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**Changes to legislation:** There are currently no known outstanding effects for the Repatriation of Prisoners Act 1984, Cross Heading: Release on licence/Early release. (See end of Document for details)

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## SCHEDULE

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

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

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

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###### 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)

*[<sup>F1</sup>Release on licence][<sup>F1</sup>Early release]*

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###### Textual Amendments

- F1** 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>F1</sup>(1) In determining, for the purposes of sections 1(1) to (3), [<sup>F8</sup>1AB(3),][<sup>F9</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>F10</sup>, 2(2) or (7) or 3AA] of that Act (eligibility of long-term and life prisoners as respects release on licence) [<sup>F11</sup>, or of section 1AB(3) of that Act in the case of a long-term prisoner to whom that section applies]—
- (a) the amount of time the prisoner has served; and
- (b) where the sentence is a determinate one, the sentence,
- 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.
- [ If sub-paragraph (3B) or (3C) applies by virtue of an offence in relation to which
- <sup>F12</sup>(3A) a determinate sentence is to be served, Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 applies to the prisoner as if that offence was within section 1AB(2) of that Act (terrorist offences carrying restricted eligibility for release on licence).
- (3B) This sub-paragraph applies if the warrant specifies that the offence or any of the offences in relation to which a sentence is to be served corresponds to an offence specified in Part 1 or 2 of Schedule 1A to the Prisoners and Criminal Proceedings

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(Scotland) Act 1993 (terrorism offences carrying restricted eligibility for release on licence).

- (3C) This sub-paragraph applies if the warrant specifies that—
- (a) the offence or any of the offences in relation to which a sentence is to be served (“the overseas offence”) corresponds to an offence under the law of Scotland (“the corresponding offence”),
  - (b) section 31 of the Counter-Terrorism Act 2008 (sentences for offences aggravated by terrorist connection) would have been capable of applying in relation to the corresponding offence if—
    - (i) it had been committed at the same time as the overseas offence, and
    - (ii) the prisoner had been convicted of and sentenced for it in Scotland at the same time respectively as the conviction and sentencing for the overseas offence, and
  - (c) findings made by the court before which the prisoner was tried or sentenced for the overseas offence would, had the prisoner been tried and sentenced in Scotland for the corresponding offence, have justified its being found proved for the purposes of that section that the corresponding offence was aggravated by reason of having a terrorist connection.
- (3D) The Scottish Ministers may amend a warrant (whether issued before or after sub-paragraph (3A) comes into force and whether or not the transfer it authorises has taken place) so as to specify the matters referred to in sub-paragraph (3B) or (3C).]
- (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

- F2** 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)**.
- F3** Sch. para. 2(2)-(4) substituted for Sch. 2 para. (1A)(2) (E.W.) (4.4.2005) 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)**)
- F4** Sch. para. 2(3) omitted (E.W.) (28.6.2022) by virtue of **Police, Crime, Sentencing and Courts Act 2022** (c. 32), **ss. 145(1)(a)**, 208(5)(p) (with s. 145(2))
- F5** Sch. para. 2(3A) omitted (E.W.) (28.6.2022) by virtue of **Police, Crime, Sentencing and Courts Act 2022** (c. 32), **ss. 145(1)(a)**, 208(5)(p) (with s. 145(2))
- F6** Sch. para. 2(3ZA)-(3ZF) substituted for Sch. para. 2(3B)-(3F) (E.W.) (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022** (c. 32), **ss. 145(1)(b)**, 208(5)(p) (with s. 145(2))
- F7** Words in Sch. para. 2(4) substituted (E.W.) (28.6.2022) by **Police, Crime, Sentencing and Courts Act 2022** (c. 32), **ss. 145(1)(c)**, 208(5)(p) (with s. 145(2))
- F8** Word in Sch. para. 2(1) inserted (S.) (29.6.2021) by **Counter Terrorism and Sentencing Act 2021** (c. 11), s. 50(2)(r), **Sch. 11 para. 3(1)(2)**
- F9** 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

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- F10** 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
- F11** Words in Sch. para. 2(2) inserted (S.) (29.6.2021) by [Counter Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(2\)\(r\), Sch. 11 para. 3\(1\)\(3\)](#)
- F12** Sch. para. 2(3A)-(3D) inserted (S.) (29.6.2021) by [Counter Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(2\)\(r\), Sch. 11 para. 3\(1\)\(4\)](#)

#### 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\(1\)\(h\)](#)
- 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>F13</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.

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- [ If sub-paragraph (4B) or (4C) applies by virtue of an offence in relation to which
- <sup>F14</sup>(4A) a determinate sentence is to be served, Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 applies to the prisoner as if that offence was within Article 20A(2) (terrorist offences carrying restricted eligibility for release on licence).
- (4B) This sub-paragraph applies if the warrant specifies that the offence or any of the offences in relation to which a sentence is to be served corresponds to an offence specified in Part 2, 4, 5 or 7 of Schedule 2A to the Criminal Justice (Northern Ireland) Order 2008 (terrorism offences carrying restricted eligibility for release on licence).
- (4C) This sub-paragraph applies if the warrant specifies that—
- (a) the offence or any of the offences in relation to which a sentence is to be served (“the overseas offence”) corresponds to an offence under the law of Northern Ireland (“the corresponding offence”),
  - (b) section 30 of the Counter-Terrorism Act 2008 would have applied to the corresponding offence if—
    - (i) it had been committed at the same time as the overseas offence, and
    - (ii) the prisoner had been convicted of and sentenced for it in Northern Ireland at the same time respectively as the conviction and sentencing for the overseas offence, and
  - (c) findings made by the court before which the prisoner was tried or sentenced for the overseas offence would, had the prisoner been tried and sentenced in Northern Ireland for the corresponding offence, have justified a determination under that section that the corresponding offence had a terrorist connection.
- (4D) The Department of Justice may amend a warrant (whether issued before or after sub-paragraph (4A) comes into force and whether or not the transfer it authorises has taken place) so as to specify the matters referred to in sub-paragraph (4B) or (4C).]
- (5) In this paragraph “sentence” means the provision included in the warrant which is equivalent to sentence.]

#### **Textual Amendments**

- F13** 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)
- F14** Sch. para. 2A(4A)-(4D) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(2)(r), [Sch. 11 para. 5](#)

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