



# Criminal Justice Act 2003

## 2003 CHAPTER 44

### PART 12

#### SENTENCING

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

- C1** Pt. 12 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 183(4), 383 (as amended (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 3, Sch. 1 para. 23(2)(b)); [S.I. 2009/812](#), art. 3 (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), art. 4
- C2** Pt. 12 (ss. 142-305) modified (4.4.2005) by [The Criminal Justice Act 2003 \(Sentencing\) \(Transitory Provisions\) Order 2005 \(S.I. 2005/643\)](#), art. 3 (as amended (E.W.) (3.12.2012) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Consequential and Saving Provisions\) Regulations 2012 \(S.I. 2012/2824\)](#), regs. 1, 3(1) (with reg. 3(2)) and as amended (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 \(c. 9\)](#), s. 5(2)(3), [Sch. 2 para. 139](#); [S.I. 2012/1236](#), reg. 2)

### CHAPTER 1

#### GENERAL PROVISIONS ABOUT SENTENCING

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

- C3** Pt. 12 Ch. 1: power to amend conferred (30.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 4\(3\)](#), 153; [S.I. 2009/3074](#), [art. 2\(d\)](#)

*Status: Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.*

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*Matters to be taken into account in sentencing*

**F1 142 Purposes of sentencing**

.....

**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

PROSPECTIVE

**F1 142A Purposes etc. of sentencing: offenders under 18**

.....

**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F1 143 Determining the seriousness of an offence**

.....

**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F1 144 Reduction in sentences for guilty pleas**

.....

**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F1 145 Increase in sentences for racial or religious aggravation**

.....

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**Textual Amendments**

**F1** Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**<sup>F1</sup>146 Increase in sentences for aggravation related to disability, sexual orientation or transgender identity**

.....

**Textual Amendments**

**F1** Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

*General restrictions on community sentences*

**<sup>F1</sup>147 Meaning of “community sentence” etc.**

.....

**Textual Amendments**

**F1** Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**<sup>F1</sup>148 Restrictions on imposing community sentences**

.....

**Textual Amendments**

**F1** Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**<sup>F1</sup>149 Passing of community sentence on offender remanded in custody**

.....

**Textual Amendments**

**F1** Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**<sup>F1</sup>150 Community sentence not available where sentence fixed by law etc.**

.....

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**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F1 150A Community order available only for offences punishable with imprisonment or for persistent offenders previously fined**

.....

**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

PROSPECTIVE

**F1 151 Community order or youth rehabilitation order for persistent offender previously fined**

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**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*General restrictions on discretionary custodial sentences*

**F1 152 General restrictions on imposing discretionary custodial sentences**

.....

**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F1 153 Length of discretionary custodial sentences: general provision**

.....

**Textual Amendments**  
F1 Ss. 142-154 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

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PROSPECTIVE

*General limit on magistrates' court's power to impose imprisonment*

**<sup>F1</sup>154 General limit on magistrates' court's power to impose imprisonment**

.....

**Textual Amendments**

**F1** Ss. 142-154 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**155 Consecutive terms of imprisonment**

- (1) Section 133 of the Magistrates' Courts Act 1980 (consecutive terms of imprisonment) is amended as follows.
- (2) In subsection (1), for [<sup>F2</sup>“the words from “the longest” to “being imposed”] there is substituted “ 65 weeks ”.
- (3) Subsection (2) is omitted.
- (4) In subsection (3) for “the preceding subsections” there is substituted “ subsection (1) above ”.

**Textual Amendments**

**F2** Words in s. 155(2) substituted (14.7.2022) by [Judicial Review and Courts Act 2022 \(c. 35\)](#), s. 51(4), [Sch. 2 para. 19\(2\)](#); S.I. 2022/816, regs. 1(2), 3(d)

*Procedural requirements for imposing community sentences and discretionary custodial sentences*

**<sup>F3</sup>156 Pre-sentence reports and other requirements**

.....

**Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**<sup>F3</sup>157 Additional requirements in case of mentally disordered offender**

.....

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**Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F3 158 Meaning of “pre-sentence report”**

.....

**Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

*Disclosure of pre-sentence reports etc*

**F3 159 Disclosure of pre-sentence reports**

.....

**Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F3 160 Other reports of local probation boards , providers of probation services and members of youth offending teams**

.....

**Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

*Pre-sentence drug testing*

**F3 161 Pre-sentence drug testing**

.....

**Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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## *Surcharges*

### **F<sup>3</sup>161A Court’s duty to order payment of surcharge**

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#### **Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### **F<sup>3</sup>161B Amount of surcharge**

.....

#### **Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

## *Fines*

### **F<sup>3</sup>162 Powers to order statement as to offender’s financial circumstances**

.....

#### **Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### **F<sup>3</sup>163 General power of Crown Court to fine offender convicted on indictment**

.....

#### **Textual Amendments**

**F3** Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### **F<sup>3</sup>164 Fixing of fines**

.....

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**Textual Amendments**  
F3 Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F3 165 Remission of fines**

.....

**Textual Amendments**  
F3 Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

*Savings for power to mitigate etc*

**F3 166 Savings for powers to mitigate sentences and deal appropriately with mentally disordered offenders**

.....

**Textual Amendments**  
F3 Ss. 156-166 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

*Sentencing and allocation guidelines*

**167 The Sentencing Guidelines Council**

F4 .....

**Textual Amendments**  
F4 Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, **Sch. paras. 15, 22(b)**

**168 Sentencing Guidelines Council: supplementary provisions**

F5 .....

**Textual Amendments**  
F5 Ss. 167-173 repealed (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), ss. 178, 182, **Sch. 23 Pt. 4** (with s. 180); S.I. 2010/816, **art. 2**, **Sch. paras. 15, 22(b)**



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## 169 The Sentencing Advisory Panel

F6 .....

### Textual Amendments

**F6** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, Sch. 23 Pt. 4 (with s. 180); S.I. 2010/816, art. 2, Sch. paras. 15, 22(b)

## 170 Guidelines relating to sentencing and allocation

F7 .....

### Textual Amendments

**F7** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, Sch. 23 Pt. 4 (with s. 180); S.I. 2010/816, art. 2, Sch. paras. 15, 22(b)

## 171 Functions of Sentencing Advisory Panel in relation to guidelines

F8 .....

### Textual Amendments

**F8** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, Sch. 23 Pt. 4 (with s. 180); S.I. 2010/816, art. 2, Sch. paras. 15, 22(b)

## 172 Duty of court to have regard to sentencing guidelines

F9 .....

### Textual Amendments

**F9** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, Sch. 23 Pt. 4 (with s. 180); S.I. 2010/816, art. 2, Sch. paras. 15, 22(b) (with art. 7(2))

## 173 Annual report by Council

F10 .....

### Textual Amendments

**F10** Ss. 167-173 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, Sch. 23 Pt. 4 (with s. 180); S.I. 2010/816, art. 2, Sch. paras. 15, 22(b)

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### *Duty of court to explain sentence*

#### **<sup>F11</sup>174 Duty to give reasons for and to explain effect of sentence**

.....

##### **Textual Amendments**

**F11** S. 174 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### *Publication of information by Secretary of State*

#### **175 Duty to publish information about sentencing**

In section 95 of the Criminal Justice Act 1991 (c. 53) (information for financial and other purposes) in subsection (1) before the “or” at the end of paragraph (a) there is inserted—

- “(aa) enabling such persons to become aware of the relative effectiveness of different sentences—
- (i) in preventing re-offending, and
  - (ii) in promoting public confidence in the criminal justice system;”.

##### **Commencement Information**

**II** S. 175 wholly in force at 4.4.2005, see s. 336(3) and [S.I. 2005/950](#), **art. 2(1)**, [Sch. 1](#) para. 7 (subject to [art. 2\(2\)](#), [Sch. 2](#))

### *Interpretation of Chapter*

#### **<sup>F12</sup>176 Interpretation of Chapter 1**

.....

##### **Textual Amendments**

**F12** Ss. 176-180 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

## **CHAPTER 2**

### **COMMUNITY ORDERS: OFFENDERS AGED 16 OR OVER**

#### **<sup>F12</sup>177 Community orders**

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**Status:** Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.  
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**Textual Amendments**

**F12** Ss. 176-180 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F12 178 Power to provide for court review of community orders**

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**Textual Amendments**

**F12** Ss. 176-180 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F12 179 Breach, revocation or amendment of community order**

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**Textual Amendments**

**F12** Ss. 176-180 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F12 180 Transfer of community orders to Scotland or Northern Ireland**

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**Textual Amendments**

**F12** Ss. 176-180 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**CHAPTER 3**

**[<sup>F13</sup>SUSPENDED SENTENCE ORDERS]**

**Textual Amendments**

**F13** Pt. 12 Ch. 3 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 9 para. 3** (with s. 68(7)); S.I. 2012/2906, art. 2(g)

*Prison sentences of less than 12 months*

**F14 181 Prison sentences of less than 12 months**

.....

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**Textual Amendments**  
F14 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F14 182 Licence conditions**

.....

**Textual Amendments**  
F14 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

*Intermittent custody*

**F14 183 Intermittent custody**

.....

**Textual Amendments**  
F14 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F14 184 Restrictions on power to make intermittent custody order**

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**Textual Amendments**  
F14 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F14 185 Intermittent custody: licence conditions**

.....

**Textual Amendments**  
F14 Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F14 186 Further provisions relating to intermittent custody**

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**Textual Amendments**

**F14** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

*Further provision about custody plus orders and intermittent custody orders*

**F14 187 Revocation or amendment of order**

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**Textual Amendments**

**F14** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

**F14 188 Transfer of custody plus orders and intermittent custody orders to Scotland or Northern Ireland**

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**Textual Amendments**

**F14** Ss. 181-188 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 89\(1\)\(a\)](#), 151(1); S.I. 2012/2906, art. 2(a)

*Suspended sentences*

**F15 189 Suspended sentences of imprisonment**

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**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**F15 190 Imposition of requirements by suspended sentence order**

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**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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### **F15 191 Power to provide for review of suspended sentence order**

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#### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### **F15 192 Periodic reviews of suspended sentence order**

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#### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### **F15 193 Breach, revocation or amendment of suspended sentence order, and effect of further conviction**

.....

#### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### **F15 194 Transfer of suspended sentence orders to Scotland or Northern Ireland**

.....

#### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

## *Interpretation of Chapter*

### **F15 195 Interpretation of Chapter 3**

.....

#### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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## CHAPTER 4

### FURTHER PROVISIONS ABOUT ORDERS UNDER CHAPTERS 2 AND 3

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

- C4** Pt. 12 Ch. 4 applied (with modifications) (8.12.2008) by [Children Act 1989 \(c. 41\)](#), [Sch. A1 paras. 1-3](#) (as inserted by the [Children and Adoption Act 2006 \(c. 20\)](#), [ss. 4\(2\), 17](#), [Sch. 1](#)); [S.I. 2008/2870](#), [art. 2\(2\)\(c\)](#) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 18\(12\)](#), [22\(1\)](#) (with [Sch. 7 para. 7](#)); [S.I. 2015/40](#), [art. 2\(p\)](#))
- C5** Pt. 12 Ch. 4 modified (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 178\(3\)\(4\), 196\(1\)](#), [383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- Pt. 12 Ch. 4 extended (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 182\(4\)-\(6\)](#), [383](#) (subject to [s. 183](#)) (as amended (11.12.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(2\)](#), [Sch. 16 para. 33\(3\)](#) (with [Sch. 16 para. 35](#)); [S.I. 2013/2981](#), [art. 2\(e\)](#)); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- C6** Pt. 12 Ch. 4 excluded (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), [ss. 201](#), [383](#); [S.I. 2009/812](#), [art. 3](#) (with transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

#### Introductory

#### <sup>F15</sup>196 Meaning of “relevant order” etc

.....

#### Textual Amendments

- F15** [Ss. 189-220A](#) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 28](#) (with [ss. 413\(4\)\(5\), 416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)

#### <sup>F15</sup>197 Meaning of “the responsible officer”

.....

#### Textual Amendments

- F15** [Ss. 189-220A](#) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 28](#) (with [ss. 413\(4\)\(5\), 416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)

#### <sup>F15</sup>198 Duties of responsible officer

.....

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**Textual Amendments**  
F15 Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Requirements available in case of all offenders*

**F15 199 Unpaid work requirement**

.....

**Textual Amendments**  
F15 Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 200 Obligations of person subject to unpaid work requirement**

.....

**Textual Amendments**  
F15 Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 200A Rehabilitation activity requirement**

.....

**Textual Amendments**  
F15 Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 201 Activity requirement**

.....

**Textual Amendments**  
F15 Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 202 Programme requirement**

.....



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**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**<sup>F15</sup>203 Prohibited activity requirement**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**<sup>F15</sup>204 Curfew requirement**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**<sup>F15</sup>205 Exclusion requirement**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**<sup>F15</sup>206 Residence requirement**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

**<sup>F15</sup>206A Foreign travel prohibition requirement**

.....

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**Textual Amendments**  
**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 207 Mental health treatment requirement**

.....

**Textual Amendments**  
**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 208 Mental health treatment at place other than that specified in order**

.....

**Textual Amendments**  
**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 209 Drug rehabilitation requirement**

.....

**Textual Amendments**  
**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 210 Drug rehabilitation requirement: provision for review by court**

.....

**Textual Amendments**  
**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 211 Periodic review of drug rehabilitation requirement**

.....

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**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15** **212 Alcohol treatment requirement**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15** **212A Alcohol abstinence and monitoring requirement**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15** **213 Supervision requirement**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Requirements available only in case of offenders aged under 25*

**F15** **214 Attendance centre requirement**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

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### *Electronic monitoring*

#### **<sup>F15</sup>215 Electronic monitoring requirement**

.....

##### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

#### **<sup>F15</sup>215A Data from electronic monitoring: code of practice**

.....

##### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

### *Provisions applying to relevant orders generally*

#### **<sup>F15</sup>216 Local justice area to be specified in relevant order**

.....

##### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

#### **<sup>F15</sup>217 Requirement to avoid conflict with religious beliefs, etc**

.....

##### **Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

#### **<sup>F15</sup>218 Availability of arrangements in local area**

.....

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**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 219 Provision of copies of relevant orders**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 220 Duty of offender to keep in touch with responsible officer**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F15 220A Duty to obtain permission before changing residence**

.....

**Textual Amendments**

**F15** Ss. 189-220A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

*Powers of Secretary of State*

**221 Provision of attendance centres**

- (1) The Secretary of State may continue to provide attendance centres.
- (2) In this Part “attendance centre” means a place at which offenders aged under 25 may be required to attend and be given under supervision appropriate occupation or instruction in pursuance of—
  - (a) attendance centre requirements of relevant orders, or
  - [F16]**(aa) attendance centre requirements of youth rehabilitation orders, within **[F17]**the meaning given by section 173 of the Sentencing Code,]
  - (b) attendance centre orders under section 60 of **[F18]**the PCC(S)A 2000],
  - [F19]**(c) default orders under section 300 of this Act, or

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- (d) youth default orders under section 39 of the Criminal Justice and Immigration Act 2008.]
- (3) For the purpose of providing attendance centres, the Secretary of State may make arrangements with any local authority or [<sup>F20</sup>local policing body] for the use of premises of [<sup>F21</sup>that authority or body].

#### Textual Amendments

- F16** S. 221(2)(aa) inserted (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 6, 153, **Sch. 4 para. 92(b)** (with Sch. 27 paras. 1, 5); S.I. 2009/3074, **art. 2(p)(xiv)**
- F17** Words in s. 221(2)(aa) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 217(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F18** Words in s. 221(2)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 217(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F19** S. 221(2)(c)(d) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, **Sch. 26 para. 2(2)**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 48(a)
- F20** Words in s. 221(3) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 313(a)**; S.I. 2011/3019, art. 3, Sch. 1
- F21** Words in s. 221(3) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 313(b)**; S.I. 2011/3019, art. 3, Sch. 1

#### Commencement Information

- I2** S. 221 wholly in force at 4.4.2005; s. 221 not in force at Royal Assent, see s. 336(3); s. 221 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 221 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 17 (subject to art. 2(2), Sch. 2)

## <sup>F22</sup>222 Rules

#### Textual Amendments

- F22** Ss. 222-229 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

## <sup>F22</sup>223 Power to amend limits

#### Textual Amendments

- F22** Ss. 222-229 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

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## CHAPTER 5

### DANGEROUS OFFENDERS

#### *Interpretation*

#### **F22 224 Meaning of “specified offence” etc.**

.....

##### **Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### *Life sentences*

#### **F22 224A Life sentence for second listed offence**

.....

##### **Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### **F22 225 Life sentence ... for serious offences**

.....

##### **Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### **F22 226 Detention for life ... for serious offences committed by those under 18**

.....

##### **Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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*[<sup>F23</sup>Extended sentences]*

**Textual Amendments**

**F23** Cross-heading in Pt. 12 Ch. 5 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 19 para. 18**; S.I. 2012/2906, art. 2(q)

**<sup>F22</sup>226A Extended sentence for certain violent, sexual or terrorism offences: persons 18 or over**

.....

**Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**<sup>F22</sup>226B Extended sentence for certain violent, sexual or terrorism offences: persons under 18**

.....

**Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**<sup>F22</sup>227 Extended sentence for certain violent or sexual offences: persons 18 or over**

.....

**Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**<sup>F22</sup>228 Extended sentence for certain violent or sexual offences: persons under 18**

.....

**Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**<sup>F22</sup>229 The assessment of dangerousness**

.....



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**Textual Amendments**

**F22** Ss. 222-229 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**230 Imprisonment or detention for public protection: release on licence**

Schedule 18 (release of prisoners serving sentences of imprisonment or detention for public protection) shall have effect.

**Commencement Information**

**I3** S. 230 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, **Sch. 1** para. 18 (subject to **art. 2(2)**, **Sch. 2**)

*Supplementary*

**<sup>F24</sup>231 Appeals where previous convictions set aside**

.....

**Textual Amendments**

**F24** Ss. 231-236A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**<sup>F24</sup>232 Certificates of convictions for purposes of sections 225 and 227**

.....

**Textual Amendments**

**F24** Ss. 231-236A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**<sup>F24</sup>232A Certificates of conviction**

.....

**Textual Amendments**

**F24** Ss. 231-236A repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**<sup>F24</sup>233 Offences under service law**

.....

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**Textual Amendments**  
F24 Ss. 231-236A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F24 234 Determination of day when offence committed**

.....

**Textual Amendments**  
F24 Ss. 231-236A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F24 235 Detention under sections 226, 226B and 228**

.....

**Textual Amendments**  
F24 Ss. 231-236A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**F24 236 Conversion of sentences of detention into sentences of imprisonment**

.....

**Textual Amendments**  
F24 Ss. 231-236A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**CHAPTER 5A**

**OTHER OFFENDERS OF PARTICULAR CONCERN**

**F24 236A Special custodial sentence for certain offenders of particular concern**

.....

**Textual Amendments**  
F24 Ss. 231-236A repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 28 (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

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## CHAPTER 6

### [<sup>F25</sup> RELEASE, LICENCES<sup>F26</sup>, SUPERVISION] AND RECALL ]

#### Textual Amendments

- F25** Pt. 12 Ch. 6 heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 16](#); S.I. 2012/2906, art. 2(l)
- F26** Word in Pt. 12 Ch. 6 heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 15](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

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

- C7** Pt. 12 Ch. 6 applied to any person serving a sentence for an offence committed before 4 April 2005 (whenever that sentence was or is imposed) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 121\(1\)](#), 151(1); S.I. 2012/2906, art. 2(d)
- C8** Pt. 12 Ch. 6 applied (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 7 para. 2\(a\)](#); S.I. 2015/40, art. 2(x)
- C9** 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
- C10** 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

### Preliminary

#### 237 Meaning of “fixed-term prisoner” [<sup>F27</sup> etc]

(1) In this Chapter “fixed-term prisoner” means—

- (a) a person serving a sentence of imprisonment for a determinate term, or
- (b) a person serving a determinate sentence of detention under section 91 [<sup>F28</sup> or 96] of [<sup>F29</sup> the PCC(S)A 2000, under] section [<sup>F30</sup> 226A, 226B, ||<sup>F31</sup> 227 ||<sup>F32</sup>, 228 or 236A] of this Act [<sup>F33</sup> or under section 250 [<sup>F34</sup>, 252A], 254, 262, 265, 266, 278 or 279 of the Sentencing Code].

[<sup>F35</sup> and “fixed-term sentence” means a sentence falling within paragraph (a) or (b).]

[<sup>F36</sup>(1B) In this Chapter—

- (a) references to a sentence of imprisonment include such a sentence passed by a service court;
- (b) references to a sentence of detention under [<sup>F37</sup> section 91 of the PCC(S)A 2000 or section 250 of the Sentencing Code] include a sentence of detention under section 209 of the Armed Forces Act 2006;
- [<sup>F38</sup>(ba) references to a sentence under section 226A of this Act [<sup>F39</sup> or section 266 or 279 of the Sentencing Code] include a sentence under that section passed as a result of section 219A of the Armed Forces Act 2006;
- (bb) references to a sentence under section 226B of this Act [<sup>F40</sup> or section 254 of the Sentencing Code] include a sentence under that section passed as a result of section 221A of the Armed Forces Act 2006;]
- (c) references to a sentence under section 227 of this Act include a sentence under that section passed as a result of section 220 of the Armed Forces Act 2006 [<sup>F41</sup> or section 240A]; <sup>F42</sup>...

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- (d) references to a sentence under section 228 of this Act include a sentence under that section passed as a result of section 222 of that Act<sup>F43</sup>, and
  - (e) references to a sentence under section 236A of this Act<sup>F44</sup> or section 265 or 278 of the Sentencing Code] include a sentence under that section passed as a result of section 224A of that Act.]
- (1C) Nothing in subsection (1B) has the effect that [<sup>F45</sup>section 240ZA] or 265 [<sup>F46</sup>of this Act or section 225 of the Sentencing Code] (provision equivalent to which is made by the Armed Forces Act 2006) [<sup>F47</sup>or section 240A] applies to a service court.]
- (2) In this Chapter, unless the context otherwise requires, “prisoner” includes a person serving a sentence falling within subsection (1)(b); and “prison” includes any place where a person serving such a sentence is liable to be detained.
- <sup>F48</sup>(3) In this Chapter, references to a sentence of detention under section 96 of [<sup>F49</sup>the PCC(S)A 2000, under] section [<sup>F50</sup>226A][<sup>F51</sup>, 227 or 236A] of this Act [<sup>F52</sup>or under section 262, 265 or 266 of the Sentencing Code] are references to a sentence of detention in a young offender institution.]

#### Textual Amendments

- F27** Word in s. 237 heading inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 378(1), 383, **Sch. 16 para. 219**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F28** Words in s. 237(1)(b) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), ss. **117(2)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F29** Words in s. 237(1)(b) substituted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 218(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F30** Words in s. 237(1)(b) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 20 para. 2(2)**; S.I. 2012/2906, art. 2(r)
- F31** Words in s. 237(1)(b) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), ss. **117(2)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F32** Words in s. 237(1)(b) substituted (13.4.2015) by **Criminal Justice and Courts Act 2015** (c. 2), s. 95(1), **Sch. 1 para. 15(2)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F33** Words in s. 237(1)(b) inserted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 218(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F34** Word in s. 237(1)(b) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021** (c. 11), s. 50(1)(i), **Sch. 13 para. 21(2)**
- F35** Words in s. 237(1) inserted (1.2.2015) by **Offender Rehabilitation Act 2014** (c. 11), ss. **2(3)**, 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(b)
- F36** S. 237(1B)(1C) inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 378(1), 383, **Sch. 16 para. 219**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F37** Words in s. 237(1B)(b) substituted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 218(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F38** S. 237(1B)(ba)(bb) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 22 para. 21**; S.I. 2012/2906, art. 2(t)
- F39** Words in s. 237(1B)(ba) inserted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 218(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F40** Words in s. 237(1B)(bb) inserted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 218(3)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F41** Words in s. 237(1B) inserted (31.10.2009) by **Criminal Justice and Immigration Act 2008** (c. 4), ss. **21(2)**, 153; S.I. 2009/2606, **art. 3(a)**

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- F42** Word in s. 237(1B)(c) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 15(3)(a)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F43** S. 237(1B)(e) and word inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 15(3)(b)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F44** Words in s. 237(1B)(e) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(3)(d)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F45** Words in s. 237(1C) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(2)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F46** Words in s. 237(1C) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F47** Words in s. 237(1C) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(2)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F48** S. 237(3) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 117(3)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F49** Words in s. 237(3) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(5)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F50** Words in s. 237(3) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 2(3)**; S.I. 2012/2906, art. 2(r)
- F51** Words in s. 237(3) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 15(4)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F52** Words in s. 237(3) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 218(5)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2

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

- C11** S. 237(1B) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by The Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059), arts. 1(3), 205, **Sch. 1 para. 53(8)**

**Commencement Information**

- I4** S. 237 wholly in force at 4.4.2005; s. 237 not in force at Royal Assent, see s. 336(3); s. 237 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, Sch.; s. 237 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

*Power of court to recommend licence conditions*

**<sup>F53</sup>238 Power of court to recommend licence conditions for certain prisoners**

.....

**Textual Amendments**

- F53** S. 238 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

**239 The Parole Board**

- (1) The Parole Board is to continue to be, by that name, a body corporate and as such is—
  - (a) to be constituted in accordance with this Chapter, and
  - (b) to have the functions conferred on it by this Chapter in respect of fixed-term prisoners and by Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (c. 43)

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(in this Chapter referred to as “the 1997 Act”) in respect of life prisoners within the meaning of that Chapter.

- (2) It is the duty of the Board to advise the Secretary of State with respect to any matter referred to it by him which is to do with the early release or recall of prisoners.
- (3) The Board must, in dealing with cases as respects which it makes recommendations under this Chapter or under Chapter 2 of Part 2 of the 1997 Act, consider—
  - (a) any documents given to it by the Secretary of State, and
  - (b) any other oral or written information obtained by it;
 and if in any particular case the Board thinks it necessary to interview the person to whom the case relates before reaching a decision, the Board may authorise one of its members to interview him and must consider the report of the interview made by that member.
- (4) The Board must deal with cases as respects which it gives directions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act on consideration of all such evidence as may be adduced before it.
- (5) Without prejudice to subsections (3) and (4), the Secretary of State may make rules with respect to the proceedings of the Board, including proceedings authorising cases to be dealt with by a prescribed number of its members or requiring cases to be dealt with at prescribed times.
- (6) The Secretary of State may also give to the Board directions as to the matters to be taken into account by it in discharging any functions under this Chapter or under Chapter 2 of Part 2 of the 1997 Act; and in giving any such directions the Secretary of State must have regard to—
  - (a) the need to protect the public from serious harm from offenders, and
  - (b) the desirability of preventing the commission by them of further offences and of securing their rehabilitation.
- (7) Schedule 19 shall have effect with respect to the Board.

#### Commencement Information

- I5** S. 239 wholly in force at 4.4.2005; s. 239 not in force at Royal Assent, see s. 336(3); s. 239 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 239(5)(6) in force at 7.3.2005 by [S.I. 2005/373, art. 2](#); s. 239 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

*Effect of remand in custody [<sup>F54</sup>or on bail subject to certain types of condition]*

#### Textual Amendments

- F54** Words in s. 240 cross-heading inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 21\(3\), 153; S.I. 2008/2712, art. 2, Sch. para. 1](#) (subject to arts. 3, 4)

<sup>F55</sup>**240 Crediting of periods of remand in custody: terms of imprisonment and detention**

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### Textual Amendments

**F55** S. 240 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), ss. 108\(1\), 151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906, art. 2\(d\)](#)

## [<sup>F56</sup>240Z] **Time remanded in custody to count as time served: terms of imprisonment and detention**

- (1) This section applies where—
  - (a) an offender is serving a term of imprisonment in respect of an offence, and
  - (b) the offender has been remanded in custody (within the meaning given by section 242) in connection with the offence or a related offence.
- (2) It is immaterial for that purpose whether, for all or part of the period during which the offender was remanded in custody, the offender was also remanded in custody in connection with other offences (but see subsection (5)).
- (3) The number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by the offender as part of the sentence.  
  
But this is subject to subsections (4) to (6).
- (4) If, on any day on which the offender was remanded in custody, the offender was also detained in connection with any other matter, that day is not to count as time served.
- (5) A day counts as time served—
  - (a) in relation to only one sentence, and
  - (b) only once in relation to that sentence.
- (6) A day is not to count as time served as part of any [<sup>F57</sup>automatic release period served by the offender] (see section 255B(1)).

[<sup>F58</sup>(6A) Where a court has made a declaration under section 327 of the Sentencing Code in relation to the offender in respect of the offence, this section applies to days specified under subsection (3) of that section as if they were days for which the offender was remanded in custody in connection with the offence or a related offence.]

- (7) For the purposes of this section a suspended sentence—
  - (a) is to be treated as a sentence of imprisonment when it takes effect under [<sup>F59</sup>paragraph 13(1)(a) or (b) of Schedule 16 to the Sentencing Code], and
  - (b) is to be treated as being imposed by the order under which it takes effect.
- (8) In this section “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.
- (9) For the purposes of the references in subsections (3) and (5) to the term of imprisonment to which a person has been sentenced (that is to say, the reference to the offender's “sentence”), consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term if—
  - (a) the sentences were passed on the same occasion, or

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- (b) where they were passed on different occasions, the person has not been released at any time during the period beginning with the first and ending with the last of those occasions.
- (10) The reference in subsection (4) to detention in connection with any other matter does not include remand in custody in connection with another offence but includes—
- (a) detention pursuant to any custodial sentence;
  - (b) committal in default of payment of any sum of money;
  - (c) committal for want of sufficient distress to satisfy any sum of money;
  - (d) committal for failure to do or abstain from doing anything required to be done or left undone.
- (11) This section applies to a determinate sentence of detention under section 91 or 96 [F60 of the PCC(S)A 2000, under section 250, [F61 252A,] 254, 262, 265 or 266 of the Sentencing Code or under] section [F62 226A, 226B,] 227 [F63, 228 or 236A] of this Act as it applies to an equivalent sentence of imprisonment.]

#### Textual Amendments

- F56** S. 240ZA inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 108(2), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F57** Words in s. 240ZA(6) substituted (1.2.2015) by [Offender Rehabilitation Act 2014](#) (c. 11), **ss. 9(6), 22(1)** (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F58** S. 240ZA(6A) inserted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), **Sch. 24 para. 219(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F59** Words in s. 240ZA(7)(a) substituted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), **Sch. 24 para. 219(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F60** Words in s. 240ZA(11) substituted (1.12.2020) by [Sentencing Act 2020](#) (c. 17), s. 416(1), **Sch. 24 para. 219(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F61** Word in s. 240ZA(11) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021](#) (c. 11), s. 50(1)(i), **Sch. 13 para. 21(3)**
- F62** Words in s. 240ZA(11) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), **Sch. 20 para. 4**; S.I. 2012/2906, art. 2(r)
- F63** Words in s. 240ZA(11) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015](#) (c. 2), s. 95(1), **Sch. 1 para. 16**; S.I. 2015/778, art. 3, Sch. 1 para. 72

#### [F64 240A [F65 Time remanded on bail to count towards time served]: terms of imprisonment and detention

- (1) [F66 Subsection (2) applies] where—
- (a) a court sentences an offender to imprisonment for a term in respect of an offence [F67 of which the offender was convicted before 1 December 2020] [F68 ... ,
  - (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
  - (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition (“the relevant conditions”).
- (2) Subject to [F69 subsections (3A) and (3B)], the court must direct that the credit period is to count as time served by the offender as part of the sentence.



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<sup>F70</sup>[<sup>F71</sup>(3) . . . . .

[<sup>F72</sup>(3ZA) Subsection (3ZB) applies where—

- (a) an offender is serving a term of imprisonment in respect of an offence, and
- (b) the court has made a declaration under section 325 of the Sentencing Code specifying a credit period in relation to the sentence.

(3ZB) Subject to subsections (3A) and (3B), the credit period is to count as time served by the offender as part of the sentence.]

(3A) A day of the credit period counts as time served—

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

(3B) A day of the credit period is not to count as time served as part of any [<sup>F73</sup>automatic release period served by the offender] (see section 255B(1)).]

<sup>F74</sup>(8) . . . . .

<sup>F75</sup>(9) . . . . .

<sup>F75</sup>(10) . . . . .

(11) [<sup>F76</sup>Subsections (7) to (9) and (11) of section 240ZA] apply for the purposes of this section as they apply for the purposes of that section but as if—

- (a) in subsection (7)—
  - (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of [<sup>F77</sup>the PCC(S)A 2000] relates;
  - (ii) in paragraph (a) after “Schedule 12” there were inserted or section 119(1)(a) or (b) of [<sup>F78</sup>the PCC(S)A 2000]; and
- (b) [<sup>F79</sup>in subsection (9) the references to subsections (3) and (5) of section 240ZA are] to be read as a reference to [<sup>F80</sup>subsections (2) and (3ZB)] of this section and, in paragraph (b), after “Chapter” there were inserted or Part 2 of the Criminal Justice Act 1991.

(12) In this section—

[<sup>F81</sup>“curfew requirement” means a requirement (however described) to remain at one or more specified places for a specified number of hours in any given day, provided that the requirement is imposed by a court or the Secretary of State and arises as a result of a conviction;]

“electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person's compliance with a qualifying curfew condition;

“qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; <sup>F82</sup>...

<sup>F82</sup> . . . . . ]

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### Textual Amendments

- F64** S. 240A inserted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 21\(4\)](#), 153; S.I. 2008/2712, [art. 2](#), [Sch. para. 1](#) (subject to arts. 3, 4)
- F65** Words in s. 240A heading substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(8\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F66** Words in s. 240A(1) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 220\(2\)\(a\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F67** Words in s. 240A(1)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 220\(2\)\(b\)](#) (with [Sch. 27](#)) (as amended by S.I. 2020/1236, [regs. 1, 4\(7\)\(b\)](#)); S.I. 2020/1236, [reg. 2](#)
- F68** Words in s. 240A(1)(a) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 14](#); S.I. 2012/2906, [art. 2\(n\)](#)
- F69** Words in s. 240A(2) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(2\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F70** S. 240A(3) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F71** S. 240A(3)-(3B) substituted for s. 240A(3)-(8) (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(3\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F72** S. 240A(3ZA)(3ZB) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 220\(3\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F73** Words in s. 240A(3B) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 9\(7\)](#), 22(1) (with [Sch. 7 para. 5](#)); S.I. 2015/40, [art. 2\(i\)](#)
- F74** S. 240A(8) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), 416(7), [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F75** S. 240A(9)(10) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(5\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F76** Words in s. 240A(11) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(6\)\(a\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F77** Words in s. 240A(11)(a)(i) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 220\(4\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F78** Words in s. 240A(11)(a)(ii) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 220\(4\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F79** Words in s. 240A(11)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(6\)\(b\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F80** Words in s. 240A(11)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 220\(5\)](#) (with [Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- F81** Words in s. 240A(12) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(7\)\(a\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F82** Words in s. 240A(12) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 109\(7\)\(b\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)

### Modifications etc. (not altering text)

- C12** S. 240A modified in part (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](#)
- C13** S. 240A applied (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [ss. 325\(2\)](#), 416(1) (with [ss. 2, 398\(1\), 406, Sch. 27](#)); S.I. 2020/1236, [reg. 2](#)
- C14** S. 240A(2) excluded (3.11.2008) by [The Remand on Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), [art. 2](#)
- C15** S. 240A(2) excluded (3.11.2008) by [The Remand on Bail \(Disapplication of Credit Period\) Rules 2008 \(S.I. 2008/2793\)](#), [art. 3](#)

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**C16** S. 240A(2) excluded (3.11.2008) by The Remand on Bail (Disapplication of Credit Period) Rules 2008 (S.I. 2008/2793), **art. 4**

**241** **Effect of [F83section 240ZA or direction under section 240A][F84or under section 325 of the Sentencing Code] on release on licence**

(1) In determining for the purposes of this Chapter <sup>F85</sup>... whether a person <sup>F86</sup>to whom section 240ZA applies or a direction under section 240A <sup>F87</sup>or under section 325 of the Sentencing Code] relates —

(a) has served, or would (but for his release) have served, a particular proportion of his sentence, or

(b) has served a particular period,

the number of days <sup>F88</sup>specified in section 240ZA or in the direction under section 240A<sup>F89</sup>or under section 325 of the Sentencing Code] are to be treated as having been served by him as part of that sentence or period.

<sup>F90</sup>(1A) In subsection (1) the reference to <sup>F91</sup>section 240ZA includes] section 246 of the Armed Forces Act 2006.]

<sup>F92</sup>(2) .....

**Textual Amendments**

- F83** Words in s. 241 heading substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(6)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F84** Words in s. 241 heading inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 221(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F85** Words in s. 241(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 20(a)**; S.I. 2012/2906, art. 2(h)
- F86** Words in s. 241(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(4)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F87** Words in s. 241(1) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 221(3)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F88** Words in s. 241(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(4)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F89** Words in s. 241(1) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 221(3)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F90** S. 241(1A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by Armed Forces Act 2006 (c.52), **ss. 378(1)**, 383, **Sch. 16 para. 220**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F91** Words in s. 241(1A) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(5)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F92** S. 241(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 20(b)**; S.I. 2012/2906, art. 2(h)

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

**C17** S. 241 modified (26.1.2004) by The Intermittent Custody (Transitory Provisions) Order 2003 (S.I. 2003/3283), **art. 3**

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### Commencement Information

- 16** S. 241 wholly in force 4.4.2005; s. 241 not in force at Royal Assent, see s. 336(3); s. 241 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 241 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to **art. 2(2), Sch. 2**)

## 242 Interpretation of [F93sections 240ZA][F94, 240A] and 241

- (1) For the purposes of [F93sections 240ZA][F94, 240A] and 241, the definition of “sentence of imprisonment” in section 305 applies as if for the words from the beginning of the definition to the end of paragraph (a) there were substituted—

““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 on a conviction;”;

and references in those sections to sentencing an offender to imprisonment, and to an offender’s sentence, are to be read accordingly.

- (2) References in [F93sections 240ZA] and 241 to an offender’s being remanded in custody are references to his being—
- (a) remanded in or committed to custody by order of a court,
  - (b) remanded [F95to youth detention accommodation under section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012], or
  - (c) remanded, admitted or removed to hospital under section 35, 36, 38 or 48 of the Mental Health Act 1983 (c. 20).

F96(3) .....

### Textual Amendments

- F93** Words in s. 242 substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 110(7), 151(1)** (with Sch. 15); S.I. 2012/2906, **art. 2(d)**
- F94** Words in s. 242 inserted (3.11.2008) by **Criminal Justice and Immigration Act 2008 (c. 4), ss. 21(6), 153; S.I. 2008/2712, art. 2, Sch. para. 1** (subject to arts. 3, 4)
- F95** Words in s. 242(2)(b) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 12 para. 51(a)**; S.I. 2012/2906, **art. 2(j)** (with art. 7(2)(3))
- F96** S. 242(3) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 12 para. 51(b)**; S.I. 2012/2906, **art. 2(j)** (with art. 7(2)(3))

### Modifications etc. (not altering text)

- C18** S. 242(2) applied (1.12.2008) by **The Criminal Justice Act 1988 (c. 33), s. 133B(8)** (as inserted by **Criminal Justice and Immigration Act 2008 (c. 4), ss. 61(7), 153; S.I. 2008/2993, art. 2** (subject to art. 3))
- C19** S. 242(2)(b) modification to saving for effects of 2012 c. 10, Sch. 12 para. 51(a) by S.I. 2012/2906, **art. 7(2)(3)** (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), s. 5(2)(3), Sch. 2 para. 138; S.I. 2012/1236, reg. 2**
- C20** S. 242(3) modification to saving for effects of 2012 c. 10, Sch. 12 para. 51(b) by S.I. 2012/2906, **art. 7(2)(3)** (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), s. 5(2)(3), Sch. 2 para. 138; S.I. 2012/1236, reg. 2**

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### Commencement Information

- I7** S. 242 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

## 243 Persons extradited to the United Kingdom

- (1) A fixed-term prisoner is an extradited prisoner for the purposes of this section if—
- (a) he was tried for the offence in respect of which his sentence was imposed [<sup>F97</sup>or he received that sentence]—
    - (i) after having been extradited to the United Kingdom, and
    - (ii) without having first been restored or had an opportunity of leaving the United Kingdom, and
  - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a)<sup>F98</sup>, and
  - (c) the court has specified under section 327(3) of the Sentencing Code the number of days for which the prisoner was so kept in custody.]

<sup>F99</sup> [<sup>F100</sup>(2) . . . . .

- (2A) Section 240ZA applies to days specified under [<sup>F101</sup>section 327(3) of the Sentencing Code] as if they were days for which the prisoner was remanded in custody in connection with the offence or a related offence.]

<sup>F102</sup>(3) . . . . .

### Textual Amendments

- F97** Words in s. 243(1) inserted (15.1.2007) by **Police and Justice Act 2006 (c. 48)**, ss. 42, 53, **Sch. 13 para. 31**; S.I. 2006/3364, **art. 2**
- F98** S. 243(1)(c) and word inserted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 222(2)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F99** S. 243(2) omitted (1.12.2020) by virtue of **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 222(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F100** S. 243(2)(A) substituted for s. 243(2) (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)**, ss. **110(8)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F101** Words in s. 243(2A) substituted (1.12.2020) by **Sentencing Act 2020 (c. 17)**, s. 416(1), **Sch. 24 para. 222(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F102** S. 243(3) repealed (27.7.2004) by **The Extradition Act 2003 (Repeals) Order 2004 (S.I. 2004/1897)**, **art. 3**

### Modifications etc. (not altering text)

- C21** S. 243 applied (15.1.2007) by **Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)**, s. 101(12A) (as inserted by **Police and Justice Act 2006 (c. 48)**, ss. 42, 53, **Sch. 13 para. 32**; S.I. 2006/3364, **art. 2**)

### Commencement Information

- I8** S. 243 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 19 (subject to **art. 2(2)**, Sch. 2)

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### *[<sup>F103</sup>Unconditional release*

#### **Textual Amendments**

**F103** S. 243A and cross-heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 111(1), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

#### **243A Duty to release [<sup>F104</sup>certain] prisoners serving less than 12 months**

[<sup>F105</sup>(1) This section applies to a fixed-term prisoner if—

- (a) the prisoner is serving a sentence which is for a term of 1 day, or
- (b) the prisoner—
  - (i) is serving a sentence which is for a term of less than 12 months, and
  - (ii) is aged under 18 on the last day of the requisite custodial period.

(1A) This section also applies to a fixed-term prisoner if—

- (a) the prisoner is serving a sentence which is for a term of less than 12 months, and
- (b) the sentence was imposed in respect of an offence committed before the day on which section 1 of the Offender Rehabilitation Act 2014 came into force.]

[ But this section does not apply to a prisoner to whom section 247A applies.]

<sup>F106</sup>(1B)

- (2) As soon as a prisoner to whom this section applies has served the requisite custodial period for the purposes of this section, it is the duty of the Secretary of State to release that person unconditionally.
- (3) For the purposes of this section “the requisite custodial period” is—
  - (a) [<sup>F107</sup>in relation to a person serving one sentence], one-half of the sentence, and
  - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).
- (4) This section is subject to—
  - (a) section 256B (supervision of young offenders after release), and
  - (b) paragraph 8 of Schedule 20B (transitional cases).]

#### **Textual Amendments**

**F104** Word in s. 243A heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 16** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

**F105** S. 243A(1)(1A) substituted for s. 243A(1) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 1, 22(1)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(a)

**F106** S. 243A(1B) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 2(2), 10(4)**

**F107** Words in s. 243A(3)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 17** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

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

- C22** S. 243A applied by Crime (Sentences) Act 1997 (c. 43), Sch. 1 paras. 8(2)(a), 9(2)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 2](#); S.I. 2012/2906, art. 2(1))
- C23** S. 243A excluded by International Criminal Court Act 2001 (c. 17), Sch. 7 para. 3(1) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 4](#); S.I. 2012/2906, art. 2(1))

### Release on licence

#### 244 Duty to release prisoners

- (1) As soon as a fixed-term prisoner, other than a prisoner to whom section [\[<sup>F108</sup>243A](#)[\[<sup>F109</sup>, 244A\]](#)[\[<sup>F110</sup>, 246A\]](#)[\[<sup>F111</sup>, 247 or 247A\]](#) applies, has served the requisite custodial period [\[<sup>F112</sup>for the purposes of this section\]](#), it is the duty of the Secretary of State to release him on licence under this section.
- [\[<sup>F113</sup>\(1A\)](#) Subsection (1) does not apply if the prisoner has been released on licence under section 246 [\[<sup>F114</sup>or 248\]](#) and recalled under section 254 (provision for the release of such persons being made by sections 255B and 255C).]
- [\[<sup>F115</sup>\(2\)](#) .....
- (3) [\[<sup>F116</sup>For the purposes of this section\]](#) “the requisite custodial period” means—
- (a) [\[<sup>F117</sup>in relation to a prisoner serving one sentence\]](#), one-half of his sentence,
- [\[<sup>F118</sup>\(b\)](#) .....
- [\[<sup>F118</sup>\(c\)](#) .....
- (d) in relation to a person serving two or more concurrent or consecutive sentences [\[<sup>F119</sup>...\]](#), the period determined under sections 263(2) and 264(2).
- [\[<sup>F120</sup>\(4\)](#) This section is subject to paragraphs 5, 6, 8, 25 and 28 of Schedule 20B (transitional cases).]

#### Textual Amendments

- F108** Words in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 6\(2\)\(a\)](#); S.I. 2012/2906, art. 2(1)
- F109** Word in s. 244(1) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 5](#); S.I. 2015/778, art. 3, Sch. 1 para. 72
- F110** Word in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 125\(2\)](#), 151(1); S.I. 2012/2906, art. 2(e)
- F111** Words in s. 244(1) substituted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 2\(3\)](#), 10(4)
- F112** Words in s. 244(1) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 6\(2\)\(b\)](#); S.I. 2012/2906, art. 2(1)
- F113** S. 244(1A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 114\(2\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F114** Words in s. 244(1A) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 9\(2\)](#), 22(1) (with Sch. 7 para. 5); S.I. 2015/40, art. 2(i)
- F115** S. 244(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 21\(2\)](#); S.I. 2012/2906, art. 2(h)

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- F116** Words in s. 244(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 14 para. 6\(3\)\(a\)](#); S.I. 2012/2906, art. 2(l)
- F117** Words in s. 244(3)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 18](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F118** S. 244(3)(b)(c) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 21\(3\)\(a\)](#); S.I. 2012/2906, art. 2(h); S.I. 2012/2906, art. 2(h)
- F119** Words in s. 244(3)(d) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 10 para. 21\(3\)\(b\)](#); S.I. 2012/2906, art. 2(h)
- F120** S. 244(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 17 para. 2](#); S.I. 2012/2906, art. 2(o)

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

- C24** S. 244(3)(a) modified (1.4.2020) by [The Release of Prisoners \(Alteration of Relevant Proportion of Sentence\) Order 2020 \(S.I. 2020/158\), arts. 1, 3](#) (with art. 5)

#### Commencement Information

- I9** S. 244 partly in force; s. 244 not in force at Royal Assent, see s. 336(3); s. 244(1)(2)(3)(c)(d) in force for certain purposes at 26.1.2004 by [S.I. 2003/3282, art. 2, Sch.](#); s. 244(1)(2)(3)(a)(d) in force at 4.4.2005 by [S.I. 2005/950, art. 2\(1\), Sch. 1 para. 19](#) (subject to [art. 2\(2\), Sch. 2](#))

### [<sup>F121</sup>244] **Release on licence of prisoners serving sentence under [<sup>F122</sup>section 278 of the Sentencing Code etc]**

- (1) This section applies to a prisoner (“P”) who is serving a sentence imposed under section 236A [<sup>F123</sup>or under section 265 or 278 of the Sentencing Code][<sup>F124</sup>, other than a prisoner to whom section 247A applies].
- (2) The Secretary of State must refer P’s case to the Board—
  - (a) as soon as P has served the requisite custodial period, and
  - (b) where there has been a previous reference of P’s case to the Board under this subsection and the Board did not direct P’s release, not later than the second anniversary of the disposal of that reference.
- (3) It is the duty of the Secretary of State to release P on licence under this section as soon as—
  - (a) P has served the requisite custodial period, and
  - (b) the Board has directed P’s release under this section.
- (4) The Board must not give a direction under subsection (3) unless—
  - (a) the Secretary of State has referred P’s case to the Board, and
  - (b) the Board is satisfied that it is not necessary for the protection of the public that P should be confined.
- (5) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the appropriate custodial term, unless P has previously been released on licence under this section and recalled under section 254 (provision for the release of such persons being made by sections 255A to 255C).
- (6) For the purposes of this section—
 

“the appropriate custodial term” means the term determined as such by the court under section 236A [<sup>F125</sup>or under section 265 or 278 of the Sentencing Code];



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- “the requisite custodial period” means—
- (a) in relation to a person serving one sentence, one-half of the appropriate custodial term, and
  - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).]

**Textual Amendments**

- F121** S. 244A inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 6](#); [S.I. 2015/778](#), art. 3, [Sch. 1 para. 72](#)
- F122** Words in s. 244A heading substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 223\(2\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F123** Words in s. 244A(1) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 223\(3\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F124** Words in s. 244A(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 2\(4\)](#), [10\(4\)](#)
- F125** Words in s. 244A(6) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 223\(4\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

**F126 245 Restrictions on operation of section 244(1) in relation to intermittent custody prisoners**

.....

**Textual Amendments**

- F126** S. 245 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 22](#); [S.I. 2012/2906](#), art. 2(h)

**246 Power to release prisoners on licence before required to do so**

- (1) Subject to subsections (2) to (4), the Secretary of State may—
  - (a) release on licence under this section a fixed-term prisoner<sup>F127</sup> ... at any time during the period of 135 days ending with the day on which the prisoner will have served the requisite custodial period,<sup>F128</sup> ...
  - <sup>F128</sup>(b) .....
- (2) Subsection (1)(a) does not apply in relation to a prisoner unless—
  - (a) the length of the requisite custodial period is at least 6 weeks,<sup>F129</sup> and
  - (b) he has served—
    - (i) at least 4 weeks of that period, and
    - (ii) at least one-half of that period.]
- <sup>F130</sup>(3) .....
- (4) Subsection (1) does not apply where—
  - (a) the sentence is imposed under section [<sup>F131</sup>226A,] 227<sup>F132</sup>, 228 or 236A][<sup>F133</sup> or under section 265, 266, 278 or 279 of the Sentencing Code],
    - <sup>F134</sup>(aa) the sentence is for a term of 4 years or more,]
    - <sup>F135</sup>(ab) the prisoner is one to whom section 247A applies,]

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- (b) the sentence is for an offence under section 1 of the Prisoners (Return to Custody) Act 1995 (c. 16),
  - (c) the prisoner is subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the Mental Health Act 1983 (c. 20),
  - (d) the sentence was imposed by virtue of paragraph 9(1)(b) or (c) or 10(1)(b) or (c) of Schedule 8 <sup>F136</sup>, or paragraph 10(5)(c) or (d) or 11(2)(c) or (d) of Schedule 10 to the Sentencing Code,] in a case where the prisoner has failed to comply with a curfew requirement of a community order,
  - (e) the prisoner is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c. 42),
  - (f) the prisoner is liable to removal from the United Kingdom,
  - (g) the prisoner has been released on licence under this section <sup>F137</sup>at any time], and has been recalled to prison under section 255(1)(a) <sup>F138</sup>(and the revocation has not been cancelled under section 255(3))],
  - <sup>F139</sup>(ga) the prisoner has at any time been released on licence under section 34A of the Criminal Justice Act 1991 and has been recalled to prison under section 38A(1)(a) of that Act (and the revocation of the licence has not been cancelled under section 38A(3) of that Act);]
  - (h) the prisoner has been released on licence under section 248 during the currency of the sentence, and has been recalled to prison under section 254, <sup>F140</sup>...
  - <sup>F141</sup>(ha) the prisoner has at any time been returned to prison under section 40 of the Criminal Justice Act 1991 or section 116 of <sup>F142</sup>the PCC(S)A 2000], or]
  - (i) in the case of a prisoner <sup>F143</sup>to whom section 240ZA applies or a direction under section 240A <sup>F144</sup>or under section 325 of the Sentencing Code] relates], the interval between the date on which the sentence was passed and the date on which the prisoner will have served the requisite custodial period is less than 14 days <sup>F145</sup>... .
- <sup>F146</sup>(4ZA) Where subsection (4)(aa) applies to a prisoner who is serving two or more terms of imprisonment, the reference to the term of the sentence is—
- (a) if the terms are partly concurrent, a reference to the period which begins when the first term begins and ends when the last term ends;
  - (b) if the terms are to be served consecutively, a reference to the aggregate of the terms.]
- <sup>F147</sup>(4A) In subsection (4)—
- (a) the reference in paragraph (d) to a community order includes a service community order or overseas community order under the Armed Forces Act 2006; and
  - (b) the reference in paragraph (i) to <sup>F148</sup>section 240ZA includes] section 246 of that Act.]
- (5) The Secretary of State may by order—
- (a) amend the number of days for the time being specified in subsection (1)(a) <sup>F149</sup>... or (4)(i),
  - (b) amend the number of weeks for the time being specified in subsection (2)(a) or (b)(i), and
  - (c) amend the fraction for the time being specified in subsection (2)(b)(ii) <sup>F150</sup>... .
- (6) In this section—

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<sup>F151</sup> .....

“the requisite custodial period” in relation to a person serving any sentence  
<sup>F152</sup> ... , has the meaning given by [<sup>F153</sup> paragraph (a) or (b) of section 243A(3) or  
(as the case may be)] paragraph (a) <sup>F152</sup> ... or (d) of section 244(3);

<sup>F154</sup> .....

[<sup>F155</sup>“term of imprisonment” includes a determinate sentence of detention  
under section 91 or 96 of [<sup>F156</sup>the PCC(S)A 2000, under section 250, 254, 262,  
265, 266, 278 or 279 of the Sentencing Code] or under section [<sup>F157</sup>226A, 226B,]  
227[<sup>F158</sup>, 228 or 236A] of this Act.]

### Textual Amendments

- F127** Words in s. 246(1)(a) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(2)(a)**; S.I. 2012/2906, art. 2(h)
- F128** S. 246(1)(b) and preceding word omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(2)(b)**; S.I. 2012/2906, art. 2(h)
- F129** S. 246(2)(b) and word substituted (14.7.2008) for s. 246(2)(b) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 24, 153**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 11
- F130** S. 246(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(3)**; S.I. 2012/2906, art. 2(h)
- F131** Words in s. 246(4)(a) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 5(2)**; S.I. 2012/2906, art. 2(r)
- F132** Words in s. 246(4)(a) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 7(2)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F133** Words in s. 246(4)(a) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F134** S. 246(4)(aa) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(2), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F135** S. 246(4)(ab) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 2(5), 10(4)**
- F136** Words in s. 246(4)(d) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F137** Words in s. 246(4)(g) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(3)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F138** Words in s. 246(4)(g) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(3)(b), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F139** S. 246(4)(ga) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), **ss. 15(4), 95(1)** (with s. 15(10)); S.I. 2015/778, art. 3, Sch. 1 para. 11
- F140** Word in s. 246(4)(h) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(4), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F141** S. 246(4)(ha) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(4), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F142** Words in s. 246(4)(ha) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(c)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F143** Words in s. 246(4)(i) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 110(9)(a), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F144** Words in s. 246(4)(i) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 224(2)(d)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F145** Words in s. 246(4)(i) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 23(4)**; S.I. 2012/2906, art. 2(h)
- F146** S. 246(4ZA) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 112(5), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

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- F147** S. 246(4A) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by **Armed Forces Act 2006** (c. 52), ss. 378(1), 383, **Sch. 16 para. 221**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F148** Words in s. 246(4A)(b) substituted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), **ss. 110(9)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F149** Words in s. 246(5)(a) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 10 para. 23(5)(a)**; S.I. 2012/2906, art. 2(h)
- F150** Words in s. 246(5)(c) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 10 para. 23(5)(b)**; S.I. 2012/2906, art. 2(h)
- F151** Words in s. 246(6) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 10 para. 23(6)(a)**; S.I. 2012/2906, art. 2(h)
- F152** Words in s. 246(6) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 10 para. 23(6)(b)**; S.I. 2012/2906, art. 2(h)
- F153** Words in s. 246(6) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 14 para. 7**; S.I. 2012/2906, art. 2(l)
- F154** Words in s. 246(6) omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 10 para. 23(6)(c)**; S.I. 2012/2906, art. 2(h)
- F155** Words in s. 246(6) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), **ss. 112(6)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F156** Words in s. 246(6) substituted (1.12.2020) by **Sentencing Act 2020** (c. 17), s. 416(1), **Sch. 24 para. 224(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F157** Words in s. 246(6) inserted (3.12.2012) by **Legal Aid, Sentencing and Punishment of Offenders Act 2012** (c. 10), s. 151(1), **Sch. 20 para. 5(3)**; S.I. 2012/2906, art. 2(r)
- F158** Words in s. 246(6) substituted (13.4.2015) by **Criminal Justice and Courts Act 2015** (c. 2), s. 95(1), **Sch. 1 para. 7(3)**; S.I. 2015/778, art. 3, Sch. 1 para. 72

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

- C25** S. 246 excluded (1.12.2020) by **Sentencing Act 2020** (c. 17), **ss. 237(5)**, 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

#### Commencement Information

- I10** S. 246 wholly in force at 4.4.2005; s. 246 not in force at Royal Assent, see s. 336(3); s. 246(1)(b)(3)(4)(b)-(i)(5)(6) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, **Sch.**; s. 246(5) in force at 7.3.2005 by S.I. 2005/373, **art. 2**; s. 246 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, **Sch. 1 para. 19** (subject to **art. 2(2)**, **Sch. 2**)

### [<sup>F159</sup>246A Release on licence of prisoners serving extended sentence under [<sup>F160</sup>section 254, 266 or 279 of the Sentencing Code etc]

- (1) This section applies to a prisoner (“P”) who is serving an extended sentence imposed under section 226A or 226B [<sup>F161</sup>or under section 254, 266 or 279 of the Sentencing Code][<sup>F162</sup>, other than a prisoner to whom section 247A applies].
- (2) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the requisite custodial period for the purposes of this section [<sup>F163</sup>if—
  - (a) the sentence was imposed before the coming into force of section 4 of the Criminal Justice and Courts Act 2015,
  - (b) the appropriate custodial term is less than 10 years, and
  - (c) the sentence was not imposed in respect of an offence listed in Parts 1 to 3 of Schedule 15B or in respect of offences that include one or more offences listed in those Parts of that Schedule.]

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- (3) [<sup>F164</sup>In any other case], it is the duty of the Secretary of State to release P on licence in accordance with subsections (4) to (7).
- (4) The Secretary of State must refer P's case to the Board—
- (a) as soon as P has served the requisite custodial period, and
  - (b) where there has been a previous reference of P's case to the Board under this subsection and the Board did not direct P's release, not later than the second anniversary of the disposal of that reference.
- (5) It is the duty of the Secretary of State to release P on licence under this section as soon as—
- (a) P has served the requisite custodial period, and
  - (b) the Board has directed P's release under this section.
- (6) The Board must not give a direction under subsection (5) unless—
- (a) the Secretary of State has referred P's case to the Board, and
  - (b) the Board is satisfied that it is no longer necessary for the protection of the public that P should be confined.

[ Sections 246B and 246C contain provision that relates to the Board's function of giving <sup>F165</sup>(6A) directions under subsection (5) for the release of P.]

- (7) It is the duty of the Secretary of State to release P on licence under this section as soon as P has served the appropriate custodial term, unless P has previously been released on licence under this section and recalled under section 254 (provision for the release of such persons being made by section 255C).
- (8) For the purposes of this section—
- “appropriate custodial term” means the term determined as such by the court under section 226A or 226B [<sup>F166</sup>or under section 254, 266 or 279 of the Sentencing Code] (as appropriate);
  - “the requisite custodial period” means—
- (a) in relation to a person serving one sentence, two-thirds of the appropriate custodial term, and
  - (b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).]

#### Textual Amendments

- F159** S. 246A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 125\(3\)](#), [151\(1\)](#); [S.I. 2012/2906](#), [art. 2\(e\)](#)
- F160** Words in s. 246A heading substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 225\(2\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)
- F161** Words in s. 246A(1) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 24 para. 225\(3\)](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)
- F162** Words in s. 246A(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 2\(6\)](#), [10\(4\)](#)
- F163** Words in s. 246A(2) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 4\(2\)](#), [95\(1\)](#); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 4](#)
- F164** Words in s. 246A(3) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 4\(3\)](#), [95\(1\)](#); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 4](#)

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**F165** S. 246A(6A) inserted (4.1.2021) by Prisoners (Disclosure of Information About Victims) Act 2020 (c. 19), ss. 2(3), 3(2); S.I. 2020/1537, reg. 2

**F166** Words in s. 246A(8) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 225(4) (with Sch. 27); S.I. 2020/1236, reg. 2

### [<sup>F167</sup>246B Manslaughter: prisoner's non-disclosure of information

- (1) The Board must comply with this section when making a public protection decision about a prisoner if—
  - (a) the prisoner's sentence was passed for manslaughter;
  - (b) the Board does not know where and how the victim's remains were disposed of; and
  - (c) the Board believes that the prisoner has information about where, or how, the victim's remains were disposed of (whether the information relates to the actions of the prisoner or any other individual) which the prisoner has not disclosed to the Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
  - (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a) the reference to a sentence includes a sentence passed before the coming into force of section 2 of the Prisoners (Disclosure of Information About Victims) Act 2020.
- (5) In this section, in relation to a prisoner—
 

“public protection decision” means the decision, made under section 246A(6)(b) for the purposes of section 246A(5), as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;

“victim” means the victim of the offence for which the prisoner's sentence was passed;

and a reference to the victim's remains being disposed of includes the remains being left at the location where the victim died.]

#### Textual Amendments

**F167** Ss. 246B, 246C inserted (4.1.2021) by Prisoners (Disclosure of Information About Victims) Act 2020 (c. 19), ss. 2(2), 3(2); S.I. 2020/1537, reg. 2

### [<sup>F167</sup>246C Indecent images: prisoner's non-disclosure of information

- (1) The Board must comply with this section when making a public protection decision about a prisoner if—
  - (a) the prisoner's sentence was passed for—
    - (i) an offence of taking an indecent photograph of a child, or

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- (ii) a relevant offence of making an indecent pseudo-photograph of a child;
  - (b) the Board does not know the identity of the child who is the subject of the relevant indecent image; and
  - (c) the Board believes that the prisoner has information about the identity of the child who is the subject of the relevant indecent image which the prisoner has not disclosed to the Board (“the prisoner's non-disclosure”).
- (2) When making the public protection decision about the prisoner, the Board must take into account—
- (a) the prisoner's non-disclosure; and
  - (b) the reasons, in the Board's view, for the prisoner's non-disclosure.
- (3) This section does not limit the matters which the Board must or may take into account when making a public protection decision.
- (4) In subsection (1)(a), the reference to a sentence includes a sentence passed before the coming into force of section 2 of the Prisoners (Disclosure of Information About Victims) Act 2020.
- (5) For the purposes of this section, an offence is—
- (a) an “offence of taking an indecent photograph of a child” if it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of taking an indecent photograph of a child;
  - (b) a “relevant offence of making an indecent pseudo-photograph of a child” if—
    - (i) it is an offence under section 1(1)(a) of the Protection of Children Act 1978 of making an indecent pseudo-photograph of a child, and
    - (ii) the Board believes that an image of a real child was or may have been used in the making of the pseudo-photograph;and, in the application of this section to a relevant offence of making an indecent pseudo-photograph of a child, the references in subsection (1)(b) and (c) to the child who is the subject of the relevant indecent image are references to the real child.
- (6) In this section—
- “public protection decision”, in relation to a prisoner, means the decision, made under section 246A(6)(b) for the purposes of section 246A(5), as to whether the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined;
  - “relevant indecent image” means—
    - (a) the photograph to which an offence of taking an indecent photograph of a child relates, or
    - (b) the pseudo-photograph to which a relevant offence of making an indecent pseudo-photograph of a child relates.]

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#### Textual Amendments

**F167** Ss. 246B, 246C inserted (4.1.2021) by Prisoners (Disclosure of Information About Victims) Act 2020 (c. 19), ss. 2(2), 3(2); S.I. 2020/1537, reg. 2

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## 247 Release on licence of prisoner serving extended sentence under section 227 or 228

(1) This section applies to a prisoner who is serving an extended sentence imposed under section 227 or 228<sup>F168</sup>, other than a prisoner to whom section 247A applies].

(2) As soon as—

(a) a prisoner to whom this section applies has served [<sup>F169</sup>the requisite custodial period],<sup>F170</sup> . . .

(b) <sup>F171</sup> . . . . .

it is the duty of the Secretary of State to release him on licence.

(3) <sup>F172</sup> . . . . .

(4) <sup>F173</sup> . . . . .

(5) <sup>F174</sup> . . . . .

(6) <sup>F175</sup> . . . . .

[<sup>F176</sup>(7) In this section—

“the appropriate custodial term” means the period determined by the court as the appropriate custodial term under section 227 or 228;

“the requisite custodial period” means—

(a) in relation to a person serving one sentence, one-half of the appropriate custodial term, and

(b) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2).]

[<sup>F177</sup>(8) In its application to a person serving a sentence imposed before 14 July 2008, this section is subject to the modifications set out in paragraph 15 of Schedule 20B (transitional cases).]

### Textual Amendments

**F168** Words in s. 247(1) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 2(7)**, 10(4)

**F169** Words in s. 247(2)(a) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 14(3)(a)**, 95(1) (with s. 14(7)); S.I. 2015/778, art. 3, Sch. 1 para. 10

**F170** Word at the end of s. 247(2)(a) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 25(2)(a)**, 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

**F171** S. 247(2)(b) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 25(2)(b)**, 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

**F172** S. 247(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 25(3)**, 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

**F173** S. 247(4) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 25(3)**, 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

**F174** S. 247(5) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 25(3)**, 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

**F175** S. 247(6) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), **ss. 25(3)**, 149, 153, **Sch. 28 Pt. 2**; S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 50(2)(c) (subject to Sch. 2 para. 2)

**F176** S. 247(7) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 14(3)(b)**, 95(1) (with s. 14(7)); S.I. 2015/778, art. 3, Sch. 1 para. 10



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**F177** S. 247(8) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), s. 151(1), [Sch. 17 para. 3](#); S.I. 2012/2906, art. 2(o)

#### Commencement Information

**I11** S. 247 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### [<sup>F178</sup>247A] **Restricted eligibility for release on licence of terrorist prisoners**

- (1) This section applies to a prisoner (a “terrorist prisoner”) who—
  - (a) is serving a fixed-term sentence imposed (whether before or after this section comes into force) in respect of an offence within subsection (2), and
  - (b) has not been released on licence.
- (2) An offence is within this subsection ([<sup>F179</sup>whenever it was committed]) if—
  - (a) it is specified in Part 1 of Schedule 19ZA (offences under counter-terrorism legislation),
  - [<sup>F180</sup>(b) it is a service offence as respects which the corresponding civil offence is so specified, or
  - (c) it was determined to have a terrorist connection.]
- (3) It is the duty of the Secretary of State to refer the case of a terrorist prisoner to the Board—
  - (a) as soon as the prisoner has served the requisite custodial period, and
  - (b) where there has been a previous reference of the prisoner's case to the Board under this subsection and the Board did not direct the prisoner's release, no later than the second anniversary of the disposal of that reference.
- (4) It is the duty of the Secretary of State to release a terrorist prisoner on licence as soon as—
  - (a) the prisoner has served the requisite custodial period, and
  - (b) the Board has directed the release of the prisoner under this section.
- (5) The Board must not give a direction under subsection (4) unless—
  - (a) the Secretary of State has referred the terrorist 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.
- (6) Subsection (7) applies where the terrorist prisoner is serving a sentence imposed under section 226A, 226B, 227, 228 or 236A [<sup>F181</sup>or under section [<sup>F182</sup>252A,] 254, 265, 266, 278 or 279 of the Sentencing Code].
- (7) It is the duty of the Secretary of State to release the terrorist prisoner on licence under this section as soon as the prisoner has served the appropriate custodial term (see sections 255B and 255C for provision about the re-release of a person who has been recalled under section 254).

[ For the purposes of this section, an offence was determined to have a terrorist  
<sup>F183</sup>(7A) connection if it was—

- (a) determined to have a terrorist connection under—
  - (i) section 69 of the Sentencing Code (including as applied by section 238(6) of the Armed Forces Act 2006),

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- (ii) section 30 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in England and Wales before the Sentencing Code applied, or an offender sentenced in Northern Ireland but now subject to the provisions of this Chapter), or
  - (iii) section 32 of that Act (in the case of a person sentenced for a service offence before the Sentencing Code applied), or
  - (b) proved to have been aggravated by reason of having a terrorist connection under section 31 of the Counter-Terrorism Act 2008 (in the case of an offender sentenced in Scotland but now subject to the provisions of this Chapter).]
- (8) For the purposes of this section—
- “the appropriate custodial term”, in relation to a sentence imposed under section 226A, 226B, 227, 228 or 236A, [F184 or under section [F185 252A,] 254, 265, 266, 278 or 279 of the Sentencing Code,] means the term determined as such by the court under that provision;
- “the requisite custodial period” means—
- (a) in relation to a person serving one sentence imposed under section 226A, 226B, 227, 228, or 236A, [F184 or under section [F185 252A,] 254, 265, 266, 278 or 279 of the Sentencing Code,] two-thirds of the appropriate custodial term,
  - (b) in relation to a person serving one sentence of any other kind, two-thirds of the sentence, and
  - (c) in relation to a person serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2);
- “service offence”, [F186 and “corresponding civil offence”] have the same meanings as in the Counter-Terrorism Act 2008 (see section 95 of that Act).
- (9) For the purposes of this section, a reference of a terrorist prisoner's case to the Board disposed of before the day on which this section comes into force is to be treated as if it was made (and disposed of) under subsection (3) if—
- (a) it was made under section 244A(2)(b) and disposed of at a time when the prisoner had served the requisite custodial [F187 period] (within the meaning of this section, not section 244A), or
  - (b) it was made under section 246A(4).
- (10) Nothing in this section affects the duty of the Secretary of State to release a person whose release has been directed by the Board before this section comes into force.
- [ In the case of a prisoner to whom this section applies as a result of the amendments F188 (10A) made by sub-paragraph (2) of paragraph 45 of Schedule 13 to the Counter-Terrorism and Sentencing Act 2021, the references in subsections (9) and (10) to the date on which this section comes into force are to be read as references to the date on which that sub-paragraph comes into force.]
- (11) This section is subject to paragraphs 5, 17 and 19 of Schedule 20B (transitional cases).]

#### Textual Amendments

**F178** S. 247A inserted (E.W.) (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 1\(2\), 10\(4\)](#)

**F179** Words in s. 247A(2) substituted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\), s. 50\(1\)\(i\), Sch. 13 para. 45\(2\)\(a\)\(i\)](#)

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- F180** S. 247A(2)(b)(c) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(a)(ii)**
- F181** Words in s. 247A(6) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 226(3)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F182** Word in s. 247A(6) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(4)(a)**
- F183** S. 247A(7A) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(b)**
- F184** Words in s. 247A(8) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 226(4)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F185** Word in s. 247A(8) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(4)(b)**
- F186** Words in s. 247A(8) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(c)**
- F187** Word in s. 247A(9)(a) substituted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(d)**
- F188** S. 247A(10A) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(2)(e)**

## 248 Power to release prisoners on compassionate grounds

- (1) The Secretary of State may at any time release a fixed-term prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.

**F189**(2) . . . . .

### Textual Amendments

- F189** S. 248(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 116(2), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

### Commencement Information

- I12** S. 248 wholly in force at 4.4.2005; s. 248 not in force at Royal Assent, see s. 336(3); s. 248(1) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 248 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2)

## 249 Duration of licence

- (1) Subject to <sup>F190</sup>subsection (3)], where a fixed-term prisoner<sup>F191</sup>, other than one to whom section 243A applies,] is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force for the remainder of his sentence.

<sup>F192</sup>(1A) Where a prisoner to whom section 243A applies is released on licence, the licence shall, subject to any revocation under section 254 or 255, remain in force until the date on which, but for the release, the prisoner would have served one-half of the sentence.

This is subject to subsection (3).]

**F193**(2) . . . . .

- (3) [<sup>F194</sup>Subsections (1) and (1A) have] effect subject to [<sup>F195</sup>section] 263(2) (concurrent terms) [<sup>F196</sup>and sections 264(3C)(a) and 264B]<sup>F197</sup> ... (consecutive terms)<sup>F198</sup> ... .

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<sup>F199</sup>(4) .....

[<sup>F200</sup>(5) This section is subject to paragraphs 17, 19 and 26 of Schedule 20B (transitional cases).]

### Textual Amendments

- F190** Words in s. 249(1) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(a)**; S.I. 2012/2906, art. 2(h)
- F191** Words in s. 249(1) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(2)**; S.I. 2012/2906, art. 2(l)
- F192** S. 249(1A) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(3)**; S.I. 2012/2906, art. 2(l)
- F193** S. 249(2) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(b)**; S.I. 2012/2906, art. 2(h)
- F194** Words in s. 249(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(4)(a)**; S.I. 2012/2906, art. 2(l)
- F195** Word in s. 249(3) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 5(4)(a)**, 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(e)
- F196** Words in s. 249(3) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 5(4)(b)**, 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(e)
- F197** Words in s. 249(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 8(4)(b)**; S.I. 2012/2906, art. 2(l)
- F198** Words in s. 249(3) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(c)**; S.I. 2012/2906, art. 2(h)
- F199** S. 249(4) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 24(d)**; S.I. 2012/2906, art. 2(h)
- F200** S. 249(5) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 4**; S.I. 2012/2906, art. 2(o)

### Commencement Information

- I13** S. 249 wholly in force at 4.4.2005; s. 249 not in force at Royal Assent, see s. 336(3); s. 249 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 249 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)** Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

## 250 Licence conditions

(1) In this section—

- (a) “the standard conditions” means such conditions as may be prescribed for the purposes of this section as standard conditions, and
- (b) “prescribed” means prescribed by the Secretary of State by order.

<sup>F201</sup>(2) .....

<sup>F202</sup>(2A) .....

<sup>F203</sup>(3) .....

(4) Any licence under this Chapter in respect of a prisoner serving a sentence of imprisonment <sup>F204</sup>... (including <sup>F204</sup>... a sentence imposed under section [<sup>F205</sup>226A][<sup>F206</sup> 227 or 236A][<sup>F207</sup> or under section 278 or 279 of the Sentencing Code]) or any sentence of detention under section 91 [<sup>F208</sup> or 96] of [<sup>F209</sup> the PCC(S)A 2000, under section 250,

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[<sup>F210</sup>252A,] 254, 262, 265 or 266 of the Sentencing Code or under] section [<sup>F211</sup>226A, 226B,][<sup>F212</sup>227 ][<sup>F213</sup>, 228 or 236A] of this Act—

- (a) must include the standard conditions,
- [<sup>F214</sup>(aa) must include any electronic monitoring conditions required by an order under section 62A of the Criminal Justice and Court Services Act 2000,] and
- (b) may include—
  - (i) any [<sup>F215</sup>other] condition authorised by section 62[<sup>F216</sup>, 64 or 64A] of the Criminal Justice and Court Services Act 2000 [<sup>F217</sup>or section 28 of the Offender Management Act 2007], and
  - (ii) such other conditions of a kind prescribed by the Secretary of State for the purposes of this paragraph as the Secretary of State may for the time being specify in the licence.

[<sup>F218</sup>(4A) In exercising any power under subsection (4)(b) in respect of an offender, the Secretary of State must have regard to any recommendation under section 328 of the Sentencing Code (power of court to recommend licence conditions where adult is sentenced to term of 12 months or more).]

(5) A licence under section 246 must also include a curfew condition complying with section 253.

[<sup>F219</sup>(5A) Subsection (5B) applies to a licence granted, either on initial release or after recall to prison, [<sup>F220</sup>to—

- (a) a prisoner [<sup>F221</sup>, other than a terrorist prisoner,] serving an extended sentence imposed under section 226A or 226B [<sup>F222</sup>or under section 254, 266 or 279 of the Sentencing Code], other than a sentence that meets the conditions in section 246A(2) (release without direction of the Board)[<sup>F223</sup>, or
- (b) a prisoner [<sup>F224</sup>, other than a terrorist prisoner,] serving a sentence imposed under section 236A [<sup>F225</sup>or under section [<sup>F226</sup>252A,] 265 or 278 of the Sentencing Code].]

[<sup>F227</sup>(5AA) Subsection (5B) also applies to a licence granted, either on initial release or after recall to prison, to a terrorist prisoner in a case where the licence is granted following a direction of the Board for the prisoner’s release.]

(5B) The Secretary of State must not—

- (a) include a condition referred to in subsection (4)(b)(ii) in the licence, either on release or subsequently, or
- (b) vary or cancel any such condition included in the licence, unless the Board directs the Secretary of State to do so.]

<sup>F228</sup>(5BA) .....

<sup>F229</sup>(6) .....

<sup>F230</sup>(7) .....

(8) In exercising his powers to prescribe standard conditions or the other conditions referred to in subsection (4)(b)(ii), the Secretary of State must have regard to the following purposes of the supervision of offenders while on licence under this Chapter—

- (a) the protection of the public,
- (b) the prevention of re-offending, and
- (c) securing the successful re-integration of the prisoner into the community.

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[<sup>F231</sup>(9) In this section “terrorist prisoner” means a prisoner to whom section 247A applies, or would apply but for the prisoner’s having been released on licence.]

### Textual Amendments

- F201** S. 250(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)
- F202** S. 250(2A) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)
- F203** S. 250(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 25\(a\)](#); S.I. 2012/2906, art. 2(h)
- F204** Words in s. 250(4) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 9](#); S.I. 2012/2906, art. 2(l)
- F205** Words in s. 250(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 6\(2\)\(a\)](#); S.I. 2012/2906, art. 2(r)
- F206** Words in s. 250(4) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 17\(2\)\(a\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 72
- F207** Words in s. 250(4) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 227\(2\)\(a\)](#) (with Sch. 27); S.I. 2020/1236, reg. 2
- F208** Words in s. 250(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(5\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F209** Words in s. 250(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 227\(2\)\(b\)](#) (with Sch. 27); S.I. 2020/1236, reg. 2
- F210** Word in s. 250(4) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 21\(5\)\(a\)](#)
- F211** Words in s. 250(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 6\(2\)\(b\)](#); S.I. 2012/2906, art. 2(r)
- F212** Words in s. 250(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(5\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F213** Words in s. 250(4) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 17\(2\)\(b\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 72
- F214** S. 250(4)(aa) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 2 para. 4\(2\)](#) (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F215** Word in s. 250(4)(b)(i) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 2 para. 4\(3\)](#) (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F216** Words in s. 250(4)(b)(i) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 12\(2\)](#), 22(1) (with Sch. 7 para. 6); S.I. 2015/40, art. 2(k)
- F217** Words in s. 250(4)(b)(i) inserted (for specified purposes and with effect in accordance with art. 5 of the commencing S.I., 6.1.2014 in so far as not already in force) by [Offender Management Act 2007 \(c. 21\)](#), [ss. 28\(5\)](#), 41(1); S.I. 2009/32, arts. 3(a), 4; S.I. 2013/1963, art. 2(1)
- F218** S. 250(4A) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 227\(3\)](#) (with Sch. 27); S.I. 2020/1236, reg. 2
- F219** S. 250(5A)(5B) substituted for s. 250(5A) (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 15\(5\)](#), 95(1); S.I. 2015/778, art. 3, Sch. 1 para. 11
- F220** Words in s. 250(5A) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 17\(3\)\(a\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 72
- F221** Words in s. 250(5A)(a) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 45\(3\)\(a\)](#)
- F222** Words in s. 250(5A)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 227\(4\)\(a\)](#) (with Sch. 27); S.I. 2020/1236, reg. 2
- F223** S. 250(5A)(b) and word inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 17\(3\)\(b\)](#); S.I. 2015/778, art. 3, Sch. 1 para. 72

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- F224** Words in s. 250(5A)(b) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(3)(a)**
- F225** Words in s. 250(5A)(b) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 227(4)(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F226** Word in s. 250(5A)(b) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 21(5)(b)**
- F227** S. 250(5AA) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(3)(b)**
- F228** S. 250(5BA) omitted (30.4.2021) by virtue of Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(3)(c)**
- F229** S. 250(6) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 25(a)**; S.I. 2012/2906, art. 2(h)
- F230** S. 250(7) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), **ss. 5(5)**, 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(e)
- F231** S. 250(9) inserted (30.4.2021) by Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), **Sch. 13 para. 45(3)(d)**

**Commencement Information**

- I14** S. 250 partly in force; s. 250 not in force at Royal Assent, see s. 336(3); s. 250(1)-(3)(5)-(8) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 250(1)(2)(b)(ii)(4)(b)(ii)(8) in force at 7.3.2005 by S.I. 2005/373, **art. 2**; s. 250(1)(4)-(7) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2)

**<sup>F232</sup>251 Licence conditions on re-release of prisoner serving sentence of less than 12 months**

.....

**Textual Amendments**

- F232** S. 251 omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 26**; S.I. 2012/2906, art. 2(h)

**Commencement Information**

- I15** S. 251 partly in force; s. 251 not in force at Royal Assent, see s. 336(3); s. 251 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**

**252 Duty to comply with licence conditions**

[<sup>F233</sup>(1)] A person subject to a licence under this Chapter must comply with such conditions as may for the time being be specified in the licence.

[<sup>F234</sup>(2) But where—

- (a) the licence relates to a sentence of imprisonment passed by a service court, [<sup>F235</sup>and]
- <sup>F236</sup>(b) .....
- (c) the person is residing outside the British Islands,  
the conditions specified in the licence apply to him only so far as it is practicable for him to comply with them where he is residing.]

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### Textual Amendments

- F233** S. 252 renumbered (28.3.2009 for certain purposes, otherwise 31.10.2009) as s. 252(1) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 224\(1\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F234** S. 252(2) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, [Sch. 16 para. 224\(2\)](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F235** Word in s. 252(2)(a) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 27\(a\)](#); S.I. 2012/2906, [art. 2\(h\)](#)
- F236** S. 252(2)(b) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 27\(b\)](#); S.I. 2012/2906, [art. 2\(h\)](#)

### Commencement Information

- I16** S. 252 wholly in force at 4.4.2005; s. 252 not in force at Royal Assent, see s. 336(3); s. 252 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 252 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, {[art. 2\(1\)](#)}, [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 253 Curfew condition to be included in licence under section 246<sup>F237</sup>, 255B or 255C]

- (1) For the purposes of this Chapter, a curfew condition is a condition which—
- (a) requires the released person to remain, for periods for the time being specified in the condition, at a place for the time being so specified (which may be premises approved by the Secretary of State under [<sup>F238</sup>section 13 of the Offender Management Act 2007 (c.21)]), and
  - (b) includes [<sup>F239</sup>a requirement, imposed under section 62 of the Criminal Justice and Court Services Act 2000, to submit to] electronic monitoring of his whereabouts during the periods for the time being so specified.
- (2) The curfew condition may specify different places or different periods for different days, but may not specify periods which amount to less than 9 hours in any one day (excluding for this purpose the first and last days of the period for which the condition is in force).
- (3) The curfew condition is to remain in force until the date when the released person would (but for his release) fall to be released [<sup>F240</sup>unconditionally under section 243A or] on licence under section 244.

<sup>F241</sup>(4) .....

<sup>F242</sup>(5) .....

- (6) Nothing in this section is to be taken to require the Secretary of State to ensure that arrangements are made for the electronic monitoring of released persons' whereabouts in any particular part of England and Wales.

### Textual Amendments

- F237** Words in s. 253 heading inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. 114(3), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)
- F238** Words in s. 253(1)(a) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), [art. 3](#), [Sch. 1 para. 19\(14\)](#)



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- F239** Words in s. 253(1) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 2 para. 5(2)** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F240** Words in s. 253(3) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 10**; S.I. 2012/2906, art. 2(l)
- F241** S. 253(4) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 28**; S.I. 2012/2906, art. 2(h)
- F242** S. 253(5) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 2 para. 5(3)** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73

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**Commencement Information**

- I17** S. 253 wholly in force at 4.4.2005; s. 253 not in force at Royal Assent, see s. 336(3); s. 253 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 253(5) in force at 7.3.2005 by S.I. 2005/373, **art. 2**; s. 253 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to **art. 2(2), Sch. 2**)

*Recall after release*

**254 Recall of prisoners while on licence**

- (1) The Secretary of State may, in the case of any prisoner who has been released on licence under this Chapter, revoke his licence and recall him to prison.
- (2) A person recalled to prison under subsection (1)—
  - (a) may make representations in writing with respect to his recall, and
  - (b) on his return to prison, must be informed of the reasons for his recall and of his right to make representations.
- [<sup>F243</sup>(2A) The Secretary of State, after considering any representations under subsection (2)(a) or any other matters, may cancel a revocation under this section.
- (2B) The Secretary of State may cancel a revocation under subsection (2A) only if satisfied that the person recalled has complied with all the conditions specified in the licence.
- (2C) Where the revocation of a person's licence is cancelled under subsection (2A), the person is to be treated as if the recall under subsection (1) had not happened.]
- <sup>F244</sup>(3) .....
- <sup>F244</sup>(4) .....
- <sup>F244</sup>(5) .....
- (6) On the revocation of the licence of any person under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.
- (7) Nothing in [<sup>F245</sup>this section] applies in relation to a person recalled under section 255.

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**Textual Amendments**

- F243** S. 254(2A)-(2C) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 113(1), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)

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**F244** S. 254(3)-(5) repealed (14.7.2008 for certain purposes, otherwise 31.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 29(1)(a), 149, 153, [Sch. 28 Pt. 2](#); S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 paras. 15, 50(2)(c) (subject to [Sch. 2 para. 3](#)); S.I. 2009/2606, [art. 3\(c\)](#)

**F245** Words in s. 254(7) substituted (14.7.2008 for certain purposes, otherwise 31.10.2009 ) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 29\(1\)\(b\)](#), 153; S.I. 2008/1586, [art. 2\(1\)](#), Sch. 1 para. 15 (subject to [Sch. 2 para. 3](#)); S.I. 2009/2606 {[art. 3\(c\)](#)}

#### Commencement Information

**I18** S. 254 wholly in force at 4.4.2005; s. 254 not in force at Royal Assent, see s. 336(3); s. 254 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2](#), [Sch.](#); s. 254 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 19 (subject to [art. 2\(2\)](#), [Sch. 2](#) (as amended by S.I. 2005/2122, [art. 2](#)))

## 255 Recall of prisoners released early under section 246

- (1) If it appears to the Secretary of State, as regards a person released on licence under section 246—
  - (a) that he has failed to comply with [<sup>F246</sup>the curfew condition included in the licence], or
  - (b) that his whereabouts can no longer be electronically monitored at the place for the time being specified in the curfew condition included in his licence,
 the Secretary of State may, if the curfew condition is still in force, revoke the licence and recall the person to prison under this section.
- (2) A person whose licence under section 246 is revoked under this section—
  - (a) may make representations in writing with respect to the revocation, and
  - (b) on his return to prison, must be informed of the reasons for the revocation and of his right to make representations.
- (3) The Secretary of State, after considering any representations under [<sup>F247</sup>subsection (2) (a)] or any other matters, may cancel a revocation under this section.
- (4) Where the revocation of a person's licence is cancelled under subsection (3), the person is to be treated for the purposes of section 246 as if he had not been recalled to prison under this section.
- (5) On the revocation of a person's licence under section 246, he is liable to be detained in pursuance of his sentence and, if at large, is to be treated as being unlawfully at large.

#### Textual Amendments

**F246** Words in s. 255(1)(a) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 9\(3\)](#), [22\(1\)](#) (with [Sch. 7 para. 5](#)); S.I. 2015/40, [art. 2\(i\)](#)

**F247** Words in s. 255(3) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 113\(2\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, [art. 2\(d\)](#)

#### Commencement Information

**I19** S. 255 wholly in force at 4.4.2005; s. 255 not in force at Royal Assent, see s. 336(3); s. 255 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, [art. 2](#), [Sch.](#); s. 255 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, [art. 2\(1\)](#), Sch. 1 para. 19 (subject to [art. 2\(2\)](#), [Sch. 2](#))

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## **[<sup>F248</sup>255ZA] Offence of remaining unlawfully at large after recall**

- (1) A person recalled to prison under section 254 or 255 commits an offence if the person—
  - (a) has been notified of the recall orally or in writing, and
  - (b) while unlawfully at large fails, without reasonable excuse, to take all necessary steps to return to prison as soon as possible.
- (2) A person is to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
  - (a) written notice of the recall has been delivered to an appropriate address, and
  - (b) a period specified in the notice has elapsed.
- (3) In subsection (2) “an appropriate address” means—
  - (a) an address at which, under the person's licence, the person is permitted to reside or stay, or
  - (b) an address nominated, in accordance with the person's licence, for the purposes of this section.
- (4) A person is also to be treated for the purposes of subsection (1)(a) as having been notified of the recall if—
  - (a) the person's licence requires the person to keep in touch in accordance with any instructions given by an officer of a provider of probation services,
  - (b) the person has failed to comply with such an instruction, and
  - (c) the person has not complied with such an instruction for at least 6 months.
- (5) A person who is guilty of an offence under this section is liable—
  - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine (or both);
  - (b) on summary conviction to imprisonment for a term not exceeding 12 months or a fine (or both).
- (6) In relation to an offence committed before [<sup>F249</sup>paragraph 24(2) of Schedule 22 to the Sentencing Act 2020] comes into force, the reference in subsection (5)(b) to 12 months is to be read as a reference to 6 months.
- (7) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in subsection (5) (b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.]

### **Textual Amendments**

**F248** S. 255ZA inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 12(2)**, 95(1) (with s. 12(3)); S.I. 2015/778, art. 3, Sch. 1 para. 8

**F249** Words in s. 255ZA(6) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 442** (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

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*[<sup>F250</sup>Further release after recall]*

**Textual Amendments**

**F250** 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)

**[<sup>F250</sup>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, consider whether the person is suitable for automatic release.
- <sup>F251</sup>(3) . . . . .
- (4) A person is suitable for automatic release only if 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 [<sup>F252</sup>the automatic release period].
- (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.
 [<sup>F253</sup>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 [<sup>F254</sup>226A, 226B,] 227 or 228 of this Act, <sup>F255</sup>...
  - <sup>F256</sup>(aa) section 254, 266 or 279 of the Sentencing Code, or
  - (b) section 85 of [<sup>F257</sup>the PCC(S)A 2000];
 and paragraph (b) includes (in accordance with paragraph 1(3) of Schedule 11 to [<sup>F257</sup>the PCC(S)A 2000]) a reference to section 58 of the Crime and Disorder Act 1998.]
- <sup>F258</sup>(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

- F251** 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)
- F252** Words in s. 255A(4) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 9\(4\)\(b\)](#), 22(1) (with [Sch. 7 para. 5](#)); [S.I. 2015/40](#), art. 2(i)
- F253** 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)
- F254** 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)
- F255** 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
- F256** 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
- F257** 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
- F258** 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)

- C26** 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

### <sup>F250</sup> ~~255A~~ 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 <sup>F259</sup>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.
- (5) Where on a reference under subsection (4) the Board directs P's immediate 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—

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- (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.]

#### Textual Amendments

**F259** 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)**

#### [<sup>F250</sup>255C] Specified offence prisoners and those not suitable for automatic release

- (1) This section applies to a prisoner (“P”) who—
  - (a) is an extended sentence prisoner, or
  - (b) is not considered to be suitable for automatic release.
- (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.
- (5) Where on a reference under subsection (4) the Board directs P's immediate 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

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- (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.]

## 256 [F260] Review by the Board

- (1) Where on a reference under [F261] section 255B(4) or 255C(4)] in relation to any person, the Board does not [F262] direct] his immediate release on licence under this Chapter, the Board must either—
- (a) fix a date for the person’s release on licence, or  
[F263](b) determine the reference by making no [F264] direction] as to his release.]
- (2) Any date fixed under subsection (1)(a) <sup>F265</sup> . . . must not be later than the first anniversary of the date on which the decision is taken.
- <sup>F266</sup>(3) . . . . .
- (4) Where the Board has fixed a date under subsection (1)(a), it is the duty of the Secretary of State to release him on licence on that date.
- <sup>F267</sup>(5) . . . . .

### Textual Amendments

- F260** S. 256 heading substituted (14.7.2008) by virtue of [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(5\)](#), 153; [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 para. 16 (subject to Sch. 2 para. 3)
- F261** Words in s. 256(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 114\(4\)](#), 151(1) (with Sch. 15); [S.I. 2012/2906](#), art. 2(d)
- F262** Word in s. 256(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 116\(3\)\(a\)](#), 151(1) (with Sch. 15); [S.I. 2012/2906](#), art. 2(d)
- F263** S. 256(1)(b) substituted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(2\)](#), 153; [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 para. 16 (subject to Sch. 2 para. 3)
- F264** Word in s. 256(1) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 116\(3\)\(b\)](#), 151(1) (with Sch. 15); [S.I. 2012/2906](#), art. 2(d)
- F265** Words in s. 256(2) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(3\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 paras. 16, 50(2)(c)
- F266** S. 256(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(4\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 paras. 16, 50(2)(c) (subject to Sch. 2 para. 3)
- F267** S. 256(5) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 30\(4\)](#), 149, 153, [Sch. 28 Pt. 2](#); [S.I. 2008/1586](#), [art. 2\(1\)](#), Sch. 1 paras. 16, 50(2)(c)

### Commencement Information

- I20** S. 256 wholly in force at 4.4.2005; s. 256 not in force at Royal Assent, see s. 336(3); s. 256 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), Sch.; s. 256 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), Sch. 1 para. 19 (subject to [art. 2\(2\)](#), [Sch. 2](#))

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## **[<sup>F268</sup>256A] Further review**

- (1) The Secretary of State must, not later than the first anniversary of a determination by the Board under section 256(1) or subsection (4) below, refer the person's case to the Board.
- (2) The Secretary of State may, at any time before that anniversary, refer the person's case to the Board.
- (3) The Board may at any time recommend to the Secretary of State that a person's case be referred under subsection (2).
- (4) On a reference under subsection (1) or (2), the Board must determine the reference by—
  - (a) [<sup>F269</sup>directing] the person's immediate release on licence under this Chapter,
  - (b) fixing a date for his release on licence, or
  - (c) making no [<sup>F270</sup>direction] as to his release.
- (5) The Secretary of State—
  - (a) where the Board makes a [<sup>F271</sup>direction] under subsection (4)(a) for the person's immediate release on licence, must give effect to the [<sup>F271</sup>direction]; and
  - (b) where the Board fixes a release date under subsection (4)(b), must release the person on licence on that date.]

### **Textual Amendments**

- F268** 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)
- F269** Word in s. 256A(4)(a) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 116(4)(a)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F270** Word in s. 256A(4)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 116(4)(b)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F271** Words in s. 256A(5) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 116(4)(c)**, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

## *[<sup>F272</sup>Supervision of offenders*

### **Textual Amendments**

- F272** S. 256AA and cross-heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 2(2)**, 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(b)

## **256AA Supervision after end of sentence of prisoners serving less than 2 years**

- (1) This section applies where a person (“the offender”) has served a fixed-term sentence which was for a term of more than 1 day but less than 2 years, except where—
  - (a) the offender was aged under 18 on the last day of the requisite custodial period (as defined in section 243A(3)),
  - (b) the sentence was an extended sentence imposed under [<sup>F273</sup>section 254, 266 or 279 of the Sentencing Code],



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- <sup>F274</sup>(ba) [ the sentence was imposed under [<sup>F275</sup>section 265 or 278 of that Code],]
- <sup>F276</sup>(bb) [ section 247A applied to the offender in respect of the sentence,] or
- (c) the sentence was imposed in respect of an offence committed before the day on which section 2(2) of the Offender Rehabilitation Act 2014 came into force.
- (2) The offender must comply with the supervision requirements during the supervision period, except at any time when the offender is—
- (a) in legal custody,
- (b) subject to a licence under this Chapter or Chapter 2 of Part 2 of the 1997 Act, or
- (c) subject to DTO supervision.
- (3) The supervision requirements are the requirements for the time being specified in a notice given to the offender by the Secretary of State (but see the restrictions in section 256AB).
- (4) “The supervision period” is the period which—
- (a) begins on the expiry of the sentence, and
- (b) ends on the expiry of the period of 12 months beginning immediately after the offender has served the requisite custodial period (as defined in section 244(3)).
- (5) The purpose of the supervision period is the rehabilitation of the offender.
- (6) The Secretary of State must have regard to that purpose when specifying requirements under this section.
- (7) The supervisor must have regard to that purpose when carrying out functions in relation to the requirements.
- (8) In this Chapter, “the supervisor”, in relation to a person subject to supervision requirements under this section, means a person who is for the time being responsible for discharging the functions conferred by this Chapter on the supervisor in accordance with arrangements made by the Secretary of State.
- (9) In relation to a person subject to supervision requirements under this section following a sentence of detention under [<sup>F277</sup>section 250 of the Sentencing Code], the supervisor must be—
- (a) an officer of a provider of probation services, or
- (b) a member of the youth offending team established by the local authority in whose area the offender resides for the time being.
- (10) In relation to any other person, the supervisor must be an officer of a provider of probation services.
- (11) In this section “DTO supervision” means supervision under—
- (a) a detention and training order (including an order under section 211 of the Armed Forces Act 2006), or
- (b) an order under [<sup>F278</sup>paragraph 3(2)(b) of Schedule 12 to the Sentencing Code] (breach of supervision requirements of detention and training order).
- (12) This section has effect subject to section 264(3C)(b) and (3D).]

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### Textual Amendments

- F273** Words in s. 256AA(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(2\)\(a\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F274** S. 256AA(1)(ba) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 18](#); S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)
- F275** Words in s. 256AA(1)(ba) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(2\)\(b\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F276** S. 256AA(1)(bb) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 7\(3\)](#), 10(4)
- F277** Words in s. 256AA(9) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(3\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F278** Words in s. 256AA(11)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 229\(4\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

### Modifications etc. (not altering text)

- C27** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, [Sch. 1 para. 8\(2\)\(4\)\(8\)-\(12\)](#) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [para. 3\(3\)](#), (5), s. 22(1), [Sch. 3 para. 3\(2\)](#) (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u))
- C28** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, [Sch. 1 para. 9\(2\)\(4\)\(9\)-\(12\)](#) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 5\(5\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))
- C29** S. 256AA(2)-(11) applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 6\(4\)](#), 22(1) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(f))
- C30** Ss. 256AA(2)-(11) applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 247(2) (a)(3)(4)(7), 416(1) (with [ss. 2](#), 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2

## [<sup>F279</sup>256AA] Supervision requirements under section 256AA

- (1) The only requirements that the Secretary of State may specify in a notice under section 256AA are—
- (a) a requirement to be of good behaviour and not to behave in a way which undermines the purpose of the supervision period;
  - (b) a requirement not to commit any offence;
  - (c) a requirement to keep in touch with the supervisor in accordance with instructions given by the supervisor;
  - (d) a requirement to receive visits from the supervisor in accordance with instructions given by the supervisor;
  - (e) a requirement to reside permanently at an address approved by the supervisor and to obtain the prior permission of the supervisor for any stay of one or more nights at a different address;
  - (f) a requirement not to undertake work, or a particular type of work, unless it is approved by the supervisor and to notify the supervisor in advance of any proposal to undertake work or a particular type of work;
  - (g) a requirement not to travel outside the British Islands, except with the prior permission of the supervisor or in order to comply with a legal obligation (whether or not arising under the law of any part of the British Islands);
  - (h) a requirement to participate in activities in accordance with any instructions given by the supervisor;
  - (i) a drug testing requirement (see section 256D);

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- (j) a drug appointment requirement (see section 256E).
- (2) Where a requirement is imposed under subsection (1)(h), [<sup>F280</sup>paragraph 5(4) to (9) of Schedule 9 to the Sentencing Code applies] in relation to the requirement (reading references to the responsible officer as references to the supervisor).
- (3) Paragraphs (i) and (j) of subsection (1) have effect subject to the restrictions in sections 256D(2) and 256E(2).
- (4) The Secretary of State may by order—
  - (a) add requirements that may be specified in a notice under section 256AA,
  - (b) remove or amend such requirements,
  - (c) make provision about such requirements, including about the circumstances in which they may be imposed, and
  - (d) make provision about instructions given for the purposes of such requirements.
- (5) An order under subsection (4) may amend this Act.
- (6) In this section “work” includes paid and unpaid work.]

#### Textual Amendments

- F279** S. 256AB inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 1 para. 1** (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(s)
- F280** Words in s. 256AB(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 230** (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

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

- C27** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with [Sch. 7 para. 2](#))); [S.I. 2015/40](#), art. 2(u)
- C28** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 5(5)** (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(u))
- C31** S. 256AB applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 6(4)**, 22(1) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), art. 2(f))
- C32** S. 256AB applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **s. 247(2)(a)(3)(4)**, 416(1) (with [ss. 2](#), 398(1), 406, [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- C33** S. 256AB(4) extended (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **ss. 247(5)**, 416(1) (with [ss. 2](#), 398(1), 406, [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

#### [<sup>F281</sup>256AG] **Reach of supervision requirements imposed under section 256AA**

- (1) Where it appears on information to a justice of the peace that a person has failed to comply with a supervision requirement imposed under section 256AA, the justice may—
  - (a) issue a summons requiring the offender to appear at the place and time specified in the summons, or
  - (b) if the information is in writing and on oath, issue a warrant for the offender's arrest.

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- (2) Any summons or warrant issued under this section must direct the person to appear or be brought—
  - (a) before a magistrates' court acting for the local justice area in which the offender resides, or
  - (b) if it is not known where the person resides, before a magistrates' court acting for the same local justice area as the justice who issued the summons or warrant.
- (3) Where the person does not appear in answer to a summons issued under subsection (1) (a), the court may issue a warrant for the person's arrest.
- (4) If it is proved to the satisfaction of the court that the person has failed without reasonable excuse to comply with a supervision requirement imposed under section 256AA, the court may—
  - (a) order the person to be committed to prison for a period not exceeding 14 days (subject to subsection (7)),
  - (b) order the person to pay a fine not exceeding level 3 on the standard scale, or
  - (c) make an order (a “supervision default order”) imposing on the person—
    - (i) an unpaid work requirement (as defined by [<sup>F282</sup>paragraph 1 of Schedule 9 to the Sentencing Code]), or
    - (ii) a curfew requirement (as defined by [<sup>F283</sup>paragraph 9 of that Schedule]).
- (5) [<sup>F284</sup>Paragraph 10(3) of Schedule 9 to the Sentencing Code] (obligation to impose electronic monitoring requirement) applies in relation to a supervision default order that imposes a curfew requirement as it applies in relation to a community order that imposes such a requirement.
- (6) If the court deals with the person under subsection (4), it must revoke any supervision default order which is in force at that time in respect of that person.
- (7) Where the person is under the age of 21—
  - (a) an order under subsection (4)(a) in respect of the person must be for committal to a young offender institution instead of to prison, but
  - (b) the Secretary of State may from time to time direct that a person committed to a young offender institution by such an order is to be detained in a prison or remand centre instead.
- (8) A person committed to prison or a young offender institution by an order under subsection (4)(a) is to be regarded as being in legal custody.
- (9) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (10) In Schedule 19A (supervision default orders)—
  - (a) Part 1 makes provision about requirements of supervision default orders, and
  - (b) Part 2 makes provision about the breach, revocation and amendment of supervision default orders.

[ Where a court deals with a person under this section, the criminal courts charge duty <sup>F285</sup>(10A) (see section 46 of the Sentencing Code) applies to the court.]

- (11) A person dealt with under this section may appeal to the Crown Court against<sup>F286</sup>—

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- (a) the order made by the court [F287 under this section, and
- (b) an order made by the court under [F288 section 46 of the Sentencing Code] (criminal courts charge) when dealing with the person under this section.]]

#### Textual Amendments

- F281** S. 256AC inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), ss. 3(1), 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(c)
- F282** Words in s. 256AC(4)(c)(i) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 231(2)(a) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F283** Words in s. 256AC(4)(c)(ii) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 231(2)(b) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F284** Words in s. 256AC(5) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 231(3) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F285** S. 256AC(10A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 231(4) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F286** Words in s. 256AC(11) renumbered as s. 256AC(11)(a) (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 12 para. 14(a); S.I. 2015/778, art. 3, Sch. 1 para. 78
- F287** S. 256AC(11)(b) and words inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), Sch. 12 para. 14(b); S.I. 2015/778, art. 3, Sch. 1 para. 78
- F288** Words in s. 256AC(11)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 231(5) (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2

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

- C27** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), para. 3(3), (5), s. 22(1), Sch. 3 para. 3(2) (with Sch. 7 para. 2)); S.I. 2015/40, art. 2(u)
- C28** Ss. 256AA-256AC applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), Sch. 3 para. 5(5) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u))
- C34** S. 256AC applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), ss. 6(4), 22(1) (with Sch. 7 para. 2); S.I. 2015/40, art. 2(f))
- C35** S. 256AC applied (with modifications) (1.12.2020) by Sentencing Act 2020 (c. 17), s. 247(2)(a)(3)(4), 416(1) (with ss. 2, 398(1), 406, Sch. 27); S.I. 2020/1236, reg. 2

F289 F290 ...

#### Textual Amendments

- F289** S. 256B cross-heading omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), s. 22(1), Sch. 3 para. 19 (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F290** Ss. 256B, 256C and cross-heading inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 115, 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)

### 256B [F291 Supervision after release of certain young offenders serving less than 12 months]

[F292(1) This section applies where a person (“the offender”) is released under this Chapter if—

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- (a) the person is, at the time of the release, serving a sentence of detention under [F293 section 250 of the Sentencing Code] which is for a term of less than 12 months, and
- (b) the person is aged under 18 on the last day of the requisite custodial period (as defined in section 243A(3)).

(1A) This section also applies where a person (“the offender”) is released under this Chapter if—

- (a) the person is, at the time of the release, serving a sentence of detention under [F294 section 250 or 262 of the Sentencing Code] which is for a term of less than 12 months, and
- (b) the sentence was imposed in respect of an offence committed before the day on which section 1 of the Offender Rehabilitation Act 2014 came into force.]

[ But this section does not apply where a person (“the offender”) is released from a F295(1B) sentence in respect of which section 247A applied to the offender.]

(2) The offender is to be under the supervision of—

- (a) an officer of a provider of probation services,
- (b) a social worker of a local authority, or
- (c) F296 ... a member of the youth offending team.

(3) Where the supervision is to be provided by an officer of a provider of probation services, the officer must be an officer acting in the local justice area in which the offender resides for the time being.

(4) Where the supervision is to be provided by—

- (a) a social worker of a local authority, or
- (b) a member of a youth offending team,

the social worker or member must be a social worker of, or a member of a youth offending team established by, the local authority within whose area the offender resides for the time being.

(5) The supervision period begins on the offender's release and ends three months later (whether or not the offender is detained under section 256C or otherwise during that period).

(6) During the supervision period, the offender must comply with such requirements, if any, as may for the time being be specified in a notice from the Secretary of State.

(7) The requirements that may be specified in a notice under subsection (6) include—

- (a) requirements [F297 to submit to] electronic monitoring of the offender's compliance with any other requirements specified in the notice;
- (b) requirements [F298 to submit to] electronic monitoring of the offender's whereabouts (otherwise than for the purpose of securing compliance with requirements specified in the notice);

[F299(c) where the offender is aged 18 or over—

- (i) drug testing requirements (see section 256D);
- (ii) drug appointment requirements (see section 256E).]

[ Paragraph (c)(i) and (ii) of subsection (7) have effect subject to the restrictions in F300(7A) sections 256D(2) and 256E(2).]

F301(8) .....

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[<sup>F302</sup>(9) The Secretary of State may make rules about the requirements that may be imposed by virtue of subsection (7)(a) or (b).]

<sup>F303</sup>(10) . . . . .

**Textual Amendments**

- F291** S. 256B heading substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 20** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(u)
- F292** S. 256B(1)(1A) substituted for s. 256B(1) (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 4(2), 22(1)** (with Sch. 7 para. 2); S.I. 2015/40, art. 2(d)
- F293** Words in s. 256B(1)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 232(2)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F294** Words in s. 256B(1A)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 232(3)** (with Sch. 24 para. 447, Sch. 27); S.I. 2020/1236, reg. 2
- F295** S. 256B(1B) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 7(4), 10(4)**
- F296** Words in s. 256B(2)(c) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), **ss. 4(3), 22(1)** (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)
- F297** Words in s. 256B(7)(a) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 2 para. 6** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F298** Words in s. 256B(7)(b) substituted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 2 para. 6** (with s. 7(5)); S.I. 2015/778, art. 3, Sch. 1 para. 73
- F299** S. 256B(7)(c) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 4(4)(a), 22(1)** (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)
- F300** S. 256B(7A) inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 4(5), 22(1)** (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)
- F301** S. 256B(8) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), **ss. 4(6), 22(1)** (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)
- F302** S. 256B(9) substituted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), **ss. 4(7), 22(1)** (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)
- F303** S. 256B(10) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), **ss. 4(8), 22(1)** (with Sch. 7 para. 3); S.I. 2015/40, art. 2(d)

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

- C27** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with Sch. 7 para. 2)); S.I. 2015/40, art. 2(u)

**256C Breach of supervision requirements [<sup>F304</sup>imposed under section 256B]**

- (1) Where an offender is under supervision under section 256B and it appears on information to a justice of the peace that the offender has failed to comply with requirements under section 256B(6), the justice may—
  - (a) issue a summons requiring the offender to appear at the place and time specified in the summons, or
  - (b) if the information is in writing and on oath, issue a warrant for the offender's arrest.
- (2) Any summons or warrant issued under this section must direct the offender to appear or be brought—

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- (a) before a court acting for the local justice area in which the offender resides, or
  - (b) if it is not known where the offender resides, before a court acting for same local justice area as the justice who issued the summons or warrant.
- (3) Where the offender does not appear in answer to a summons issued under subsection (1)(a), the court may issue a warrant for the offender's arrest.
- (4) If it is proved to the satisfaction of the court that the offender has failed to comply with requirements under section 256B(6), the court may—
- (a) order the offender to be detained, in prison or such youth detention accommodation as the Secretary of State may determine, for such period, not exceeding 30 days, as the court may specify, or
  - (b) [<sup>F305</sup>order the offender to pay] a fine not exceeding level 3 on the standard scale.
- (5) An offender detained in pursuance of an order under subsection (4)(a) is to be regarded as being in legal custody.
- (6) A fine imposed under subsection (4)(b) is to be treated, for the purposes of any enactment, as being a sum adjudged to be paid by a conviction.
- (7) An offender may appeal to the Crown Court against any order made under subsection (4)(a) or (b).
- (8) In this section “court” means—
- (a) if the offender has attained the age of 18 years at the date of release, a magistrates' court other than a youth court;
  - (b) if the offender is under the age of 18 years at the date of release, a youth court.]

#### Textual Amendments

**F304** Words in s. 256C heading inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 22](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

**F305** Words in s. 256C(4)(b) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), s. 22\(1\), Sch. 3 para. 21](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

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

**C27** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\), para. 3\(3\), \(5\), s. 22\(1\), Sch. 3 para. 3\(2\)](#) (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u))

#### [<sup>F306</sup>256D] Drug testing requirements

- (1) “Drug testing requirement”, in relation to an offender subject to supervision under this Chapter, means a requirement that, when instructed to do so by the supervisor, the offender provide a sample mentioned in the instruction for the purpose of ascertaining whether the offender has a specified Class A drug or a specified Class B drug in his or her body.
- (2) A drug testing requirement may be imposed on an offender subject to supervision under this Chapter only if—
- (a) the Secretary of State is satisfied of the matters in subsection (3), and



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- (b) the requirement is being imposed for the purpose of determining whether the offender is complying with any other supervision requirement.
- (3) Those matters are—
  - (a) that the misuse by the offender of a specified class A drug or a specified class B drug caused or contributed to an offence of which the offender has been convicted or is likely to cause or contribute to the commission of further offences by the offender, and
  - (b) that the offender is dependent on, or has a propensity to misuse, a specified class A drug or a specified class B drug.
- (4) An instruction given for the purpose of a drug testing requirement must be given in accordance with guidance given from time to time by the Secretary of State.
- (5) The Secretary of State may make rules regulating the provision of samples in accordance with such an instruction.
- (6) In this section, “specified Class A drug” and “specified Class B drug” have the same meaning as in Part 3 of the Criminal Justice and Court Services Act 2000.

#### Textual Amendments

**F306** Ss. 256D, 256E inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 1 para. 2** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(s)

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

**C27** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u)

**C36** S. 256D applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 6(4)**, 22(1) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(f))

**C37** S. 256D applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 5(5)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))

**C38** S. 256D applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **s. 247(2)(b)(3)(4)**, 416(1) (with [ss. 2](#), 398(1), 406, [Sch. 27](#)); S.I. 2020/1236, reg. 2

### 256E Drug appointment requirements

- (1) “Drug appointment requirement”, in relation to an offender subject to supervision under this Chapter, means a requirement that the offender, in accordance with instructions given by the supervisor, attend appointments with a view to addressing the offender's dependency on, or propensity to misuse, a controlled drug.
- (2) A drug appointment requirement may be imposed on an offender subject to supervision under this Chapter only if—
  - (a) the supervisor has recommended to the Secretary of State that such a requirement be imposed on the offender, and
  - (b) the Secretary of State is satisfied of the matters in subsection (3).
- (3) Those matters are—

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- (a) that the misuse by the offender of a controlled drug caused or contributed to an offence of which the offender has been convicted or is likely to cause or contribute to the commission of further offences by the offender,
  - (b) that the offender is dependent on, or has a propensity to misuse, a controlled drug,
  - (c) that the dependency or propensity requires, and may be susceptible to, treatment, and
  - (d) that arrangements have been made, or can be made, for the offender to have treatment.
- (4) The requirement must specify—
- (a) the person with whom the offender is to meet or under whose direction the appointments are to take place, and
  - (b) where the appointments are to take place.
- (5) The person specified under subsection (4)(a) must be a person who has the necessary qualifications or experience.
- (6) The only instructions that the supervisor may give for the purposes of the requirement are instructions as to—
- (a) the duration of each appointment, and
  - (b) when each appointment is to take place.
- (7) For the purposes of this section, references to a requirement to attend an appointment do not include a requirement to submit to treatment.
- (8) In this section, “controlled drug” has the same meaning as in the Misuse of Drugs Act 1971.]

#### **Textual Amendments**

**F306** Ss. 256D, 256E inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 1 para. 2** (with [Sch. 7 para. 3](#)); S.I. 2015/40, art. 2(s)

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

**C27** Ss. 256AA-256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 8(2)(4)(8)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), para. 3(3), (5), s. 22(1), **Sch. 3 para. 3(2)** (with [Sch. 7 para. 2](#))); S.I. 2015/40, art. 2(u)

**C39** S. 256E applied (with modifications) by 2000 c. 6, s. 106B(2)-(7) (as inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 6(4)**, 22(1) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(f))

**C40** S. 256E applied (with modifications) by 1997 c. 43, Sch. 1 para. 9(2)(4)(9)-(12) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 5(5)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))

**C41** S. 256E applied (with modifications) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), **s. 247(2)(b)(3)(4)**, 416(1) (with **ss. 2**, 398(1), 406, **Sch. 27**); S.I. 2020/1236, reg. 2

#### *Additional days*

### **257 Additional days for disciplinary offences**

- (1) Prison rules, that is to say, rules made under section 47 of the Prison Act 1952 (c. 52), may include provision for the award of additional days—

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- (a) to fixed-term prisoners, or
  - (b) conditionally on their subsequently becoming such prisoners, to persons on remand,
- who (in either case) are guilty of disciplinary offences.
- (2) Where additional days are awarded to a fixed-term prisoner, or to a person on remand who subsequently becomes such a prisoner, and are not remitted in accordance with prison rules—
- (a) any period which he must serve before becoming entitled to or eligible for release under this Chapter,
  - (b) any period which he must serve before he can be removed from prison under section 260, and
  - (c) any period for which a licence granted to him under this Chapter remains in force,
- is extended by the aggregate of those additional days.

#### Commencement Information

- I21** S. 257 partly in force; s. 257 not in force at Royal Assent, see s. 336(3); s. 257 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 257(1) in force at 7.3.2005 by [S.I. 2005/373](#), [art. 2](#); s. 257(1)(2)(a)(b) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))
- I22** S. 257(2)(c) in force at 3.12.2012 for specified purposes by [S.I. 2012/2905](#), [art. 2](#)

### *Fine defaulters and contemnors*

#### **258 Early release of fine defaulters and contemnors**

- (1) This section applies in relation to a person committed to prison—
- (a) in default of payment of a sum adjudged to be paid by a conviction, or
  - (b) for contempt of court or any kindred offence.
- (2) As soon as a person to whom this section applies has served one-half of the term for which he was committed, it is the duty of the Secretary of State to release him unconditionally.

[<sup>F307</sup>(2A) Subsection (2) is subject to paragraph 35 of Schedule 20B (transitional cases).]

[<sup>F308</sup>(2B) Subsection (2) does not apply to a person within subsection (1)(a) if the sum in question is a sum of more than £10 million ordered to be paid under a confiscation order made under Part 2 of the Proceeds of Crime Act 2002.

(2C) The Secretary of State may by order amend the amount for the time being specified in subsection (2B).]

- (3) Where a person to whom this section applies is also serving one or more sentences of imprisonment, nothing in this section [<sup>F309</sup>or in paragraph 35 of Schedule 20B] requires the Secretary of State to release him until he is also required to release him in respect of that sentence or each of those sentences.

[<sup>F310</sup>(3A) The reference in subsection (3) to sentences of imprisonment includes sentences of detention under section 91 or 96 of [<sup>F311</sup>the PCC(S)A 2000, under section 250 [<sup>F312</sup>,

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252A], 254, 262, 265 or 266 of the Sentencing Code] or under section [F313 226A, 226B,] 227[F314, 228 or 236A] of this Act.]

- (4) The Secretary of State may at any time release unconditionally a person to whom this section applies if he is satisfied that exceptional circumstances exist which justify the person's release on compassionate grounds.

#### Textual Amendments

- F307** S. 258(2A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 5\(2\)](#); S.I. 2012/2906, art. 2(o)
- F308** S. 258(2B)(2C) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 10\(3\)](#), 88(1) (with s. 86(2)); S.I. 2015/820, reg. 3(g)
- F309** Words in s. 258(3) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 5\(3\)](#); S.I. 2012/2906, art. 2(o)
- F310** S. 258(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 117\(6\)](#), 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F311** Words in s. 258(3A) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 233](#) (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F312** Word in s. 258(3A) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 21\(6\)](#)
- F313** Words in s. 258(3A) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 8](#); S.I. 2012/2906, art. 2(r)
- F314** Words in s. 258(3A) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 19](#); S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)

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

- C42** S. 258 extended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 121\(2\)](#), 151(1); S.I. 2012/2906, art. 2(d)

#### Commencement Information

- I23** S. 258 wholly in force at 4.4.2005, see s. 336(3) and S.I. 2005/950, [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### *Persons liable to removal from the United Kingdom*

#### **259 Persons liable to removal from the United Kingdom**

For the purposes of this Chapter a person is liable to removal from the United Kingdom if—

- (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 (c. 77) and has been notified of a decision to make a deportation order against him,
- (b) he is liable to deportation under section 3(6) of that Act,
- (c) he has been notified of a decision to refuse him leave to enter the United Kingdom,
- (d) he is an illegal entrant within the meaning of section 33(1) of that Act, or
- (e) he is liable to removal under section 10 of the Immigration and Asylum Act 1999 (c. 33).

**Status:** Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Criminal Justice Act 2003, Part 12 is up to date with all changes known to be in force on or before 21 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. (See end of Document for details)

### Commencement Information

- I24** S. 259 wholly in force at 4.4.2005; s. 259 not in force at Royal Assent, see s. 336(3); s. 259 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, art. 2, Sch.; s. 259 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, art. 2(1), Sch. 1 para. 19 (subject to art. 2(2), Sch. 2)

PROSPECTIVE

### [<sup>F315</sup>259] Persons eligible for removal from the United Kingdom

- (1) For the purposes of this Chapter, to be “eligible for removal from the United Kingdom” a person must show, to the satisfaction of the Secretary of State, that the condition in subsection (2) is met.
- (2) The condition is that the person has the settled intention of residing permanently outside the United Kingdom if removed from prison under section 260.
- (3) The person must not be one who is liable to removal from the United Kingdom.]

### Textual Amendments

- F315** S. 259A inserted (prosp.) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 34(2), 153

### 260 Early removal of prisoners liable to removal from United Kingdom

- (1) [<sup>F316</sup>Subsections (2) and (2C)], where a fixed-term prisoner is liable to removal from the United Kingdom, the Secretary of State may remove him from prison under this section at any time during the period of [<sup>F317</sup>270] days ending with the day on which the prisoner will have served the requisite custodial period.
- [<sup>F318</sup>(2) Subsection (1) does not apply in relation to a prisoner unless he has served at least one-half of the requisite custodial period.]
- [<sup>F319</sup>(2A) [<sup>F320</sup>Subject to subsection (2C),] if a fixed-term prisoner serving an extended sentence imposed under section 226A or 226B [<sup>F321</sup>or under section 254, 266 or 279 of the Sentencing Code,] [<sup>F322</sup>or a sentence under section 236A] [<sup>F323</sup>or under section 265 or 278 of the Sentencing Code] —
  - (a) is liable to removal from the United Kingdom, and
  - (b) has not been removed from prison under this section during the period mentioned in subsection (1),the Secretary of State may remove the prisoner from prison under this section at any time after the end of that period.
- (2B) Subsection (2A) applies whether or not the Board has directed the prisoner's release under section [<sup>F324</sup>this Chapter].]
- [<sup>F325</sup>(2C) Subsections (1) and (2A) do not apply in relation to a prisoner to whom section 247A applies.]
- [<sup>F326</sup>(3) .....

**Status:** Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.

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<sup>F327</sup>(3A) .....

- (4) A prisoner removed from prison under this section—
- (a) is so removed only for the purpose of enabling the Secretary of State to remove him from the United Kingdom under powers conferred by—
    - (i) Schedule 2 or 3 to the Immigration Act 1971, or
    - (ii) section 10 of the Immigration and Asylum Act 1999 (c. 33), and
  - (b) so long as remaining in the United Kingdom, remains liable to be detained in pursuance of his sentence until he has served the requisite custodial period.
- (5) So long as a prisoner removed from prison under this section remains in the United Kingdom but has not been returned to prison, any duty or power of the Secretary of State under section [<sup>F328</sup>243A,] 244[<sup>F329</sup>, 244A][<sup>F330</sup>, 246A][<sup>F331</sup>, 247] or 248 is exercisable in relation to him as if he were in prison.
- (6) The Secretary of State may by order—
- (a) amend the number of days for the time being specified in subsection (1) <sup>F332</sup> ... ,
  - <sup>F333</sup>(b) .....
  - (c) amend the fraction for the time being specified in [<sup>F334</sup>subsection (2)].

<sup>F335</sup>(7) .....

[<sup>F336</sup>(8) Paragraphs 36 and 37 of Schedule 20B (transitional cases) make further provision about early removal of certain prisoners.]

[<sup>F337</sup>(9) Subsection (2C) does not affect the continued liability to detention under subsection (4)(b) of a prisoner removed from prison under this section before subsection (2C) came into force and in such a case—

- (a) the “requisite custodial period” in subsection (4)(b) has the meaning given by section 247A(8), and
- (b) subsection (5) is to be read as including reference to section 247A.]

#### Textual Amendments

- F316** Words in s. 260(1) substituted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 7\(5\)\(a\), 10\(4\)](#)
- F317** Word in s. 260(1) substituted (7.4.2008) by [The Early Removal of Fixed-Term Prisoners \(Amendment of Eligibility Period\) Order 2008 \(S.I. 2008/978\), art. 2](#)
- F318** S. 260(2) substituted (3.11.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 34\(5\), 153; S.I. 2008/2712, art. 2, Sch. para. 5](#) (subject to arts. 3, 4)
- F319** S. 260(2A)(2B) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 20 para. 9\(2\); S.I. 2012/2906, art. 2\(r\)](#)
- F320** Words in s. 260(2A) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 7\(5\)\(b\), 10\(4\)](#)
- F321** Words in s. 260(2A) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 234\(a\)](#) (with [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F322** Words in s. 260(2A) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), s. 95\(1\), Sch. 1 para. 20\(2\); S.I. 2015/778, art. 3, Sch. 1 para. 72](#)
- F323** Words in s. 260(2A) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\), s. 416\(1\), Sch. 24 para. 234\(b\)](#) (with [Sch. 27](#)); [S.I. 2020/1236, reg. 2](#)
- F324** Words in s. 260(2B) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\), ss. 15\(6\), 95\(1\); S.I. 2015/778, art. 3, Sch. 1 para. 11](#)

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- F325** S. 260(2C) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 7(5)(c), 10(4)**
- F326** S. 260(3) repealed (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 34(6), 149, 153, Sch. 28 Pt. 2**; S.I. 2008/2712, **art. 2**, Sch. paras. 5, 19(2)(b) (subject to arts. 3, 4)
- F327** S. 260(3A) repealed (31.10.2009) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 34(6), 149, 153(7), Sch. 28 Pt. 2**; S.I. 2009/2606, **art. 3(j)(i)**
- F328** Words in s. 260(5) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 14 para. 11(a)**; S.I. 2012/2906, art. 2(l)
- F329** Word in s. 260(5) inserted (13.4.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 1 para. 20(3)**; S.I. 2015/778, art. 3, Sch. 1 para. 72
- F330** Words in s. 260(5) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 20 para. 9(3)**; S.I. 2012/2906, art. 2(r)
- F331** Words in s. 260(5) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), **ss. 116(5), 151(1)** (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F332** Words in s. 260(6)(a) repealed (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 34(8)(a), 149, 153, Sch. 28 Pt. 2**; S.I. 2008/2712, **art. 2**, Sch. paras. 5, 19(2)(b) (subject to arts. 3, 4)
- F333** S. 260(6)(b) repealed (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 34(8)(b), 149, 153, Sch. 28 Pt. 2**; S.I. 2008/2712, **art. 2**, Sch. paras. 5, 19(2)(b) (subject to arts. 3, 4)
- F334** Words in s. 260(6)(c) substituted (3.11.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 34(8)(c), 153**; S.I. 2008/2712, **art. 2**, Sch. para. 5 (subject to arts. 3, 4)
- F335** S. 260(7) omitted (13.4.2015) by virtue of Criminal Justice and Courts Act 2015 (c. 2), **ss. 14(4), 95(1)** (with s. 14(7)); S.I. 2015/778, art. 3, Sch. 1 para. 10
- F336** S. 260(8) inserted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 17 para. 6**; S.I. 2012/2906, art. 2(o)
- F337** S. 260(9) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), **ss. 7(5)(d), 10(4)**

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#### Commencement Information

- I25** S. 260 wholly in force at 4.4.2005; s. 260 not in force at Royal Assent, see s. 336(3); s. 260(6) in force at 7.3.2005 by S.I. 2005/373, **art. 2**; s. 260 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to art. 2(2), Sch. 2)

## 261 Re-entry into United Kingdom of offender removed from prison early

- (1) This section applies in relation to a person who, after being removed from prison under section 260, has been removed from the United Kingdom before he has served the requisite custodial period.
- (2) If a person to whom this section applies enters the United Kingdom at any time before his sentence expiry date, he is liable to be detained in pursuance of his sentence from the time of his entry into the United Kingdom until whichever is the earlier of the following—
  - (a) the end of a period (“the further custodial period”) beginning with that time and equal in length to the outstanding custodial period, and
  - (b) his sentence expiry date.
- (3) A person who is liable to be detained by virtue of subsection (2) is, if at large, to be taken for the purposes of section 49 of the Prison Act 1952 (c. 52) (persons unlawfully at large) to be unlawfully at large.
- (4) Subsection (2) does not prevent the further removal from the United Kingdom of a person falling within that subsection.

*Status: Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.*

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- (5) Where, in the case of a person returned to prison by virtue of subsection (2), the further custodial period ends before the sentence expiry date, [<sup>F338</sup>—
- <sup>F339</sup>(a) .....
- (b) [<sup>F340</sup>...][<sup>F341</sup>section 243A[<sup>F342</sup>, 244[<sup>F343</sup>, 244A], 246A[<sup>F344</sup>, 247 or 247A]] (as the case may be)] has effect in relation to him as if the reference to the requisite custodial period were a reference to the further custodial period.
- (6) In this section—
- “further custodial period” has the meaning given by subsection (2)(a);
- “outstanding custodial period”, in relation to a person to whom this section applies, means the period beginning with the date of his removal from the United Kingdom and ending with the date on which he would, but for his removal, have served the requisite custodial period;
- [<sup>F345</sup>“requisite custodial period”, in relation to a person to whom section 247A applies, has the meaning given by section 247A(8) (see section 268(1A) for its meaning in other cases);]
- <sup>F346</sup>...
- “sentence expiry date”, in relation to a person to whom this section applies, means the date on which, but for his [<sup>F347</sup>release from prison and] removal from the United Kingdom, he would have [<sup>F348</sup>served the whole of the sentence].

#### Textual Amendments

- F338** Words in s. 261(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 116\(6\)](#), [151\(1\)](#) (with [Sch. 15](#)); [S.I. 2012/2906](#), [art. 2\(d\)](#)
- F339** S. 261(5)(a) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 14\(5\)\(a\)](#), [95\(1\)](#) (with [s. 14\(7\)](#)); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 10](#)
- F340** Words in s. 261(5)(b) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 14\(5\)\(b\)\(i\)](#), [95\(1\)](#) (with [s. 14\(7\)](#)); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 10](#)
- F341** Words in s. 261(5) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 14 para. 12\(2\)](#); [S.I. 2012/2906](#), [art. 2\(l\)](#)
- F342** Words in s. 261(5)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 20 para. 10\(2\)](#); [S.I. 2012/2906](#), [art. 2\(r\)](#)
- F343** Words in s. 261(5)(b) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [s. 95\(1\)](#), [Sch. 1 para. 21](#); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 72](#)
- F344** Words in s. 261(5)(b) substituted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 7\(6\)\(a\)](#), [10\(4\)](#)
- F345** Words in s. 261(6) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), [ss. 7\(6\)\(b\)](#), [10\(4\)](#)
- F346** Words in s. 261(6) omitted (13.4.2015) by virtue of [Criminal Justice and Courts Act 2015 \(c. 2\)](#), [ss. 14\(5\)\(c\)](#), [95\(1\)](#) (with [s. 14\(7\)](#)); [S.I. 2015/778](#), [art. 3](#), [Sch. 1 para. 10](#)
- F347** Words in s. 261(6) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 14 para. 12\(3\)\(b\)\(i\)](#); [S.I. 2012/2906](#), [art. 2\(l\)](#)
- F348** Words in s. 261(6) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [s. 151\(1\)](#), [Sch. 14 para. 12\(3\)\(b\)\(ii\)](#); [S.I. 2012/2906](#), [art. 2\(l\)](#)

#### Commencement Information

- I26** S. 261 wholly in force at 4.4.2005, see [s. 336\(3\)](#) and [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))



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**F349 262 Prisoners liable to removal from United Kingdom: modifications of Criminal Justice Act 1991**

**Textual Amendments**

**F349** S. 262 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 para. 16](#); S.I. 2012/2906, art. 2(n)

*Consecutive or concurrent terms*

**263 Concurrent terms**

- (1) This section applies where—
- (a) a person (“the offender”) has been sentenced <sup>F350</sup> . . . to two or more terms of imprisonment which are wholly or partly concurrent, and
  - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- (2) Where this section applies—
- (a) nothing in this Chapter requires the Secretary of State to release the offender in respect of any of the terms unless and until he is required to release him in respect of each of the others,
  - <sup>F351</sup>(aa) the offender's release is to be unconditional if section 243A so requires in respect of each of the sentences (and in any other case is to be on licence),
  - (b) [<sup>F352</sup>section 246] does not authorise the Secretary of State to release him on licence under that section in respect of any of the terms unless and until that section authorises the Secretary of State to do so in respect of each of the others [<sup>F353</sup>to which that section applies],
  - (c) on and after his release under this Chapter [<sup>F354</sup>(unless that release is unconditional)] the offender is to be on licence<sup>F355</sup>—
    - (i) until the last date on which the offender is required to be on licence in respect of any of the terms, and
    - (ii) subject to such conditions as are] required by this Chapter in respect of any of the sentences.
- <sup>F356</sup>(3) . . . . .
- (4) In this section “term of imprisonment” includes a determinate sentence of detention under section 91 [<sup>F357</sup>or 96] of [<sup>F358</sup>the PCC(S)A 2000, under section 250, [<sup>F359</sup>252A,] 254, 262, 265 or 266 of the Sentencing Code] or under section [<sup>F360</sup>226A, 226B,][<sup>F361</sup>227 ][<sup>F362</sup>, 228 or 236A] of this Act.
- <sup>F363</sup>(5) This section is subject to paragraphs 21, 31 and 32 of Schedule 20B (transitional cases).]

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### Textual Amendments

- F350** Words in s. 263(1)(a) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, Sch. 16 para. 226, [Sch. 17](#); S.I. 2009/812, [art. 3](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F351** S. 263(2)(aa) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 13\(a\)](#); S.I. 2012/2906, art. 2(l)
- F352** Words in s. 263(2)(b) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. [116\(8\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F353** Words in s. 263(2)(b) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 13\(b\)](#); S.I. 2012/2906, art. 2(l)
- F354** Words in s. 263(2)(c) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 14 para. 13\(c\)](#); S.I. 2012/2906, art. 2(l)
- F355** Words in s. 263(2)(c) substituted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. [116\(9\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F356** S. 263(3) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 10 para. 31](#); S.I. 2012/2906, art. 2(h)
- F357** Words in s. 263(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. [117\(7\)\(a\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F358** Words in s. 263(4) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 235](#) (with Sch. 27); S.I. 2020/1236, reg. 2
- F359** Word in s. 263(4) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), [Sch. 13 para. 21\(7\)](#)
- F360** Words in s. 263(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 20 para. 11](#); S.I. 2012/2906, art. 2(r)
- F361** Words in s. 263(4) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), ss. [117\(7\)\(b\)](#), 151(1) (with Sch. 15); S.I. 2012/2906, art. 2(d)
- F362** Words in s. 263(4) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 1 para. 22](#); S.I. 2015/778, art. 3, Sch. 1 para. 72
- F363** S. 263(5) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 7](#); S.I. 2012/2906, art. 2(o)

### Commencement Information

- I27** S. 263 wholly in force at 4.4.2005; s. 263 not in force at Royal Assent, see s. 336(3); s. 263 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 263 in force in so far as not already in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## 264 Consecutive terms

- (1) This section applies where—
- (a) a person (“the offender”) has been sentenced to two or more terms of imprisonment which are to be served consecutively on each other, and
  - (b) the sentences were passed on the same occasion or, where they were passed on different occasions, the person has not been released under this Chapter at any time during the period beginning with the first and ending with the last of those occasions,<sup>F364</sup> ...
  - <sup>F364</sup>(c) .....
- (2) Nothing in this Chapter requires the Secretary of State to release the offender<sup>F365</sup> ... until he has served a period equal in length to the aggregate of the length of the custodial periods in relation to each of the terms of imprisonment.

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- [<sup>F366</sup>(3B) The offender's release under this Chapter is to be unconditional if—
- (a) the aggregate length of the terms of imprisonment is less than 12 months, and
  - (b) section 243A so requires in respect of each of the sentences,
- but in any other case is to be on licence.
- (3C) If the offender is released on licence under this Chapter—
- (a) the offender is to be on licence, on and after the release, until the offender would, but for the release, have served a term equal in length to the aggregate length of the terms of imprisonment (but see section 264B);
  - (b) the offender is to be subject to supervision requirements under section 256AA if (and only if)—
    - (i) section 256AA so requires in respect of one or more of the sentences, and
    - (ii) the aggregate length of the terms of imprisonment is less than 2 years.
- (3D) If the offender is subject to supervision requirements under section 256AA, the supervision period for the purposes of that section begins on the expiry of the period during which the offender is on licence by virtue of subsection (3C)(a).
- (3E) When the offender is released under this Chapter (whether unconditionally or on licence), the offender is to be subject to supervision requirements under section 256B if that section so requires in respect of one or more of the sentences.]
- <sup>F367</sup>(4) . . . . .
- <sup>F367</sup>(5) . . . . .
- [<sup>F368</sup>(6) In this section “custodial period” [<sup>F369</sup>, except if subsection (6A) applies,] means—
- (a) in relation to an extended sentence imposed under section 226A or 226B [<sup>F370</sup> or under section 254, 266 or 279 of the Sentencing Code], two-thirds of the appropriate custodial term determined by the court under that section,
  - (b) in relation to an extended sentence imposed under section 227 or 228, one-half of the appropriate custodial term determined by the court under that section,
  - (c) in relation to a sentence imposed under section 236A [<sup>F371</sup> or under section 265 or 278 of the Sentencing Code], one-half of the appropriate custodial term determined by the court under that section, and
  - (d) in relation to any other sentence, one-half of the sentence.]
- [<sup>F372</sup>(6A) In this section “custodial period”, in the case of a sentence imposed on a person to whom section 247A applies, means—
- (a) in relation to an extended sentence imposed under section 226A, 226B, 227 or [<sup>F373</sup>228 of this Act or section 254, 266 or 279 of the Sentencing Code,] or a sentence imposed under section [<sup>F374</sup>236A of this Act or section [<sup>F375</sup>252A, 265] or 278 of that Code,] two-thirds of the appropriate custodial term determined by the court under that section;
  - (b) in relation to any other sentence, two-thirds of the sentence.]
- (7) This section applies to a determinate sentence of detention under section 91 [<sup>F376</sup> or 96] of [<sup>F377</sup> the PCC(S)A 2000, under section 250, [<sup>F378</sup>252A,] 254, 262, 265 or 266 of the Sentencing Code] or under section [<sup>F379</sup>226A, 226B,][<sup>F380</sup>227 ][<sup>F381</sup>, 228 or 236A] of this Act as it applies to a term of imprisonment <sup>F382</sup> . . . .

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[<sup>F383</sup>(8) This section is subject to paragraphs 21, 22, 31, 32 and 33 of Schedule 20B (transitional cases).]

### Textual Amendments

- F364** S. 264(1)(c) and preceding word omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 32(2)**; S.I. 2012/2906, art. 2(h)
- F365** Words in s. 264(2) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 14(a)**; S.I. 2012/2906, art. 2(l)
- F366** S. 264(3B)-(3E) substituted for s. 264(3)(3A) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), **ss. 5(2), 22(1)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(e)
- F367** S. 264(4)(5) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 14(d)**; S.I. 2012/2906, art. 2(l)
- F368** S. 264(6) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 1 para. 23(2)**; S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)
- F369** Words in s. 264(6) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 7(7)(a), 10(4)**
- F370** Words in s. 264(6)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 236(2)(a)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F371** Words in s. 264(6)(c) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 236(2)(b)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F372** S. 264(6A) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 7(7)(b), 10(4)**
- F373** Words in s. 264(6A)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 236(3)(a)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F374** Words in s. 264(6A)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 236(3)(b)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F375** Words in s. 264(6A)(a) substituted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), **Sch. 13 para. 21(8)(a)**
- F376** Words in s. 264(7) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 117(8)(a), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F377** Words in s. 264(7) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 236(4)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F378** Word in s. 264(7) inserted (30.4.2021) by [Counter-Terrorism and Sentencing Act 2021 \(c. 11\)](#), s. 50(1)(i), **Sch. 13 para. 21(8)(b)**
- F379** Words in s. 264(7) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 20 para. 12(3)**; S.I. 2012/2906, art. 2(r)
- F380** Words in s. 264(7) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), **ss. 117(8)(b), 151(1)** (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)
- F381** Words in s. 264(7) substituted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), **Sch. 1 para. 23(3)**; S.I. 2015/778, art. 3, [Sch. 1 para. 72](#)
- F382** Words in s. 264(7) omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 14 para. 14(f)**; S.I. 2012/2906, art. 2(l)
- F383** S. 264(8) inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 17 para. 8**; S.I. 2012/2906, art. 2(o)

### Modifications etc. (not altering text)

- C43** S. 264(6)(d) modified (1.4.2020) by [The Release of Prisoners \(Alteration of Relevant Proportion of Sentence\) Order 2020 \(S.I. 2020/158\)](#), arts. 1, 4 (with art. 5)

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### Commencement Information

**I28** S. 264 partly in force; s. 264 not in force at Royal Assent, see s. 336(3); s. 264 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 264(1)-(3)(6)(7) in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 19** (subject to **art. 2(2), Sch. 2**)

### <sup>F384</sup>**264A** Consecutive terms: intermittent custody

#### Textual Amendments

**F384** S. 264A omitted (3.12.2012) by virtue of **Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), Sch. 10 para. 33**; S.I. 2012/2906, **art. 2(h)**

### [<sup>F385</sup>**264AA** Consecutive terms: detention and training orders

- (1) This section applies where, by virtue of section 237(4) of the Sentencing Code or section 106A(3)(b) of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order made in the case of a person (“the offender”) who is subject to a relevant sentence of detention is to take effect at the time when the offender would otherwise be released under this Chapter.
- (2) Any direction in respect of the offender by the Parole Board under—
  - (a) subsection (5)(b) of section 246A,
  - (b) subsection (4)(b) of section 247A, or
  - (c) sub-paragraph (3) of paragraph 15 of Schedule 20B,is to be expressed as a direction that the Board would, but for the detention and training order, have directed the offender's release under that section [<sup>F386</sup>or paragraph].
- (3) In this section—
  - (a) references to a detention and training order include an order made under section 211 of the Armed Forces Act 2006, and
  - (b) “relevant sentence of detention” has the meaning given by section 248(4) of the Sentencing Code.]

#### Textual Amendments

**F385** S. 264AA inserted (1.12.2020) by **Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 237** (with **Sch. 27**); S.I. 2020/1236, **reg. 2**

**F386** Words in s. 264AA(2) inserted (30.4.2021) by **Counter-Terrorism and Sentencing Act 2021 (c. 11), s. 50(1)(i), Sch. 13 para. 45(5)**

### [<sup>F387</sup>**264B** Consecutive terms: supplementary

- (1) This section applies in a case in which section 264 applies where—
  - (a) the offender is released on licence under this Chapter,
  - (b) the aggregate length of the terms of imprisonment mentioned in section 264(1) (a) is less than 12 months, and

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- (c) those terms include one or more terms of imprisonment (“short transitional terms”) which were imposed in respect of an offence committed before the day on which section 1 of the Offender Rehabilitation Act 2014 came into force, as well as one or more terms imposed in respect of an offence committed on or after that day.
- (2) The offender is to be on licence until the offender would, but for the release, have served a term equal in length to the aggregate of—
- (a) the custodial period in relation to each of the short transitional terms, and
  - (b) the full length of each of the other terms.
- (3) In this section “custodial period” has the same meaning as in section 264.]

#### Textual Amendments

**F387** S. 264B inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 5\(3\)](#), [22\(1\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(e\)](#)

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

**C44** S. 264B applied by 1997 c. 43, Sch. 1 para. 8(2)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [s. 22\(1\)](#), [Sch. 3 para. 3\(2\)\(a\)](#)) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(u\)](#))

**C45** S. 264B applied by 1997 c. 43, Sch. 1 para. 9(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [s. 22\(1\)](#), [Sch. 3 para. 3\(3\)\(a\)](#)) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(u\)](#))

**C46** S. 264B applied by 1997 c. 43, Sch. 1 para. 9(2)(a)(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [s. 22\(1\)](#), [Sch. 3 para. 5\(2\)\(3\)](#)) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(u\)](#))

### *Restriction on consecutive sentences for released prisoners*

#### <sup>F388</sup> 265 Restriction on consecutive sentences for released prisoners

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#### Textual Amendments

**F388** S. 265 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), [s. 416\(1\)](#), [Sch. 28](#) (with [ss. 413\(4\)\(5\)](#), [416\(7\)](#), [Sch. 27](#)); [S.I. 2020/1236](#), [reg. 2](#)

PROSPECTIVE

### *Drug testing requirements*

#### <sup>F389</sup> 266 Release on licence etc: drug testing requirements

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### Textual Amendments

**F389** S. 266 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), [ss. 118\(2\)](#), [151\(1\)](#) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

## Supplemental

### 267 Alteration by order of relevant proportion of sentence

The Secretary of State may by order provide that any reference in [<sup>F390</sup>section 243A(3) (a),] section 244(3)(a), section 247(2) or [<sup>F391</sup>section 264(6)(d)] to a particular proportion of a prisoner's sentence is to be read as a reference to such other proportion of a prisoner's sentence as may be specified in the order.

### Textual Amendments

**F390** Words in s. 267 inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. [151\(1\)](#), [Sch. 14 para. 15](#); S.I. 2012/2906, art. 2(l)

**F391** Words in s. 267 substituted (7.2.2020) by [The Criminal Justice and Courts Act 2015 \(Consequential Amendment\) Regulations 2020 \(S.I. 2020/157\)](#), regs. 1, 3

### [<sup>F392</sup>267A] Application of Chapter 6 to pre-4 April 2005 cases

Schedule 20A (which modifies certain provisions of this Chapter as they apply to persons serving a sentence for an offence committed before 4 April 2005) has effect.]

### Textual Amendments

**F392** S. 267A inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. [151\(1\)](#), [Sch. 16 para. 2](#); S.I. 2012/2906, art. 2(n)

### Modifications etc. (not altering text)

**C47** S. 267A applied by [Crime \(Sentences\) Act 1997 \(c. 43\)](#), [Sch. 1 paras. 8\(2\)\(a\)\(4\)\(a\), 9\(2\)\(a\)\(4\)\(a\)](#) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. [151\(1\)](#), [Sch. 16 paras. 7, 8](#); S.I. 2012/2906, art. 2(n))

### [<sup>F393</sup>267B] Modification of Chapter 6 in certain transitional cases

Schedule 20B (which modifies this Chapter so as to restate, with minor amendments, the effect of transitional provisions relating to the coming into force of this Chapter) has effect.]

### Textual Amendments

**F393** S. 267B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. [151\(1\)](#), [Sch. 17 para. 9](#); S.I. 2012/2906, art. 2(o)

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

- C48** S. 267B applied by Crime (Sentences) Act 1997 (c. 43), Sch. 1 paras. 8(2)(a)(4)(a), 9(2)(a)(4)(a) (as amended (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 16 paras. 7, 8](#); S.I. 2012/2906, art. 2(n))

## **268 Interpretation of Chapter 6**

[<sup>F394</sup>(1)] In this Chapter —

“the 1997 Act” means the Crime (Sentences) Act 1997 (c. 43);

“the Board” means the Parole Board;

[<sup>F395</sup>“fixed-term prisoner” and “fixed-term sentence”] have the meaning given by section 237(1) [<sup>F396</sup>(as extended by section 237(1A));]

<sup>F397</sup>

[<sup>F398</sup>“offender subject to supervision under this Chapter” means a person who is subject to supervision requirements under section 256AA or 256B;]

“prison” and “prisoner” are to be read in accordance with section 237(2);

[<sup>F398</sup>“supervision default order” means an order described in section 256AC(4)(c), whether made under that provision or under paragraph 9 of Schedule 19A;]

[<sup>F398</sup>“the supervision period”, in relation to an offender subject to supervision under this Chapter, has the meaning given in section 256AA or 256B (as appropriate);]

[<sup>F398</sup>“the supervisor” —

(a) in relation to an offender subject to supervision requirements under section 256AA, has the meaning given in that section, and

(b) in relation to an offender subject to supervision requirements under section 256B, means the person who provides supervision under that section;]

<sup>F397</sup>

<sup>F397</sup>

[<sup>F399</sup>(1A) In this Chapter, “the requisite custodial period” means [<sup>F400</sup>(except where it has the meaning given by section 247A(8))] —

(a) in relation to a person serving an extended sentence imposed under section 226A or 226B [<sup>F401</sup>or under section 254, 266 or 279 of the Sentencing Code], the requisite custodial period for the purposes of section 246A;

(b) in relation to a person serving an extended sentence imposed under section 227 or 228, the requisite custodial period for the purposes of section 247;

(c) in relation to a person serving a sentence imposed under section 236A [<sup>F402</sup>or under section 265 or 278 of the Sentencing Code], the requisite custodial period for the purposes of section 244A;

(d) in relation to any other fixed-term prisoner, the requisite custodial period for the purposes of section 243A or section 244 (as appropriate).]

[<sup>F403</sup>(2) For the purposes of sections 243A(1A), 256AA(1), 256B(1A) and 264B(1), where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken to have been committed on the last of those days.]



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### Textual Amendments

- F394** S. 268 renumbered as s. 268(1) (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 23(2)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F395** Words in s. 268(1) substituted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 23(3)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F396** S. 268: words in definition of "fixed-term prisoner" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(1), 383, **Sch. 16 para. 227**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**
- F397** Definitions in s. 268 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), **Sch. 10 para. 35**; S.I. 2012/2906, art. 2(h)
- F398** Words in s. 268(1) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 23(4)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)
- F399** S. 268(1A) inserted (13.4.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), **ss. 14(2)**, 95(1) (with s. 14(7)); S.I. 2015/778, art. 3, [Sch. 1 para. 10](#)
- F400** Words in s. 268(1A) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\)](#), **ss. 7(8)**, 10(4)
- F401** Words in s. 268(1A)(a) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 238(a)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F402** Words in s. 268(1A)(c) inserted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 24 para. 238(b)** (with [Sch. 27](#)); S.I. 2020/1236, reg. 2
- F403** S. 268(2) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), **Sch. 3 para. 23(5)** (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u)

### Commencement Information

- I29** S. 268 wholly in force at 4.4.2005; s. 268 not in force at Royal Assent, see s. 336(3); s. 268 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2**, [Sch.](#); s. 268 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, [Sch. 1 para. 19](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

## CHAPTER 7

### EFFECT OF LIFE SENTENCE

#### <sup>F404</sup>269 Determination of minimum term in relation to mandatory life sentence

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### Textual Amendments

- F404** S. 269 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### <sup>F405</sup>270 Duty to give reasons

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**Textual Amendments**  
**F405** S. 270 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**271 Appeals**

- (1) In section 9 of the Criminal Appeal Act 1968 (c. 19) (appeal against sentence following conviction on indictment), after subsection (1) there is inserted—
  - “(1A) In subsection (1) of this section, the reference to a sentence fixed by law does not include a reference to an order made under subsection (2) or (4) of section 269 of the Criminal Justice Act 2003 in relation to a life sentence (as defined in section 277 of that Act) that is fixed by law.”.
- (2) In section 8 of the Courts-Martial (Appeals) Act 1968 (c. 20) (right of appeal from court-martial to Courts-Martial Appeal Court) after subsection (1) there is inserted—
  - “(1ZA) In subsection (1) above, the reference to a sentence fixed by law does not include a reference to an order made under subsection (2) or (4) of section 269 of the Criminal Justice Act 2003 in relation to a life sentence (as defined in section 277 of that Act) that is fixed by law.”.

**272 Review of minimum term on a reference by Attorney General**

- (1) In section 36 of the Criminal Justice Act 1988 (c. 33) (reviews of sentencing) after subsection (3) there is inserted—
  - “(3A) Where a reference under this section relates to an order under subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in relation to mandatory life sentence), the Court of Appeal shall not, in deciding what order under that section is appropriate for the case, make any allowance for the fact that the person to whom it relates is being sentenced for a second time.”.
- (2) <sup>F406</sup> .....
- (3) <sup>F406</sup> .....

**Textual Amendments**  
**F406** S. 272(2)(3) repealed (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, **Sch. 16 para. 229**, **Sch. 17**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

**273 Life prisoners transferred to England and Wales**

- (1) The Secretary of State must refer the case of any transferred life prisoner to the High Court for the making of one or more relevant orders.
- (2) In subsection (1) “transferred life prisoner” means a person -

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- (a) on whom a court in a country or territory outside the British Islands has imposed one or more sentences of imprisonment or detention for an indeterminate period, and
  - (b) who has been transferred to England and Wales after the commencement of this section in pursuance of—
    - (i) an order made by the Secretary of State under section 2 of the Colonial Prisoners Removal Act 1884 (c. 31), or
    - (ii) a warrant issued by the Secretary of State under the Repatriation of Prisoners Act 1984 (c. 47),there to serve his sentence or sentences or the remainder of his sentence or sentences.
- (3) In subsection (1) “a relevant order” means [<sup>F407</sup>a minimum term order or a whole life order under section 321 of the Sentencing Code].
- (4) In section 34(1) of the Crime (Sentences) Act 1997 (c. 43) (meaning of “life prisoner” in Chapter 2 of Part 2 of that Act) at the end there is inserted “and includes a transferred life prisoner as defined by section 273 of the Criminal Justice Act 2003”.
- [<sup>F408</sup>(5) The reference in subsection (2)(b) above to a person who has been transferred to England and Wales in pursuance of a warrant issued under the Repatriation of Prisoners Act 1984 includes a reference to a person who is detained in England and Wales in pursuance of a warrant under section 4A of that Act (warrant transferring responsibility for detention and release of offender).]

#### Textual Amendments

**F407** Words in s. 273(3) substituted for s. 273(3)(a)(b) (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 239 (with Sch. 27); S.I. 2020/1236, reg. 2

**F408** S. 273(5) inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 148, 153, Sch. 26 para. 73; S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(a)

## 274 Further provisions about references relating to transferred life prisoners

- (1) A reference to the High Court under section 273 is to be determined by a single judge of that court without an oral hearing.
- (2) In relation to a reference under that section, any reference to “the court” [<sup>F409</sup>in sections 321 to 323 of the Sentencing Code] is to be read as a reference to the High Court.
- (3) A person in respect of whom a reference has been made under section 273 may with the leave of the Court of Appeal appeal to the Court of Appeal against the decision of the High Court on the reference.
- (4) Section 1(1) of the Administration of Justice Act 1960 (c. 65) (appeal to [<sup>F410</sup>Supreme Court] from decision of High Court in a criminal cause or matter) and section 18(1) (a) of the Supreme Court Act 1981 (c. 54) (exclusion of appeal from High Court to Court of Appeal in a criminal cause or matter) do not apply in relation to a decision to which subsection (3) applies.
- (5) The jurisdiction conferred on the Court of Appeal by subsection (3) is to be exercised by the criminal division of that court.

*Status: Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Criminal Justice Act 2003, Part 12 is up to date with all changes known to be in force on or before 21 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. (See end of Document for details)*

- (6) Section 33(3) of the Criminal Appeal Act 1968 (c. 19) (limitation on appeal from criminal division of Court of Appeal) does not prevent an appeal to the [F410Supreme Court] under this section.
- (7) In relation to appeals to the Court of Appeal or the [F410Supreme Court] under this section, the Secretary of State may make an order containing provision corresponding to any provision in the Criminal Appeal Act 1968 (subject to any specified modifications).

#### Textual Amendments

**F409** Words in s. 274(2) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 240](#) (with [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

**F410** Words in s. 274 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(5\)](#); [S.I. 2009/1604](#), art. 2(d)

### 275 Duty to release certain life prisoners

- (1) Section 28 of the Crime (Sentences) Act 1997 (c. 43) (duty to release certain life prisoners) is amended as follows.
- (2) For subsection (1A) there is substituted—
- “(1A) This section applies to a life prisoner in respect of whom a minimum term order has been made; and any reference in this section to the relevant part of such a prisoner’s sentence is a reference to the part of the sentence specified in the order.”
- (3) In subsection (1B)(a)—
- (a) for the words from the beginning to “applies” there is substituted “this section does not apply to him”, and
- (b) for the words from “such an order” to “appropriate stage” there is substituted “a minimum term order has been made in respect of each of those sentences”.
- (4) After subsection (8) there is inserted—
- “(8A) In this section “minimum term order” means an order under—
- (a) subsection (2) of section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 (determination of minimum term in respect of life sentence that is not fixed by law), or
- (b) subsection (2) of section 269 of the Criminal Justice Act 2003 (determination of minimum term in respect of mandatory life sentence).”

### 276 Mandatory life sentences: transitional cases

Schedule 22 (which relates to the effect in transitional cases of mandatory life sentences) shall have effect.

### F411 277 Interpretation of Chapter 7

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**Status:** Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.

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#### Textual Amendments

**F411** S. 277 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

## CHAPTER 8

### OTHER PROVISIONS ABOUT SENTENCING

#### *Deferment of sentence*

#### **F412** 278 Deferment of sentence

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#### Textual Amendments

**F412** S. 278 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(5), 416(7), [Sch. 27](#)); S.I. 2020/1236, reg. 2

#### *Power to include drug treatment and testing requirement in certain orders in respect of young offenders*

#### **279 Drug treatment and testing requirement in action plan order or supervision order**

**F413** .....

#### Textual Amendments

**F413** S. 279 repealed (31.11.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 6, 149, 153, [Sch. 4 para. 94](#), [Sch. 28 Pt. 1](#) (with [Sch. 27 paras. 1 and 5](#)); S.I. 2009/3074, [art. 2\(p\)\(xv\)](#)

#### Commencement Information

**I30** S. 279 partly in force; s. 279 not in force at Royal Assent, see s. 336(3); s. 279 in force for certain purposes at 1.12.2004 by S.I. 2004/3033, [art. 2\(1\)\(2\)](#) (subject to [art. 2\(3\)\(4\)](#))

#### *Alteration of penalties for offences*

PROSPECTIVE

#### **280 Alteration of penalties for specified summary offences**

(1) The summary offences listed in Schedule 25 are no longer punishable with imprisonment.

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- (2) Schedule 26 (which contains amendments increasing the maximum term of imprisonment for certain summary offences from 4 months or less to 51 weeks) shall have effect.
- (3) This section does not affect the penalty for any offence committed before the commencement of this section.

VALID FROM 14/07/2022

### **281 Alteration of penalties for other summary offences**

- (1) Subsection (2) applies to any summary offence which—
  - (a) is an offence under a relevant enactment,
  - (b) is punishable with a maximum term of imprisonment of five months or less, and
  - (c) is not listed in Schedule 25 or Schedule 26.
- (2) The Secretary of State may by order amend any relevant enactment so as to—
  - (a) provide that any summary offence to which this subsection applies is no longer punishable with imprisonment, or
  - (b) increase to 51 weeks the maximum term of imprisonment to which a person is liable on conviction of the offence.
- (3) An order under subsection (2) may make such supplementary, incidental or consequential provision as the Secretary of State considers necessary or expedient, including provision amending any relevant enactment.
- (4) Subsection (5) applies to any summary offence which—
  - (a) is an offence under a relevant enactment, and
  - (b) is punishable with a maximum term of imprisonment of six months.
- (5) The maximum term of imprisonment to which a person is liable on conviction of an offence to which this subsection applies is, by virtue of this subsection, 51 weeks (and the relevant enactment in question is to be read as if it had been amended accordingly).
- (6) Neither of the following—
  - (a) an order under subsection (2), or
  - (b) subsection (5),
 affects the penalty for any offence committed before the commencement of that order or subsection (as the case may be).
- (7) In this section and section 282 “relevant enactment” means any enactment contained in—
  - (a) an Act passed before or in the same Session as this Act, or
  - (b) any subordinate legislation made before the passing of this Act.
- (8) In subsection (7) “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

**Status:** Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.  
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**Modifications etc. (not altering text)**

- C49** S. 281 applied (prosp.) by [Horserace Betting and Olympic Lottery Act 2004 \(c. 25\), ss. 10\(3\), 40](#)  
**C50** S. 281(5) modified (16.12.2010) by [The National Assembly for Wales Referendum \(Assembly Act Provisions\) \(Referendum Question, Date of Referendum Etc.\) Order 2010 \(S.I. 2010/2837\), arts. 1\(2\), Sch. 4 para. 1\(6\)](#)

VALID FROM 02/05/2022

**282 Increase in maximum term that may be imposed on summary conviction of offence triable either way**

- (1) In section 32 of the Magistrates' Courts Act 1980 (c. 43) (penalties on summary conviction for offences triable either way) in subsection (1) (offences listed in Schedule 1 to that Act) for “not exceeding 6 months” there is substituted “ not exceeding 12 months ”.
- (2) Subsection (3) applies to any offence triable either way which—
  - (a) is an offence under a relevant enactment,
  - (b) is punishable with imprisonment on summary conviction, and
  - (c) is not listed in Schedule 1 to the Magistrates' Courts Act 1980.
- (3) The maximum term of imprisonment to which a person is liable on summary conviction of an offence to which this subsection applies is by virtue of this subsection 12 months (and the relevant enactment in question is to be read as if it had been amended accordingly).
- (4) Nothing in this section affects the penalty for any offence committed before the commencement of this section.

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

- C51** S. 282 applied (prosp.) by [Horserace Betting and Olympic Lottery Act 2004 \(c. 25\), ss. 10\(3\), 60](#)  
**C52** S. 282(3) modified (8.11.2006) by [Violent Crime Reduction Act 2006 \(c. 38\), ss. 56\(4\), 66\(2\)\(c\)](#)

VALID FROM 02/05/2022

**283 Enabling powers: power to alter maximum penalties**

- (1) The Secretary of State may by order, in accordance with subsection (2) or (3), amend any relevant enactment which confers a power (however framed or worded) by subordinate legislation to make a person—
  - (a) as regards a summary offence, liable on conviction to a term of imprisonment;
  - (b) as regards an offence triable either way, liable on summary conviction to a term of imprisonment.

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- (2) An order made by virtue of paragraph (a) of subsection (1) may amend the relevant enactment in question so as to—
  - (a) restrict the power so that a person may no longer be made liable on conviction of a summary offence to a term of imprisonment, or
  - (b) increase to 51 weeks the maximum term of imprisonment to which a person may be made liable on conviction of a summary offence under the power.
- (3) An order made by virtue of paragraph (b) of that subsection may amend the relevant enactment in question so as to increase the maximum term of imprisonment to which a person may be made liable on summary conviction of an offence under the power to 12 months.
- (4) Schedule 27 (which amends the maximum penalties which may be imposed by virtue of certain enabling powers) shall have effect.
- (5) The power conferred by subsection (1) shall not apply to the enactments amended under Schedule 27.
- (6) An order under subsection (1) may make such supplementary, incidental or consequential provision as the Secretary of State considers necessary or expedient, including provision amending any relevant enactment.
- (7) None of the following—
  - (a) an order under subsection (1), or
  - (b) Schedule 27,
 affects the penalty for any offence committed before the commencement of that order or Schedule (as the case may be).
- (8) In subsection (1) “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).
- (9) In this section “relevant enactment” means any enactment contained in an Act passed before or in the same Session as this Act.

#### **284 Increase in penalties for drug-related offences**

- (1) Schedule 28 (increase in penalties for certain drug-related offences) shall have effect.
- (2) That Schedule does not affect the penalty for any offence committed before the commencement of that Schedule.

#### **285 Increase in penalties for certain driving-related offences**

- (1) In section 12A of the Theft Act 1968 (c. 60) (aggravated vehicle-taking), in subsection (4), for “five years” there is substituted “fourteen years”.
- (2) Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences) is amended in accordance with subsections (3) and (4).
- (3) In the entry relating to section 1 of the Road Traffic Act 1988 (c. 52) (causing death by dangerous driving), in column 4, for “10 years” there is substituted “14 years”.



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- (4) In the entry relating to section 3A of that Act (causing death by careless driving when under influence of drink or drugs), in column 4, for “10 years” there is substituted “14 years”.
- (5) Part I of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I. 10)) (prosecution and punishment of offences) is amended in accordance with subsections (6) and (7).
- (6) In the entry relating to Article 9 of the Road Traffic (Northern Ireland) Order 1995 (S.I. 1995/2994 (N.I. 18)) (causing death or grievous bodily injury by dangerous driving), in column 4, for “10 years” there is substituted “14 years”.
- (7) In the entry relating to Article 14 of that Order (causing death or grievous bodily injury by careless driving when under the influence of drink or drugs), in column 4, for “10 years” there is substituted “14 years”.
- (8) This section does not affect the penalty for any offence committed before the commencement of this section.

## **286 Increase in penalties for offences under section 174 of Road Traffic Act 1988**

- (1) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (c. 53) (prosecution and punishment of offences), in the entry relating to section 174 of the Road Traffic Act 1988 (c. 52) (false statements and withholding material information), for columns (3) and (4) there is substituted—

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“(a) Summarily	(a) 6 months or the statutory maximum or both
(b) On indictment	(b) 2 years or a fine or both.”

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- (2) Section 282(3) (increase in maximum term that may be imposed on summary conviction of offence triable either way) has effect in relation to the entry amended by subsection (1) as it has effect in relation to any other enactment contained in an Act passed before this Act.
- (3) This section does not apply in relation to any offence committed before the commencement of this section.

### *Firearms offences*

## **287 Minimum sentence for certain firearms offences**

After section 51 of the Firearms Act 1968 (c. 27) there is inserted the following section—

### **“51A Minimum sentence for certain offences under s. 5**

- (1) This section applies where—
  - (a) an individual is convicted of—

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- (i) an offence under section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) of this Act, or
  - (ii) an offence under section 5(1A)(a) of this Act, and
  - (b) the offence was committed after the commencement of this section and at a time when he was aged 16 or over.
- (2) The court shall impose an appropriate custodial sentence (or order for detention) for a term of at least the required minimum term (with or without a fine) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify its not doing so.
- (3) Where an offence is found to have been committed over a period of two or more days, or at some time during a period of two or more days, it shall be taken for the purposes of this section to have been committed on the last of those days.
- (4) In this section “appropriate custodial sentence (or order for detention)” means—
- (a) in relation to England and Wales—
    - (i) in the case of an offender who is aged 18 or over when convicted, a sentence of imprisonment, and
    - (ii) in the case of an offender who is aged under 18 at that time, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000;
  - (b) in relation to Scotland—
    - (i) in the case of an offender who is aged 21 or over when convicted, a sentence of imprisonment,
    - (ii) in the case of an offender who is aged under 21 at that time (not being an offender mentioned in sub-paragraph (iii)), a sentence of detention under section 207 of the Criminal Procedure (Scotland) Act 1995, and
    - (iii) in the case of an offender who is aged under 18 at that time and is subject to a supervision requirement, an order for detention under section 44, or sentence of detention under section 208, of that Act.
- (5) In this section “the required minimum term” means—
- (a) in relation to England and Wales—
    - (i) in the case of an offender who was aged 18 or over when he committed the offence, five years, and
    - (ii) in the case of an offender who was under 18 at that time, three years, and
  - (b) in relation to Scotland—
    - (i) in the case of an offender who was aged 21 or over when he committed the offence, five years, and
    - (ii) in the case of an offender who was aged under 21 at that time, three years.”

## **288 Certain firearms offences to be triable only on indictment**

In Part 1 of Schedule 6 to the Firearms Act 1968 (c. 27) (prosecution and punishment of offences) for the entries relating to offences under section 5(1) (possessing or

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distributing prohibited weapons or ammunition) and section 5(1A) (possessing or distributing other prohibited weapons) there is substituted—

“Section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c)	Possessing or distributing prohibited weapons or ammunition.	On indictment	10 years or a fine, or both.
Section 5(1)(b)	Possessing or distributing prohibited weapon designed for discharge of noxious liquid etc.	(a) Summary (b) On indictment	6 months or a fine of the statutory maximum, or both. 10 years or a fine or both.
Section 5(1A)(a)	Possessing or distributing firearm disguised as other object.	On indictment	10 years or a fine, or both.
Section 5(1A)(b), (c), (d), (e), (f) or (g)	Possessing or distributing other prohibited weapons.	(a) Summary (b) On indictment	6 months or a fine of the statutory maximum, or both. 10 years or a fine, or both.”

<sup>F414</sup>**289 Power to sentence young offender to detention in respect of certain firearms offences: England and Wales**

**Textual Amendments**  
**F414** S. 289 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

**290 Power to sentence young offender to detention in respect of certain firearms offences: Scotland**

- (1) The Criminal Procedure (Scotland) Act 1995 (c. 46) is amended as follows.
- (2) In section 49(3) (children’s hearing for purpose of obtaining advice as to treatment of child), at the end there is added “ except that where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968 it shall itself dispose of the case ”.
- (3) In section 208 (detention of children convicted on indictment), the existing provisions become subsection (1); and after that subsection there is added—
  - “(2) Subsection (1) does not apply where the circumstances are such as are mentioned in paragraphs (a) and (b) of section 51A(1) of the Firearms Act 1968.”.

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## 291 Power by order to exclude application of minimum sentence to those under 18

(1) The Secretary of State may by order—

<sup>F415</sup>(a) .....

[<sup>F416</sup>(aa) amend section 29(3)(a) of the Violent Crime Reduction Act 2006 by substituting for the word “16” the word 18,]

<sup>F417</sup>(b) .....

(c) amend subsection (3) of section 49 of the Criminal Procedure (Scotland) Act 1995 by repealing the exception to that subsection,

(d) repeal section 208(2) of that Act, and

(e) make such other provision as he considers necessary or expedient in consequence of, or in connection with, the provision made by virtue of paragraphs (a) to (d).

(2) The provision that may be made by virtue of subsection (1)(e) includes, in particular, provision amending or repealing any provision of an Act (whenever passed), including any provision of this Act.

### Textual Amendments

**F415** S. 291(1)(a) repealed (E.W.) (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 29** (with ss. 413(4), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F416** S. 291(1)(aa) inserted (6.4.2007) by [Violent Crime Reduction Act 2006 \(c. 38\)](#), ss. 49, 66(2), **Sch. 1 para. 9(7)**; S.I. 2007/858, **art. 2(g)**

**F417** S. 291(1)(b) repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

### Modifications etc. (not altering text)

**C53** S. 291 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 \(c. 9\)](#), s. 5(2)(3), **Sch. 2 para. 130**; S.I. 2012/1236, reg. 2

**C54** S. 291(1) modified in part (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

## 292 Sentencing for firearms offences in Northern Ireland

<sup>F418</sup> .....

### Textual Amendments

**F418** S. 292 repealed (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702 \(N.I. 3\)\)](#), arts. 1, 82(2), **Sch. 8** (with **art. 81**); S.R. 2005/4, **art. 3** (with arts. 4-7)

## 293 Increase in penalty for offences relating to importation or exportation of certain firearms

(1) The Customs and Excise Management Act 1979 (c. 2) is amended as follows.

(2) In section 50 (penalty for improper importation of goods), for subsection (5A) there is substituted—

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“(5A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
- (c) any such offence committed in connection with the prohibition contained in section 20 of the Forgery and Counterfeiting Act 1981, subsection (4)(b) above shall have effect as if for the words “7 years” there were substituted the words “10 years”.

(3) In section 68 (offences in relation to exportation of prohibited or restricted goods) for subsection (4A) there is substituted—

“(4A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or
- (c) any such offence committed in connection with the prohibition contained in section 21 of the Forgery and Counterfeiting Act 1981, subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “10 years”.

(4) In section 170 (penalty for fraudulent evasion of duty, etc), for subsection (4A) there is substituted—

“(4A) In the case of—

- (a) an offence under subsection (2) or (3) above committed in Great Britain in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in section 5(1)(a), (ab), (aba), (ac), (ad), (ae), (af) or (c) or (1A)(a) of the Firearms Act 1968,
- (b) any such offence committed in Northern Ireland in connection with a prohibition or restriction on the importation or exportation of any weapon or ammunition that is of a kind mentioned in Article 6(1)(a), (ab), (ac), (ad), (ae) or (c) or (1A)(a) of the Firearms (Northern Ireland) Order 1981, or

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- (c) any such offence committed in connection with the prohibitions contained in sections 20 and 21 of the Forgery and Counterfeiting Act 1981,  
 subsection (3)(b) above shall have effect as if for the words “7 years” there were substituted the words “ 10 years ”.”
- (5) This section does not affect the penalty for any offence committed before the commencement of this section.

*Offenders transferred to mental hospital*

**294 Duration of directions under Mental Health Act 1983 in relation to offenders**

- (1) Section 50 of the Mental Health Act 1983 (c. 20) (further provisions as to prisoners under sentence) is amended as follows.
- (2) In subsection (1), for “the expiration of that person’s sentence” there is substituted “his release date”.
- (3) For subsections (2) and (3) there is substituted—
- “(2) A restriction direction in the case of a person serving a sentence of imprisonment shall cease to have effect, if it has not previously done so, on his release date.
- (3) In this section, references to a person’s release date are to the day (if any) on which he would be entitled to be released (whether unconditionally or on licence) from any prison or other institution in which he might have been detained if the transfer direction had not been given; and in determining that day there shall be disregarded—
- (a) any powers that would be exercisable by the Parole Board if he were detained in such a prison or other institution, and
- (b) any practice of the Secretary of State in relation to the early release under discretionary powers of persons detained in such a prison or other institution.”.

**295 Access to Parole Board for certain patients serving prison sentences**

In section 74 of the Mental Health Act 1983 (restricted patients subject to restriction directions) after subsection (5) there is inserted—

- “(5A) Where the tribunal have made a recommendation under subsection (1)(b) above in the case of a patient who is subject to a restriction direction or a limitation direction—
- (a) the fact that the restriction direction or limitation direction remains in force does not prevent the making of any application or reference to the Parole Board by or in respect of him or the exercise by him of any power to require the Secretary of State to refer his case to the Parole Board, and
- (b) if the Parole Board make a direction or recommendation by virtue of which the patient would become entitled to be released (whether unconditionally or on licence) from any prison or other institution in which he might have been detained if he had not been removed to

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hospital, the restriction direction or limitation direction shall cease to have effect at the time when he would become entitled to be so released.”

## **296 Duration of directions under Mental Health (Northern Ireland) Order 1986 in relation to offenders**

- (1) Article 56 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/ 595 (N.I. 4)) (further provisions as to prisoners under sentence) is amended as follows.
- (2) In paragraph (1), for “the expiration of that person’s sentence” there is substituted “his release date”.
- (3) For paragraphs (2) and (3) there is substituted—
  - “(2) A restriction direction in the case of a person serving a sentence of imprisonment shall cease to have effect, if it has not previously done so, on his release date.
  - (3) In this Article, references to a person’s release date are to the day (if any) on which he would be entitled to be released (whether unconditionally or on licence) from any prison or juvenile justice centre in which he might have been detained if the transfer direction had not been given; and in determining that day any powers that would be exercisable by the Sentence Review Commissioners or the Life Sentence Review Commissioners if he were detained in such a prison or juvenile justice centre shall be disregarded.”

## **297 Access to Sentence Review Commissioners and Life Sentence Review Commissioners for certain Northern Ireland patients**

In Article 79 of the Mental Health (Northern Ireland) Order 1986 (restricted patients subject to restriction directions) after paragraph (5) there is inserted—

- “(5A) Where the tribunal have made a recommendation under paragraph (1)(b) in the case of a patient who is subject to a restriction direction—
- (a) the fact that the restriction direction remains in force does not prevent—
    - (i) the making of any application or reference to the Life Sentence Review Commissioners by or in respect of him or the exercise by him of any power to require the Secretary of State to refer his case to those Commissioners, or
    - (ii) the making of any application by him to the Sentence Review Commissioners, and
  - (b) if—
    - (i) the Life Sentence Review Commissioners give a direction by virtue of which the patient would become entitled to be released (whether unconditionally or on licence) from any prison or juvenile justice centre in which he might have been detained if the transfer direction had not been given, or
    - (ii) the Sentence Review Commissioners grant a declaration by virtue of which he would become so entitled,
- the restriction direction shall cease to have effect at the time at which he would become so entitled.”

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PROSPECTIVE

*Term of detention and training order*

**<sup>F419</sup>298 Term of detention and training order**

.....

**Textual Amendments**

**F419** S. 298 repealed (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 28](#) (with ss. 413(4)(5), 416(7), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

*Disqualification from working with children*

**299 Disqualification from working with children**

Schedule 30 (which contains amendments of Part 2 of the Criminal Justice and Court Services Act 2000 (c. 43) relating to disqualification orders under that Part) shall have effect.

*Fine defaulters*

**300 Power to impose unpaid work requirement [<sup>F420</sup>curfew requirement or attendance centre requirement] on fine defaulter**

- (1) Subsection (2) applies in any case where, in respect of a person aged 16 or over, a magistrates' court—
  - (a) has power under Part 3 of the Magistrates' Courts Act 1980 (c. 43) to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)), or
  - (b) would, but for [<sup>F421</sup>section 227 of the Sentencing Code] (restrictions on custodial sentences for persons under 18), have power to issue such a warrant for such default.
- (2) The magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offender), order the person in default to comply with—
  - (a) an unpaid work requirement (as defined by [<sup>F422</sup>paragraph 1 of Schedule 9 to the Sentencing Code]), or
  - (b) a curfew requirement (as defined by [<sup>F423</sup>paragraph 9 of that Schedule]) [<sup>F424</sup>, or
  - (c) in a case where the person is aged under 25, an attendance centre requirement (as defined by [<sup>F425</sup>paragraph 27 of that Schedule])
- (3) In this Part “default order” means an order under subsection (2).



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- (4) [<sup>F426</sup>Section 207(5) and (6) of the Sentencing Code and paragraph 10(3) of Schedule 9 to that Code] (which relate to electronic monitoring) have effect in relation to a default order as they have effect in relation to a community order.
- (5) Where a magistrates' court has power to make a default order, it may, if it thinks it expedient to do so, postpone the making of the order until such time and on such conditions (if any) as it thinks just.
- [<sup>F427</sup>(6) The following provisions of the Sentencing Code have effect in relation to default orders as they have effect in relation to community orders, but subject to the modifications contained in Schedule 31 to this Act—
- sections 208(13), 210, 212 to 216, 394 and 395 (further provisions about community orders);
  - Schedule 9 (community orders and suspended sentence orders: requirements);
  - Schedule 10 (breach, revocation or amendment of community order);
  - Schedule 11 (transfer of community orders to Scotland or Northern Ireland).]
- (7) Where a default order has been made for default in paying any sum—
- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect, and
  - (b) on payment of a part of the sum to any such person, the total number of hours or days to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (8) In calculating any reduction required by subsection (7)(b), any fraction of a day or hour is to be disregarded.

#### Textual Amendments

- F420** Words in s. 300 heading inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 40(2), 153** (with **Sch. 27 para. 13(2)**); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 20
- F421** Words in s. 300(1)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 241(2)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F422** Words in s. 300(2)(a) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 241(3)(a)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F423** Words in s. 300(2)(b) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 241(3)(b)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F424** S. 300(2)(c) and word inserted (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 40(3), 153** (with **Sch. 27 para. 13(2)**); S.I. 2008/1586, **art. 2(1)**, Sch. 1 para. 20
- F425** Words in s. 300(2)(c) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 241(3)(c)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F426** Words in s. 300(4) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 241(4)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2
- F427** S. 300(6) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 241(5)** (with **Sch. 24 para. 447, Sch. 27**); S.I. 2020/1236, reg. 2

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

- C55** S. 300 restricted (prosp.) by Education and Skills Act 2008 (c. 25), **ss. 56-58, 173**

#### Commencement Information

- I31** S. 301 partly in force; s. 301 not in force at Royal Assent, see s. 336(3); s. 301(5) in force at 7.3.2005 by S.I. 2005/373, **art. 2**

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### 301 Fine defaulters: driving disqualification

- (1) Subsection (2) applies in any case where a magistrates' court—
- (a) has power under Part 3 of the Magistrates' Courts Act 1980 (c. 43) to issue a warrant of commitment for default in paying a sum adjudged to be paid by a conviction (other than a sum ordered to be paid under section 6 of the Proceeds of Crime Act 2002 (c. 29)), or
  - (b) would, but for <sup>F428</sup>[section 227 of the Sentencing Code] (restrictions on custodial sentences for persons under 18), have power to issue such a warrant for such default.
- (2) The magistrates' court may, instead of issuing a warrant of commitment or, as the case may be, proceeding under section 81 of the Magistrates' Courts Act 1980 (enforcement of fines imposed on young offenders), order the person in default to be disqualified, for such period not exceeding twelve months as it thinks fit, for holding or obtaining a driving licence.
- (3) Where an order has been made under subsection (2) for default in paying any sum—
- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect, and
  - (b) on payment of part of the sum to any such person, the total number of weeks or months to which the order relates is to be taken to be reduced by a proportion corresponding to that which the part paid bears to the whole sum.
- (4) In calculating any reduction required by subsection (3)(b) any fraction of a week or month is to be disregarded.
- (5) The Secretary of State may by order amend subsection (2) by substituting, for the period there specified, such other period as may be specified in the order.
- (6) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce—
- (a) any such licence held by him <sup>F429</sup>...; or
  - (b) in the case where he holds a Community licence (within the meaning of Part 3 of the Road Traffic Act 1988 (c. 52)), his Community licence <sup>F430</sup>....
- (7) In this section—
- “driving licence” means a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988;
- <sup>F431</sup>...

#### Textual Amendments

- F428** Words in s. 301(1)(b) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 242](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F429** Words in s. 301(6)(a) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 3 para. 80\(2\)\(a\)](#), [Sch. 7\(4\)](#); [S.I. 2015/560](#), art. 3 (with arts. 4-9)
- F430** Words in s. 301(6)(b) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 3 para. 80\(2\)\(b\)](#), [Sch. 7\(4\)](#); [S.I. 2015/560](#), art. 3 (with arts. 4-9)
- F431** Words in s. 301(7) repealed (8.6.2015) by [Road Safety Act 2006 \(c. 49\)](#), s. 61(1)(10), [Sch. 3 para. 80\(3\)](#), [Sch. 7\(4\)](#); [S.I. 2015/560](#), art. 3 (with arts. 4-9)

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#### Commencement Information

**I32** S. 301 partly in force; s. 301 not in force at Royal Assent, see s. 336(3); s. 301(5) in force at 7.3.2005 by S.I. 2005/373, **art. 2**

## CHAPTER 9

### SUPPLEMENTARY

#### 302 Execution of process between England and Wales and Scotland

Section 4 of the Summary Jurisdiction (Process) Act 1881 (c. 24) (execution of process of English and Welsh courts in Scotland) applies to any process issued by a magistrates' court under—

[<sup>F432</sup>section 256AC(1) or (3),  
section 256C(1) or (3),]

<sup>F433</sup>  
...

<sup>F433</sup>  
...

<sup>F433</sup>  
...

<sup>F433</sup>  
...

[<sup>F434</sup>paragraph 8(1) or 10(5) of Schedule 19A,]

as it applies to process issued under the Magistrates' Courts Act 1980 by a magistrates' court.

#### Textual Amendments

**F432** Words in s. 302 inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 24(2)** (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(u)

**F433** Words in s. 302 repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), **Sch. 27**); S.I. 2020/1236, reg. 2

**F434** Words in s. 302 inserted (1.2.2015) by Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 3 para. 24(4)** (with **Sch. 7 para. 2**); S.I. 2015/40, art. 2(u)

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

**C56** S. 302 modified in part (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

#### Commencement Information

**I33** S. 302 wholly in force at 4.4.2005; s. 302 not in force at Royal Assent, see s. 336(3); s. 302 in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 302 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1), Sch. 1 para. 21** (subject to **art. 2(2), Sch. 2**)

#### 303 Sentencing: repeals

The following enactments (which are superseded by the provisions of this Part) shall cease to have effect—

- (a) Part 2 of the Criminal Justice Act 1991 (c. 53) (early release of prisoners),

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- (b) in the Crime (Sentences) Act 1997 (c. 43)—
  - (i) section 29 (power of Secretary of State to release life prisoners to whom section 28 of that Act does not apply),
  - (ii) section 33 (transferred prisoners), and
  - (iii) sections 35 and 40 (fine defaulters),
- (c) sections 80 and 81 of the Crime and Disorder Act 1998 (c. 37) (sentencing guidelines), and
- (d) in the Sentencing Act—
  - (i) Chapter 3 of Part 4 (community orders available only where offender 16 or over),
  - (ii) section 85 (sexual or violent offences: extension of custodial term for licence purposes),
  - (iii) sections 87 and 88 (remand in custody),
  - (iv) section 109 (life sentence for second serious offence), and
  - (v) Chapter 5 of Part 5 (suspended sentences).

#### Commencement Information

**I34** S. 303 partly in force; s. 303(b)(i)(ii) in force at 18.12.2003 see s. 336(2); s. 303(a)(c)(d) in force at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 22](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 304 Amendments relating to sentencing

Schedule 32 (which contains amendments related to the provisions of this Part) shall have effect.

#### Commencement Information

**I35** S. 304 partly in force; s. 304 in force for certain purposes at 18.12.2003, see s. 336(2); s. 304 in force for certain purposes at 22.1.2004 by [S.I. 2004/81](#), [art. 3](#); s. 304 in force for certain purposes at 26.1.2004 by [S.I. 2003/3282](#), [art. 2](#), [Sch.](#); s. 304 in force for certain purposes at 4.4.2005 by [S.I. 2005/950](#), [art. 2\(1\)](#), [Sch. 1 para. 23](#) (subject to [art. 2\(2\)](#), [Sch. 2](#))

### 305 Interpretation of Part 12

(1) In this Part, except where the contrary intention appears—

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**F435**  
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**F435**  
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“associated”, in relation to offences, is to be read in accordance with <sup>[F437]</sup>section 400 of the Sentencing Code];

“attendance centre” has the meaning given by section 221(2);

**F435**  
...

“community order” has the meaning given by <sup>[F438]</sup>section 200 of the Sentencing Code];

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F435  
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“court” (without more), except in Chapter 7, does not include a service court<sup>F439</sup>, but this does not apply where a contrary intention appears from any provision of the Armed Forces Act 2006;]

“curfew requirement”, in relation to a community order,<sup>F440</sup> ... or suspended sentence order, has the meaning given by [<sup>F441</sup>paragraph 9(1) of Schedule 9 to the Sentencing Code];

“custodial sentence” has the meaning given by [<sup>F442</sup>section 222 of the Sentencing Code];

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“default order” has the meaning given by section 300(3);

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“licence” means a licence under Chapter 6;

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[<sup>F445</sup>“the PCC(S)A 2000 ” means the Powers of Criminal Courts (Sentencing) Act 2000;]

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“sentence of imprisonment” does not include a committal—

- (a) in default of payment of any sum of money,
- (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 references to sentencing an offender to imprisonment are to be read accordingly;

“the Sentencing Act” means the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);

[<sup>F446</sup>“service court” means—

- (a) the Court Martial;
- (b) the Summary Appeal Court;
- (c) the Service Civilian Court;
- (d) the Court Martial Appeal Court; or
- (e) the Supreme Court on an appeal brought from the Court Martial Appeal Court;]

F436  
...

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“suspended sentence” and “suspended sentence order” have the meaning given by [F447 section 286 of the Sentencing Code];

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...

“youth offending team” means a team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

[F448(1A) In this Part any reference to want of sufficient distress to satisfy a sum includes a reference to circumstances where—

- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person's goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).]

(2) For the purposes of any provision of this Part which requires the determination of the age of a person by the court or the Secretary of State, his age is to be taken to be that which it appears to the court or (as the case may be) the Secretary of State to be after considering any available evidence.

(3) Any reference in this Part to an offence punishable with imprisonment is to be read without regard to any prohibition or restriction imposed by or under any Act on the imprisonment of young offenders.

F449(4) .....

#### Textual Amendments

**F435** Words in s. 305(1) omitted (1.12.2020) by virtue of Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(2)** (with Sch. 27); S.I. 2020/1236, reg. 2

**F436** Words in s. 305(1) omitted (1.2.2015) by virtue of Offender Rehabilitation Act 2014 (c. 11), s. 22(1), **Sch. 5 para. 6(3)** (with Sch. 7 para. 7); S.I. 2015/40, art. 2(v)

**F437** Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(3)** (with Sch. 27); S.I. 2020/1236, reg. 2

**F438** Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(4)** (with Sch. 27); S.I. 2020/1236, reg. 2

**F439** S. 305(1): words in definition of "court" inserted (28.3.2009 for certain purposes and otherwise 31.10.2009) by Armed Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 231(a)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

**F440** Words in s. 305(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 37(c)**; S.I. 2012/2906, art. 2(h)

**F441** Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(5)** (with Sch. 27); S.I. 2020/1236, reg. 2

**F442** Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(6)** (with Sch. 27); S.I. 2020/1236, reg. 2

**F443** Words in s. 305(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 37(a)**; S.I. 2012/2906, art. 2(h)

**F444** Words in s. 305(1) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 37(b)**; S.I. 2012/2906, art. 2(h)

**F445** Words in s. 305(1) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(8)** (with Sch. 27); S.I. 2020/1236, reg. 2

**F446** S. 305(1): definition of "service court" substituted (28.3.2009 for certain purposes and otherwise 31.10.2009) for definitions of "service court" and "service disciplinary proceedings" by Armed

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Forces Act 2006 (c. 52), ss. 378(1), 383, **Sch. 16 para. 231(b)**; S.I. 2009/812, **art. 3** (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, **art. 4**

**F447** Words in s. 305(1) substituted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 243(7)** (with Sch. 27); S.I. 2020/1236, reg. 2

**F448** S. 305(1A) inserted (6.4.2014) by Tribunals, Courts and Enforcement Act 2007 (c. 15), s. 148, **Sch. 13 para. 155** (with s. 89) (as amended (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), ss. 110(11), 151(1) (with **Sch. 15**); S.I. 2012/2906, **art. 2(d)**); S.I. 2014/768, **art. 2(1)(b)**

**F449** S. 305(4) repealed (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 28** (with ss. 413(4)(5), 416(7), Sch. 27); S.I. 2020/1236, reg. 2

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

**C57** S. 305 modified in part (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

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**Commencement Information**

**I36** S. 305 wholly in force at 4.4.2005; s. 305 not in force at Royal Assent, see s. 336(3); s. 305(1)-(3) in force for certain purposes at 26.1.2004 by S.I. 2003/3282, **art. 2, Sch.**; s. 305 in force in so far as not already in force at 4.4.2005 by S.I. 2005/950, **art. 2(1)**, Sch. 1 para. 24 (subject to art. 2(2), Sch. 2)

**Status:**

Point in time view as at 30/04/2021. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Criminal Justice Act 2003, Part 12 is up to date with all changes known to be in force on or before 21 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.