



Criminal Justice Act 2003

2003 CHAPTER 44

PART 12

SENTENCING

CHAPTER 3

PRISON SENTENCES OF LESS THAN 12 MONTHS

Intermittent custody

183 Intermittent custody

- (1) A court may, when passing a sentence of imprisonment for a term complying with subsection (4)—
 - (a) specify the number of days that the offender must serve in prison under the sentence before being released on licence for the remainder of the term, and
 - (b) by order—
 - (i) specify periods during which the offender is to be released temporarily on licence before he has served that number of days in prison, and
 - (ii) require any licence to be granted subject to conditions requiring the offender's compliance during the licence periods with one or more requirements falling within section 182(1) and specified in the order.
- (2) In this Part “intermittent custody order” means an order under subsection (1)(b).
- (3) In this Chapter—

“licence period”, in relation to a term of imprisonment to which an intermittent custody order relates, means any period during which the offender is released on licence by virtue of subsection (1)(a) or (b)(i);

Status: This is the original version (as it was originally enacted).

“the number of custodial days”, in relation to a term of imprisonment to which an intermittent custody order relates, means the number of days specified under subsection (1)(a).

- (4) The term of the sentence—
 - (a) must be expressed in weeks,
 - (b) must be at least 28 weeks,
 - (c) must not be more than 51 weeks in respect of any one offence, and
 - (d) must not exceed the maximum term permitted for the offence.
- (5) The number of custodial days—
 - (a) must be at least 14, and
 - (b) in respect of any one offence, must not be more than 90.
- (6) A court may not exercise its powers under subsection (1) unless the offender has expressed his willingness to serve the custodial part of the proposed sentence intermittently, during the parts of the sentence that are not to be licence periods.
- (7) Where a court exercises its powers under subsection (1) in respect of two or more terms of imprisonment that are to be served consecutively—
 - (a) the aggregate length of the terms of imprisonment must not be more than 65 weeks, and
 - (b) the aggregate of the numbers of custodial days must not be more than 180.
- (8) The Secretary of State may by order require a court, in specifying licence periods under subsection (1)(b)(i), to specify only—
 - (a) periods of a prescribed duration,
 - (b) periods beginning or ending at prescribed times, or
 - (c) periods including, or not including, specified parts of the week.
- (9) An intermittent custody order which specifies two or more requirements may, in relation to any requirement, refer to compliance within such licence period or periods, or part of a licence period, as is specified in the order.

184 Restrictions on power to make intermittent custody order

- (1) A court may not make an intermittent custody order unless it has been notified by the Secretary of State that arrangements for implementing such orders are available in the area proposed to be specified in the intermittent custody order and the notice has not been withdrawn.
- (2) The court may not make an intermittent custody order in respect of any offender unless—
 - (a) it has consulted an officer of a local probation board,
 - (b) it has received from the Secretary of State notification that suitable prison accommodation is available for the offender during the custodial periods, and
 - (c) it appears to the court that the offender will have suitable accommodation available to him during the licence periods.
- (3) In this section “custodial period”, in relation to a sentence to which an intermittent custody order relates, means any part of the sentence that is not a licence period.

185 Intermittent custody: licence conditions

- (1) Section 183(1)(b) has effect subject to section 218 and to the following provisions of Chapter 4 limiting the power to require the licence to contain particular requirements—
 - (a) section 199(3) (unpaid work requirement),
 - (b) section 201(3) and (4) (activity requirement),
 - (c) section 202(4) and (5) (programme requirement), and
 - (d) section 203(2) (prohibited activity requirement).
- (2) Subsections (3) to (5) of section 182 have effect in relation to an intermittent custody order as they have effect in relation to a custody plus order.

186 Further provisions relating to intermittent custody

- (1) Section 21 of the 1952 Act (expenses of conveyance to prison) does not apply in relation to the conveyance to prison at the end of any licence period of an offender to whom an intermittent custody order relates.
- (2) The Secretary of State may pay to any offender to whom an intermittent custody order relates the whole or part of any expenses incurred by the offender in travelling to and from prison during licence periods.
- (3) In section 49 of the 1952 Act (persons unlawfully at large) after subsection (4) there is inserted—

“(4A) For the purposes of this section a person shall also be deemed to be unlawfully at large if, having been temporarily released in pursuance of an intermittent custody order made under section 183 of the Criminal Justice Act 2003, he remains at large at a time when, by reason of the expiry of the period for which he was temporarily released, he is liable to be detained in pursuance of his sentence.”
- (4) In section 23 of the Criminal Justice Act 1961 (c. 39) (prison rules), in subsection (3) for “The days” there is substituted “Subject to subsection (3A), the days” and after subsection (3) there is inserted—

“(3A) In relation to a prisoner to whom an intermittent custody order under section 183 of the Criminal Justice Act 2003 relates, the only days to which subsection (3) applies are Christmas Day, Good Friday and any day which under the Banking and Financial Dealings Act 1971 is a bank holiday in England and Wales.”
- (5) In section 1 of the Prisoners (Return to Custody) Act 1995 (c. 16) (remaining at large after temporary release) after subsection (1) there is inserted—

“(1A) A person who has been temporarily released in pursuance of an intermittent custody order made under section 183 of the Criminal Justice Act 2003 is guilty of an offence if, without reasonable excuse, he remains unlawfully at large at any time after becoming so at large by virtue of the expiry of the period for which he was temporarily released.”
- (6) In this section “the 1952 Act” means the Prison Act 1952 (c. 52).