



Criminal Justice Act 2003

2003 CHAPTER 44

PART 12

SENTENCING

CHAPTER 6

[^{F1} RELEASE, LICENCES^{F1}, SUPERVISION] AND RECALL]

[^{F1} Further release after recall]

Textual Amendments

- F1** S. 255A-255C and crossheading substituted for s. 255A-255D (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 114\(1\), 151\(1\)](#) (with Sch. 15); S.I. 2012/2906, art. 2(d)

[^{F1} 255A Further release after recall: introductory

- (1) This section applies for the purpose of identifying which of sections 255B and 255C governs the further release of a person who has been recalled under section 254.
- (2) The Secretary of State must, on recalling a person other than an extended sentence prisoner [^{F2}, a serious terrorism prisoner or a prisoner whose case was referred to the Board under section 244ZB], consider whether the person is suitable for automatic release.
- ^{F3}(3)
- [^{F4}(4) A person is suitable for automatic release only if—
 - (a) the person—
 - (i) is aged 18 or over,

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- (ii) is serving a sentence of less than 12 months,
 - (iii) has not been recalled on account of being charged with a serious offence, and
 - (iv) is not being managed at level 2 or 3, as specified in guidance for the time being issued under section 325(8), by a responsible authority under arrangements made under that section (arrangements for assessing etc risks posed by certain offenders), or
 - (b) where paragraph (a) does not apply, the Secretary of State is satisfied that the person will not present a risk of serious harm to members of the public if released at the end of the automatic release period.
- (4A) For the purposes of subsection (4) “serious offence” means—
- (a) murder, or
 - (b) an offence listed in Schedule 18 to the Sentencing Code.]
- (5) The person must be dealt with—
- (a) in accordance with section 255B if suitable for automatic release;
 - (b) in accordance with section 255C otherwise.
- [^{F5}but that is subject, where applicable, to section 243A(2) (unconditional release).]
- (6) For the purposes of this section, a person returns to custody when that person, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.
- (7) An “extended sentence prisoner” is a prisoner serving an extended sentence imposed under—
- (a) section [^{F6}226A, 226B,] 227 or 228 of this Act, ^{F7}...
 - [^{F8}(aa) section 254, 266 or 279 of the Sentencing Code, or]
 - (b) section 85 of [^{F9}the PCC(S)A 2000];
- and paragraph (b) includes (in accordance with paragraph 1(3) of Schedule 11 to [^{F9}the PCC(S)A 2000]) a reference to section 58 of the Crime and Disorder Act 1998.]
- [^{F10}(7A) A “serious terrorism prisoner” is a prisoner serving a serious terrorism sentence imposed under section 268A or 282A of the Sentencing Code.]
- [^{F11}(8) Automatic release” means release at the end of the automatic release period.
- (9) In the case of a person recalled under section 254 while on licence under a provision of this Chapter other than section 246, “the automatic release period” means—
- (a) where the person is serving a sentence of less than 12 months, the period of 14 days beginning with the day on which the person returns to custody;
 - (b) where the person is serving a sentence of 12 months or more, the period of 28 days beginning with that day.
- (10) In the case of a person recalled under section 254 while on licence under section 246, “the automatic release period” means whichever of the following ends later—
- (a) the period described in subsection (9)(a) or (b) (as appropriate);
 - (b) the requisite custodial period which the person would have served under section 243A or 244 but for the earlier release.]

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Textual Amendments

- F2** Words in s. 255A(2) substituted (28.4.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 132\(6\), 208\(4\)\(p\)](#)
- F3** S. 255A(3) omitted (1.2.2015) by virtue of [Offender Rehabilitation Act 2014 \(c. 11\), ss. 9\(4\)\(a\), 22\(1\)](#) (with [Sch. 7 para. 5](#)); S.I. 2015/40, art. 2(i)
- F4** S. 255A(4)(4A) substituted for s. 255A(4) (2.4.2024) by [The Criminal Justice Act 2003 \(Suitability for Fixed Term Recall\) Order 2024 \(S.I. 2024/408\)](#), arts. 1(2), **2(2)** (with art. 3)
- F5** Words in s. 255A(5) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 9\(4\)\(c\), 22\(1\)](#) (with [Sch. 7 para. 5](#)); S.I. 2015/40, art. 2(i)
- F6** Words in s. 255A(7)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 20 para. 7](#); S.I. 2012/2906, art. 2(r)
- F7** Word in s. 255A(7)(a) omitted (1.12.2020) by virtue of [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 228\(a\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F8** S. 255A(7)(aa) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 228\(b\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F9** Words in s. 255A(7) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 228\(c\)](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F10** S. 255A(7A) inserted (29.6.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(2\)\(v\), Sch. 13 para. 9\(6\)\(b\)](#)
- F11** Ss. 255A(8)-(10) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 9\(4\)\(d\), 22\(1\)](#) (with [Sch. 7 para. 5](#)); S.I. 2015/40, art. 2(i)

Modifications etc. (not altering text)

- C1** Pt. 12 Ch. 6 modified (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 245\(1\)\(2\)\(c\), 416\(1\)](#) (with [ss. 2, 245\(3\), 398\(1\), 406, Sch. 27](#)); S.I. 2020/1236, reg. 2
- C2** Pt. 12 Ch. 6 modified (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 244\(1\)\(2\)\(c\), 416\(1\)](#) (with [ss. 2, 244\(3\), 398\(1\), 406, Sch. 27](#)); S.I. 2020/1236, reg. 2
- C3** S. 255A(7) modified (1.12.2020 immediately before the consolidation date (see 2020 c. 9, ss. 3, 5(2) (3) and 2020 c. 17, ss. 2, 416)) by [Sentencing \(Pre-consolidation Amendments\) Act 2020 \(c. 9\), ss. 1, 5\(2\)\(3\)](#); S.I. 2012/1236, reg. 2

[^{F1}255B Automatic release

- (1) A prisoner who is suitable for automatic release (“P”) must—
 - (a) on return to prison, be informed that he or she will be released under this section (subject to subsections (8) and (9)), and
 - (b) at the end of [^{F12}the automatic release period (as defined in section 255A(9) and (10))], be released by the Secretary of State on licence under this Chapter (unless P is released before that date under subsection (2) or (5)).
- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
- (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).
- (4) If P makes representations under section 254(2) before the end of that period, the Secretary of State must refer P’s case to the Board on the making of those representations.

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- [^{F13}(4A) The Board must not give a direction for P’s release on a reference under subsection (4) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).]
- (5) Where on a reference under subsection (4) the Board directs P’s ^{F14}... release on licence under this Chapter, the Secretary of State must give effect to the direction.
- (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
- (7) Where this subsection applies—
- (a) if P is released under this section before that date, P’s licence must include a curfew condition complying with section 253, and
 - (b) P is not to be so released (despite subsections (1)(b) and (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
- (8) Subsection (9) applies if, after P has been informed that he or she will be released under this section, the Secretary of State receives further information about P (whether or not relating to any time before P was recalled).
- (9) If the Secretary of State determines, having regard to that and any other relevant information, that P is not suitable for automatic release—
- (a) the Secretary of State must inform P that he or she will not be released under this section, and
 - (b) section 255C applies to P as if the Secretary of State had determined, on P’s recall, that P was not suitable for automatic release.
- [^{F15}(10) Subsections (8) and (9) do not apply where P falls within section 255A(4)(a), unless the Secretary of State receives information that, after being recalled, P has been charged with a serious offence (within the meaning of section 255A(4A)).]]

Textual Amendments

- F12** Words in s. 255B(1)(b) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), ss. 9\(5\), 22\(1\)](#) (with [Sch. 7 para. 5](#)); S.I. 2015/40, art. 2(i)
- F13** S. 255B(4A) inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 136\(2\), 208\(1\)](#); S.I. 2022/520, reg. 5(o)
- F14** Word in s. 255B(5) omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\), ss. 139\(2\)\(a\), 208\(1\)](#); S.I. 2022/520, reg. 5(o)
- F15** S. 255B(10) inserted (2.4.2024) by [The Criminal Justice Act 2003 \(Suitability for Fixed Term Recall\) Order 2024 \(S.I. 2024/408\), arts. 1\(2\), 2\(3\)](#) (with art. 3)

[^{F1}255C][^{F16}Prisoners not suitable for automatic release]

- (1) This section applies to a prisoner (“P”) [^{F17}—
- (a) whose suitability for automatic release does not have to be considered under section 255A(2), or
 - (b) who is not considered suitable for automatic release.]

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- (2) The Secretary of State may, at any time after P is returned to prison, release P again on licence under this Chapter.
 - (3) The Secretary of State must not release P under subsection (2) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison.
 - (4) The Secretary of State must refer P's case to the Board—
 - (a) if P makes representations under section 254(2) before the end of the period of 28 days beginning with the date on which P returns to custody, on the making of those representations, or
 - (b) if, at the end of that period, P has not been released under subsection (2) and has not made such representations, at that time.
- [^{F18}(4A) The Board must not give a direction for P's release on a reference under subsection (4) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison.]
- (5) Where on a reference under subsection (4) the Board directs P's ^{F19}... release on licence under this Chapter, the Secretary of State must give effect to the direction.
 - (6) Subsection (7) applies if P is recalled before the date on which P would (but for the earlier release) have served the requisite custodial period for the purposes of section 243A or (as the case may be) section 244.
 - (7) Where this subsection applies—
 - (a) if P is released under this section before that date, P's licence must include a curfew condition complying with section 253, and
 - (b) P is not to be so released (despite subsection (5)) unless the Secretary of State is satisfied that arrangements are in place to enable that condition to be complied with.
 - (8) For the purposes of this section, P returns to custody when P, having been recalled, is detained (whether or not in prison) in pursuance of the sentence.]

Textual Amendments

- F16** S. 255C heading substituted (29.6.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(2)(v), **Sch. 13 para. 9(7)(a)**
- F17** S. 255C(1)(a)(b) and word substituted (28.4.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 132(7)**, 208(4)(p)
- F18** S. 255C(4A) inserted (28.6.2022) by Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 136(3)**, 208(1); S.I. 2022/520, reg. 5(o)
- F19** Word in s. 255C(5) omitted (28.6.2022) by virtue of Police, Crime, Sentencing and Courts Act 2022 (c. 32), **ss. 139(2)(b)**, 208(1); S.I. 2022/520, reg. 5(o)

^{F20}**256 Review by the Board**

.....

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Textual Amendments

F20 S. 256 omitted (28.6.2022) by virtue of [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(4\)](#), 208(1); S.I. 2022/520, reg. 5(o)

[^{F21}256A Further review

- [^{F22}(1) This section applies to a person if—
- (a) there has been a previous reference of the person’s case to the Board under section 255C(4) or this section, and
 - (b) the person has not been released.
- (1A) The Secretary of State must refer the person’s case back to the Board not later than the first anniversary of the most recent determination by the Board not to release the person (the “review date”).
- (1B) Subsection (1A) does not apply where the review date is 13 months or less before the date on which the person is required to be released by the Secretary of State.]
- (2) The Secretary of State may, at any time before [^{F23}the review date], refer the person’s case to the Board.
- (3) The Board may at any time recommend to the Secretary of State that [^{F24}the person’s] case be referred under subsection (2).
- [^{F25}(4) The Board must not give a direction for a person’s release on a reference under subsection (1A) or (2) unless the Board is satisfied that it is not necessary for the protection of the public that the person should remain in prison.
- (5) Where on a reference under subsection (1A) or (2) the Board directs a person’s release on licence under this Chapter, the Secretary of State must give effect to the direction.]]

Textual Amendments

- F21** S. 256A inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. [30\(6\)](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 16 (subject to Sch. 2 para. 3)
- F22** S. 256A(1)-(1B) substituted for s. 256A(1) (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(5\)\(a\)](#), 208(1); S.I. 2022/520, reg. 5(o)
- F23** Words in s. 256A(2) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(5\)\(b\)](#), 208(1); S.I. 2022/520, reg. 5(o)
- F24** Words in s. 256A(3) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(5\)\(c\)](#), 208(1); S.I. 2022/520, reg. 5(o)
- F25** S. 256A(4)(5) substituted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), ss. [136\(5\)\(d\)](#), 208(1); S.I. 2022/520, reg. 5(o)

[^{F26}256A Release after recall where further sentence being served

- (1) This section applies where a person (“the offender”) is serving two or more terms of imprisonment.

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- (2) Nothing in sections 255A to 256A requires the Secretary of State to release the offender in respect of any of the terms unless and until the Secretary of State is required to release the offender in respect of each of the others.
- (3) Nothing in sections 255A to 256A requires the Secretary of State to refer the offender's case to the Board in respect of any of the terms unless and until the Secretary of State is required either—
 - (a) to refer the offender's case to the Board, or
 - (b) to release the offender,in respect of each of the others.
- (4) If the offender is released on licence under section 255B, 255C or 256A, the offender is to be on licence—
 - (a) until the last date on which the offender is required to be on licence in respect of any of the terms, and
 - (b) subject to such conditions as are required by this Chapter in respect of any of the sentences.
- (5) This section applies to a determinate sentence of detention under any of the following provisions as it applies to a term of imprisonment—
 - (a) section 91 or 96 of the PCC(S)A 2000;
 - (b) section 250, 252A, 254, 262, 265, 266 or 268A of the Sentencing Code;
 - (c) section 226A, 226B, 227, 228 or 236A of this Act.]

Textual Amendments

F26 S. 256AZA inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 136\(6\)](#), [208\(1\)](#); [S.I. 2022/520](#), [reg. 5\(o\)](#)

[^{F27} **256AZB** Over to change test for release following recall

- (1) The Secretary of State may by order change—
 - (a) the test to be applied by the Secretary of State in deciding under section 255A whether a person is suitable for automatic release;
 - (b) the test to be applied by the Secretary of State in deciding whether to release a person under section 255B(2) or 255C(2);
 - (c) the test to be applied by the Board in deciding whether to give a direction for a person's release when determining a reference under section 255B(4), 255C(4) or 256A(1A) or (2).
- (2) An order under subsection (1) may in particular—
 - (a) apply to a person recalled before the day on which the order comes into force (as well as to a person recalled on or after that day);
 - (b) amend this Chapter.]

Textual Amendments

F27 S. 256AZB inserted (28.6.2022) by [Police, Crime, Sentencing and Courts Act 2022 \(c. 32\)](#), [ss. 137\(2\)](#), [208\(1\)](#); [S.I. 2022/520](#), [reg. 5\(o\)](#)

Changes to legislation:

Criminal Justice Act 2003, Cross Heading: Further release after recall is up to date with all changes known to be in force on or before 20 April 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.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/2574, Sch. by [S.I. 2012/2761 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 150(aa) inserted by [2012 c. 10 Sch. 26 para. 19\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 150(ba) inserted by [2012 c. 10 Sch. 26 para. 19\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Sch. 26 para. 19 omitted (11.12.2013) by virtue of 2013 c. 22, Sch. 16 para. 23(2); S.I. 2013/2981, art. 2(d))
- s. 151(A1) inserted by [2008 c. 4 s. 11\(3\)](#)
- s. 151(1A) inserted by [2008 c. 4 s. 11\(5\)](#)
- s. 151(1A)(b) word substituted by [2008 c. 4 Sch. 4 para. 76\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(1A)(c) substituted by [2009 c. 25 Sch. 17 para. 8\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 151(1A) is still only prospectively inserted by 2008 c. 4, s. 11(5))
- s. 151(2A)(b) substituted by [2009 c. 25 Sch. 17 para. 8\(4\)](#)
- s. 151(4A) inserted by [2009 c. 25 Sch. 17 para. 8\(5\)](#)
- s. 151(8)(a) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(a\)](#)
- s. 151(8)(b) words inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(i\)](#)
- s. 151(8)(b) words substituted by [2009 c. 25 Sch. 17 para. 8\(6\)\(b\)\(ii\)](#)
- s. 151(8)(c)-(f) inserted by [2009 c. 25 Sch. 17 para. 8\(6\)\(c\)](#)
- s. 165(5) inserted by [2014 c. 12 s. 179\(3\)](#)
- s. 237(1A) inserted by [2006 c. 48 s. 34\(3\)](#)
- s. 237(1B)(f)(g) inserted by [2021 c. 11 Sch. 13 para. 40\(b\)](#)
- s. 239A inserted by [2015 c. 2 s. 8\(1\)](#)
- s. 239A cross-heading inserted by [2015 c. 2 Sch. 3 para. 5](#)
- s. 250(5C) inserted by [2015 c. 2 Sch. 3 para. 7\(4\)](#)
- s. 255A(4A) inserted by [2015 c. 2 s. 9\(2\)](#)
- s. 255B(3A) inserted by [2015 c. 2 s. 9\(3\)\(b\)](#)
- s. 255B(4A)-(4C) inserted by [2015 c. 2 s. 9\(3\)\(d\)](#)
- s. 255C(3A) inserted by [2015 c. 2 s. 9\(4\)\(b\)](#)
- s. 255C(4A)-(4C) inserted by [2015 c. 2 s. 9\(4\)\(d\)](#)
- s. 256A(1)-(1B) substituted for s. 256A(1) by [2015 c. 2 s. 9\(6\)\(a\)](#)
- s. 256A(4A)(4B) inserted by [2015 c. 2 s. 9\(6\)\(f\)](#)
- s. 256A(5)(6) substituted for s. 256A(5) by [2015 c. 2 s. 9\(6\)\(g\)](#)
- s. 256AZA inserted by [2015 c. 2 s. 10\(1\)](#)
- s. 257(3) inserted by [2006 c. 48 s. 34\(4\)](#)
- s. 258(1A) inserted by [2006 c. 48 s. 34\(5\)](#)
- s. 260(4)(aa) substituted for word by [2008 c. 4 s. 34\(7\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))

- Sch. 15B para. 49A omitted by [S.I. 2019/780 reg. 26\(4\)\(c\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 15B para. 49B omitted by [S.I. 2019/780 reg. 26\(4\)\(d\)](#) (This amendment not applied to [legislation.gov.uk](#). Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 20B para. 34(6)(7) substituted for Sch. 20B para. 34(6) by [2015 c. 2 Sch. 3 para. 10](#)