



Crime (Sentences) Act 1997

1997 CHAPTER 43

PART II

EFFECT OF CUSTODIAL SENTENCES

Modifications etc. (not altering text)

C1 Pt. II applied in part (with modifications) (1.10.1997) by S.I. 1997/1776, art. 2, Sch. 1 paras. 2-4; S.I. 1997/2200, art. 2(1)

CHAPTER I

DETERMINATE SENTENCES

General

F18

Textual Amendments

F1 S. 8 repealed (30.9.1998) by 1998 c. 37, s. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 22(1)(w)(3)(x).

9 Crediting of periods of remand in custody.

(1) This section applies where—

- (a) a court sentences an offender to imprisonment for a term in respect of an offence committed after the commencement of this section; and

Status: Point in time view as at 30/09/1998.

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- (b) the offender has been remanded in custody in connection with the offence or a related offence, that is to say, any other offence the charge for which was founded on the same facts or evidence.
- (2) It is immaterial for that purpose whether the offender—
 - (a) has also been remanded in custody in connection with other offences; or
 - (b) has also been detained in connection with other matters.
 - (3) Subject to subsection (4) below, the court shall direct that the number of days for which the offender was remanded in custody in connection with the offence or a related offence shall count as time served by him as part of the sentence.
 - (4) Subsection (3) above shall not apply if and to the extent that—
 - (a) rules made by the Secretary of State so provide in the case of—
 - (i) a remand in custody which is wholly or partly concurrent with a sentence of imprisonment; or
 - (ii) sentences of imprisonment for consecutive terms or for terms which are wholly or partly concurrent; or
 - (b) it is in the opinion of the court just in all the circumstances not to give a direction under that subsection.
 - (5) Where the court gives a direction under subsection (3) above, it shall state in open court—
 - (a) the number of days for which the offender was remanded in custody; and
 - (b) the number of days in relation to which the direction is given.
 - (6) Where the court does not give a direction under subsection (3) above, or gives such a direction in relation to a number of days less than that for which the offender was remanded in custody, it shall state in open court—
 - (a) that its decision is in accordance with rules made under paragraph (a) of subsection (4) above; or
 - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.
 - (7) The power to make rules under subsection (4)(a) above shall be exercisable by statutory instrument; but no such rules shall be made unless a draft of the rules has been laid before and approved by a resolution of each House of Parliament.
 - [^{F2}(7A) Such rules may make such incidental, supplemental and consequential provisions as may appear to the Secretary of State to be necessary or expedient.]
 - (8) For the purposes of this section a suspended sentence shall be treated as a sentence of imprisonment when it takes effect under section 23 of the ^{M1}Powers of Criminal Courts Act 1973 (“the 1973 Act”) and as being imposed by the order under which it takes effect.
 - (9) References in this section to an offender being remanded in custody are references to his being—
 - (a) held in police detention; or
 - (b) remanded in or committed to custody by an order of a court.
 - (10) A person is in police detention for the purposes of this section—
 - (a) at any time when he is in police detention for the purposes of the ^{M2}Police and Criminal Evidence Act 1984; and

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- (b) at any time when he is detained under section 14 of the ^{M3}Prevention of Terrorism (Temporary Provisions) Act 1989.

[^{F3}(11) In this section “sentence of imprisonment” does not include a committal—

- (a) in default of payment of any sum of money other than one adjudged to be paid by a conviction;
- (b) for want of sufficient distress to satisfy any sum of money; or
- (c) for failure to do or abstain from doing anything required to be done or left undone;

and cognate expressions shall be construed accordingly.

(12) For the purposes of any reference in this section, however expressed, to the term of imprisonment to which a person has been sentenced, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term if—

- (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 II of the 1991 Act at any time during the period beginning with the first and ending with the last of those occasions.]

Textual Amendments

F2 S. 9(7A) inserted (30.9.1998) by 1998 c. 37, s. 107(3); S.I. 1998/2327, art. 2(1)(w).

F3 S. 9(11)(12) inserted (30.9.1998) by 1998 c. 37, s. 107(4); S.I. 1998/2327, art. 2(1)(w).

Modifications etc. (not altering text)

C2 S. 9 modified (*prosp.*) by 1991 c. 53, s. 47(2) (as inserted (*prosp.*) by 1998 c. 37, ss. 119, 121(2), Sch. 8 para. 90).

Marginal Citations

M1 1973 c.62.

M2 1984 c.60.

M3 1989 c.4.

[^{F4}9A Provision supplementary to section 9.

(1) Section 9 above applies to—

- (a) a sentence of detention in a young offender institution; and
- (b) a determinate sentence of detention under section 53 of the ^{M4}Children and Young Persons Act 1933 (“the 1933 Act”),

as it applies to an equivalent sentence of imprisonment.

(2) Section 9 above applies to—

- (a) persons remanded or committed to local authority accommodation under section 23 of the ^{M5}Children and Young Persons Act 1969 (“the 1969 Act”) and placed and kept in secure accommodation; and
- (b) persons remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the ^{M6}Mental Health Act 1983 (“the 1983 Act”),

as it applies to persons remanded in or committed to custody by an order of a court.

(3) In this section “secure accommodation” has the same meaning as in section 23 of the 1969 Act.]

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Textual Amendments

F4 S. 9A inserted (30.9.1998) by 1998 c. 37, s. 107(5); S.I. 1998/2327, art. 2(1)(w).

Modifications etc. (not altering text)

C3 S. 9A modified (30.9.1998) by 1998 c. 37, s. 120(1), Sch. 9 para.6; S.I. 1998/2327, art. 2(1)(z).

Marginal Citations

M4 1933 c.12.

M5 1969 c.54.

M6 1983 c.20.

Early release

F510

Textual Amendments

F5 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

F611

Textual Amendments

F6 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

F712

Textual Amendments

F7 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

F813

Textual Amendments

F8 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), Sch.10; S.I. 1998/2327, art. 2(1)(w) (3)(x).

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Additional days

F⁹14

Textual Amendments

F9 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F¹⁰15

Textual Amendments

F10 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Supervision after release

F¹¹16

Textual Amendments

F11 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F¹²17

Textual Amendments

F12 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F¹³18

Textual Amendments

F13 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

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Special cases

F14¹⁹

Textual Amendments

F14 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

F15²⁰

Textual Amendments

F15 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

F16²¹

Textual Amendments

F16 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

F17²²

Textual Amendments

F17 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

F18²³

Textual Amendments

F18 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w) (3)(x)**.

F19²⁴

Status: Point in time view as at 30/09/1998.

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Textual Amendments

F19 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F20 **25**

Textual Amendments

F20 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

Supplemental

F21 **26**

Textual Amendments

F21 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

F22 **27**

Textual Amendments

F22 Ss. 10-27 repealed (30.9.1998) by 1998 c. 37, ss. 107(2), 120(2), **Sch.10**; S.I. 1998/2327, **art. 2(1)(w)(3)(x)**.

CHAPTER II

LIFE SENTENCES

Modifications etc. (not altering text)

C4 Pt. II Ch. II excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 3(1)** (with s. 78); S.I. 2001/2161, **art. 2**

Release on licence

28 Duty to release certain life prisoners.

(1) A life prisoner is one to whom this section applies if—

Status: Point in time view as at 30/09/1998.

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- (a) the conditions mentioned in subsection (2) below are fulfilled; or
 - (b) he was under 18 at the time when he committed the offence for which his sentence was imposed.
- (2) The conditions referred to in subsection (1)(a) above are—
- (a) that the prisoner’s sentence was imposed for an offence the sentence for which is not fixed by law; and
 - (b) that the court by which he was sentenced for that offence ordered that this section should apply to him as soon as he had served a part of his sentence specified in the order.
- (3) A part of a sentence specified in an order under subsection (2)(b) above shall be such part as the court considers appropriate taking into account—
- (a) the seriousness of the offence, or the combination of the offence and other offences associated with it; and
 - (b) the effect of any direction which it would have given under section 9 above if it had sentenced him to a term of imprisonment [F23]and
 - (c) the provisions of this section as compared with those of sections 33(2) and 35(1) of the M7Criminal Justice Act 1991 (“the 1991 Act”)]
- (4) Where in the case of a life prisoner to whom this section applies the conditions mentioned in subsection (2) above are not fulfilled, the Secretary of State shall direct that this section shall apply to him as soon as he has served a part of his sentence specified in the direction.
- (5) As soon as, in the case of a life prisoner to whom this section applies—
- (a) he has served the part of his sentence specified in the order or direction (“the relevant part”); and
 - (b) the Parole Board has directed his release under this section,
- it shall be the duty of the Secretary of State to release him on licence.
- (6) The Parole Board shall not give a direction under subsection (5) above with respect to a life prisoner to whom this section applies unless—
- (a) the Secretary of State has referred the prisoner’s case to the Board; and
 - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (7) A life prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole Board at any time—
- (a) after he has served the relevant part of his sentence; and
 - (b) where there has been a previous reference of his case to the Board, after the end of the period of two years beginning with the disposal of that reference; and
 - (c) where he is also serving a sentence of imprisonment or detention for a term, after [F24]he has served one-half of that sentence];
- and in this subsection “previous reference” means a reference under subsection (6) above or section 32(4) below.
- (8) In determining for the purpose of subsection (5) or (7) above whether a life prisoner to whom this section applies has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large within the meaning of section 49 of the M8Prison Act 1952.

Status: Point in time view as at 30/09/1998.

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- (9) An offence is associated with another for the purposes of this section if it is so associated for the purposes of Part I of the 1991 Act.

Textual Amendments

- F23** S. 28(3)(c) and the word “and” immediately preceding it inserted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 130(1)**; S.I. 1998/2327, **art. 2(2)(II)**.
- F24** Words in s. 28(7)(c) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 130(2)**; S.I. 1998/2327, **art. 2(2)(II)**.

Modifications etc. (not altering text)

- C5** S. 28: Certain functions restricted from exercise in Scotland (30.6.1999) by S.I. 1999/1748, **art. 8(2)**, **Sch. 4 Pt. I para. 1(1)**

Marginal Citations

- M7** 1991 c. 53.
M8 1952 c.52.

29 Power to release other life prisoners.

- (1) If recommended to do so by the Parole Board, the Secretary of State may, after consultation with the Lord Chief Justice together with the trial judge if available, release on licence a life prisoner who is not one to whom section 28 above applies.
- (2) The Parole Board shall not make a recommendation under subsection (1) above unless the Secretary of State has referred the particular case, or the class of case to which that case belongs, to the Board for its advice.

Modifications etc. (not altering text)

- C6** S. 29: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, **art. 8(2)**, **Sch. 4 Pt. I para. 1(1)**
- C7** S. 29(1) modified (*prosp.*) by 1984 c. 47, **Sch. para. 2** (as modified by 1997 c. 43, ss. 42, 57(2), **Sch. 2 paras. 4(1)(5)**)

30 Power to release life prisoners on compassionate grounds.

- (1) The Secretary of State may at any time release a life prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.
- (2) Before releasing a life prisoner under subsection (1) above, the Secretary of State shall consult the Parole Board, unless the circumstances are such as to render such consultation impracticable.

Modifications etc. (not altering text)

- C8** S. 30: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, **art. 8(2)**, **Sch. 4 Pt. I para. 1(1)**

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Licences and recall

31 Duration and conditions of licences.

- (1) Where a life prisoner is released on licence, the licence shall, unless previously revoked under section 32(1) or (2) below, remain in force until his death.
- (2) A life prisoner subject to a licence shall comply with such conditions ^{F25} . . . as may for the time being be specified in the licence; and the Secretary of State may make rules for regulating the supervision of any description of such persons.
- [^{F26}(2A) The conditions so specified shall include on the prisoner's release conditions as to his supervision by—
 - (a) a probation officer appointed for or assigned to the petty sessions area within which the prisoner resides for the time being;
 - (b) where the prisoner is under the age of 22, a social worker of the social services department of the local authority within whose area the prisoner resides for the time being; or
 - (c) where the prisoner is under the age of 18, a member of a youth offending team established by that local authority under section 39 of the Crime and Disorder Act 1998.]
- (3) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a life prisoner, or vary or cancel any such condition, except—
 - (a) in the case of the inclusion of a condition in the licence of a life prisoner to whom section 28 above applies, in accordance with recommendations of the Parole Board; and
 - (b) in any other case, after consultation with the Board.
- (4) For the purposes of subsection (3) above, the Secretary of State shall be treated as having consulted the Parole Board about a proposal to include, insert, vary or cancel a condition in any case if he has consulted the Board about the implementation of proposals of that description generally or in that class of case.
- (5) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In relation to a life prisoner who is liable to removal from the United Kingdom (within the meaning given by [^{F27}section 46(3) of the 1991 Act]), subsection (2) above shall have effect as if [^{F27}subsection (2A) above] were omitted.

Textual Amendments

- F25** Words in s. 31(2) repealed (30.9.1998 in the areas specified in S.I. 1998/2327, **Sch. 1** and otherwise 1.4.2000) by 1998 c. 37, ss. 119, 120(2), Sch. 8 para. 131(1), **Sch.10**; S.I. 1998/2327, art. 3(1)(b)(c), **Sch.1**; S.I. 2000/924, **art. 3**
- F26** S. 31(2A) inserted (30.9.1998 in the areas specified in S.I. 1998/2327, **Sch. 1** and otherwise 1.4.2000) by 1998 c. 37, s. 119, **Sch. 8 para. 131(2)**; S.I. 1998/2327, art. 3(1)(b), **Sch.1**; S.I. 2000/924, **art. 3**
- F27** Words in s. 31(6) substituted (30.9.1998) by 1998 c. 37, s. 119, **Sch. 8 para. 131(3)**; S.I. 1998/2327, **art. 2(2)(mm)**.

Status: Point in time view as at 30/09/1998.

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Modifications etc. (not altering text)

- C9** S. 31: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. 1 para. 1
- C10** S. 31(6) modified (1.1.1998) by S.I. 1997/2200, art. 5(3)(a)
S. 31(6) modified (19.9.1998) by S.I. 1998/2327, art. 5(1)(b).

32 Recall of life prisoners while on licence.

- (1) If recommended to do so by the Parole Board in the case of a life prisoner who has been released on licence under this Chapter, the Secretary of State may revoke his licence and recall him to prison.
- (2) The Secretary of State may revoke the licence of any life prisoner and recall him to prison without a recommendation by the Parole Board, where it appears to him that it is expedient in the public interest to recall that person before such a recommendation is practicable.
- (3) A life prisoner recalled to prison under subsection (1) or (2) above—
 - (a) may make representations in writing with respect to his recall; and
 - (b) on his return to prison, shall be informed of the reasons for his recall and of his right to make representations.
- (4) The Secretary of State shall refer to the Parole Board—
 - (a) the case of a life prisoner recalled under subsection (1) above who makes representations under subsection (3) above; and
 - (b) the case of a life prisoner recalled under subsection (2) above.
- (5) Where on a reference under subsection (4) above the Parole Board—
 - (a) directs in the case of a life prisoner to whom section 28 above applies; or
 - (b) recommends in the case of any other life prisoner,his immediate release on licence under this section, the Secretary of State shall give effect to the direction or recommendation.
- (6) On the revocation of the licence of any life prisoner under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

Modifications etc. (not altering text)

- C11** S. 32: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, art. 8(2), Sch. 4 Pt. 1 para. 1

Miscellaneous and supplemental

33 Life prisoners transferred to England and Wales.

- (1) This section applies where, in the case of a transferred life prisoner, the Secretary of State, after consultation with the Lord Chief Justice, certifies his opinion that, if—
 - (a) the prisoner's offence had been committed after the commencement of this Chapter; and

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- (b) he had been sentenced for it in England and Wales,
 the court by which he was so sentenced would have ordered that section 28 above should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) This section also applies where, in the case of a transferred life prisoner, the Secretary of State certifies his opinion that, if—
- (a) the prisoner’s offence had been committed after the commencement of this Chapter; and
- (b) he had been sentenced for it in England and Wales,
 the Secretary of State would have directed that section 28 above should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (3) In a case to which this section applies, this Chapter except section 29(1) above shall apply as if—
- (a) the transferred life prisoner were a life prisoner to whom section 28 above applies; and
- (b) the relevant part of his sentence within the meaning of section 28 above were the part specified in the certificate.
- (4) In this section “transferred life prisoner” means a person—
- (a) on whom a court in a country or territory outside England and Wales has imposed one or more sentences of imprisonment or detention for an indeterminate period; and
- (b) who has been transferred to England and Wales, in pursuance of—
- (i) an order made by the Secretary of State under paragraph 1 of Schedule 1 to this Act or section 2 of the ^{M9}Colonial Prisoners Removal Act 1884; or
- (ii) a warrant issued by the Secretary of State under the ^{M10}Repatriation of Prisoners Act 1984,
 there to serve his sentence or sentences or the remainder of his sentence or sentences.
- (5) A person who is required so to serve the whole or part of two or more such sentences shall not be treated as a life prisoner to whom section 28 above applies unless the requirements of subsection (1) or (2) above are satisfied as respects each of those sentences; and subsections (5) and (7) of section 28 above shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

Marginal Citations

M9 1884 c.31.

M10 1984 c.47.

34 Interpretation of Chapter II.

- (1) In this Chapter “life prisoner” means a person serving one or more life sentences; but—
- (a) a person serving two or more such sentences shall not be treated as a life prisoner to whom section 28 above applies unless the requirements of section 28(1) above are satisfied as respects each of those sentences; and

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- (b) subsections (5) and (7) of that section shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.
- (2) In this section “life sentence” means any of the following imposed for an offence, whether committed before or after the commencement of this Chapter, namely—
- (a) a sentence of imprisonment for life;
 - (b) a sentence of detention during Her Majesty’s pleasure or for life under section 53 of the 1933 Act; and
 - (c) a sentence of custody for life under section 8 of the 1982 Act.
- (3) In this Chapter “court” includes a court-martial and “trial judge” includes a trial judge advocate; and in subsection (2) above—
- (a) the reference to section 53 of the 1933 Act includes a reference to subsections (3) and (4) of section 71A of the ^{M11}Army Act 1955 and the ^{M12}Air Force Act 1955 and section 43A of the ^{M13}Naval Discipline Act 1957; and
 - (b) the reference to section 8 of the 1982 Act includes a reference to subsections (1A) and (1B) of those sections.
- [^{F28}(4) Where a person has been sentenced to one or more life sentences and to one or more terms of imprisonment, nothing in this Chapter shall require the Secretary of State to release the person in respect of any of the life sentences unless and until the Secretary of State is required to release him in respect of each of the terms.]

Textual Amendments

F28 S. 34(4) inserted (30.9.1998) by 1998 c. 37, ss. 101(2), 120(1), **Sch. 9 para. 11**; S.I. 1998/2327, **art. 2(1)(v)**.

Modifications etc. (not altering text)

C12 S. 34: exercise of functions restricted in or as regards Scotland (30.6.1999) by S.I. 1999/1748, **art. 8(2)**, **Sch. 4 Pt. I para. 1**

Marginal Citations

M11 1955 c.18.

M12 1955 c.19.

M13 1957 c.53.

Status:

Point in time view as at 30/09/1998.

Changes to legislation:

Crime (Sentences) Act 1997, Part II is up to date with all changes known to be in force on or before 07 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.