoner may (in addition to any application he may make under that Act) apply to [F18the appropriate tribunal] at any time in the period of six months beginning with the day on which the relevant provisions take effect.

[F19(2A) For the purposes of sub-paragraph (2) above “the appropriate tribunal” means—

- (a) the First-tier Tribunal, in any case where the prisoner is detained in England;
- (b) the Mental Health Review Tribunal for Wales, in any case where the prisoner is detained in Wales; and
- (c) the Mental Health Review Tribunal for Northern Ireland, in any case where the prisoner is detained in Northern Ireland.]

(3) References howsoever expressed in—

- (a) the [F20Mental Health (Care and Treatment) (Scotland) Act 2003], and
- (b) the Criminal Procedure (Scotland) Act [F211995],

to the date of an order of the type referred to in the definition of hospital order or restriction order in section 2(6) of this Act shall have effect, in relation to any of the relevant provisions which is equivalent to such an order, as a reference to the day on which the relevant provisions take effect.

(4) Where the relevant provisions include provisions equivalent in Scotland to such an order, the prisoner may at any time in the period of six months beginning with the day on which the relevant provisions take effect, appeal to the Sheriff to order his discharge; and (without prejudice to section 3(4) of this Act) in any appeal under this paragraph the provisions of the said Act of 1984 in respect of appeals by a patient subject to such an order apply to an appeal by the prisoner where he is subject to any such equivalent provision as they apply to a patient who is subject to such an order.

#### Textual Amendments

**F17** Words substituted by [S.I. 1986/596, art. 9\(b\)](#)

**F18** Words in Sch. para. 5(2) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), [Sch. 3 para. 69\(a\)](#)

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**F19** Sch. para. 5(2A) inserted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 1(1), **Sch. 3 para. 69(b)**

**F20** Words in Sch. para. 5(3)(a) substituted (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 15(2)**

**F21** Word in Sch. para. 5(3)(b) substituted (1.4.1996) by [1995 c. 40, ss. 5, 7\(2\)](#), **Sch. 4 para. 52(b)**

**Modifications etc. (not altering text)**

**C4** Sch. para. 5(2): transfer of functions (3.11.2008) by [The First-tier Tribunal and Upper Tribunal \(Chambers\) Order 2008 \(S.I. 2008/2684\)](#), arts. 1, **5(h)**

*Rehabilitation of offenders*

6 The relevant provisions shall be disregarded for the purposes of the application, in relation to any offence of which the prisoner was convicted in a country or territory outside the British Islands, of—

- (a) the <sup>M1</sup>Rehabilitation of Offenders Act 1974, except section 1(2) (person not rehabilitated unless he serves sentence etc.); and
- (b) the <sup>M2</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978, except Article 3(2) (person not rehabilitated unless he serves sentence etc.).

**Marginal Citations**

**M1** 1974 c. 53.

**M2** S.I. 1978/1908 (N.I. 27).

*The Representation of the <sup>M3</sup>People Act 1981*

**Marginal Citations**

**M3** 1981 c. 34.

7 For the purposes of section 1 of the Representation of the People Act 1981 (disqualification of certain offenders for membership of the House of Commons), the prisoner shall, while detained in accordance with the relevant provisions, be deemed to be detained in pursuance of the order in pursuance of which, at the time of his transfer into the United Kingdom, he was required to be detained in the country or territory from which he was transferred.

*The Firearms (Northern Ireland) Order [<sup>F22</sup>2004]*

**Textual Amendments**

**F22** Word in Sch. para. 8 cross-heading substituted (N.I.) (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702\)](#), art. 1(3), **Sch. 7 para. 7(a)** (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)

8 Where the relevant provisions include provision equivalent to such a sentence as is mentioned in paragraph (2) of [<sup>F23</sup>Article 63] of the Firearms (Northern Ireland)

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Order [F242004] (possession of firearm by person previously convicted of crime), that paragraph shall apply in relation to the prisoner as if for the reference in that paragraph to the period of eight years from the date so mentioned there were substituted a reference to the period of eight years from the day on which the relevant provisions take effect.

#### Textual Amendments

- F23** Words in Sch. para. 8 substituted (N.I.) (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702\)](#), art. 1(3), [Sch. 7 para. 7\(b\)](#) (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)
- F24** Word in Sch. para. 8 substituted (N.I.) (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702\)](#), art. 1(3), [Sch. 7 para. 7\(b\)](#) (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)

## [F25]PART 2

### WARRANTS UNDER SECTION 4A TRANSFERRING RESPONSIBILITY TO THE RELEVANT MINISTER

#### Textual Amendments

- F25** [Sch. Pt. 2](#) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 19\(6\)](#); S.I. 2008/1586, art. 2(1), [Sch. 1 para. 48\(g\)](#)

- 9 This Part of this Schedule applies where a warrant is issued under section 4A providing for the transfer of responsibility for the detention and release of the relevant person to the relevant Minister (within the meaning of that section).
- 10 Paragraphs 2 to 8 above apply as they apply where a warrant is issued under section 1, but with the following modifications.
- 11 Any reference to “the relevant provisions” is to be read as a reference to the provisions contained in the warrant by virtue of section 4C(1)(b).
- 12 (1) Any reference to the prisoner is to be read as a reference to the relevant person.
- (2) Sub-paragraph (1) does not apply to the words “a short-term or long-term prisoner” in paragraph 2(3) (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993).
- 13 In paragraph 2 (as it applies in Scotland to repatriated prisoners any of whose sentences were imposed on or after 1 October 1993) the reference to prisoners repatriated to Scotland is to be read as a reference to any relevant person—
- (a) in whose case the warrant under section 4A transfers responsibility for his detention and release from a country or territory outside the British Islands to the Scottish Ministers; and
- (b) whose sentence or any of whose sentences in that country or territory were imposed on or after 1 October 1993.
- 14 The reference in paragraph 7 to the time of the prisoner's transfer into the United Kingdom is to be read as a reference to the time at which the warrant under section 4A was issued.]

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