



Criminal Justice Act 2003

2003 CHAPTER 44

PART 12

SENTENCING

CHAPTER 6

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

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).

Commencement Information

- II** 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](#))

Status: This version of this cross heading contains provisions that are prospective.
Changes to legislation: Criminal Justice Act 2003, Cross Heading: Persons liable to removal from the United Kingdom is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

PROSPECTIVE

[^{F1}259A 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
F1 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

[^{F2}(1) Where a fixed-term prisoner is liable to removal from the United Kingdom, the Secretary of State may remove the prisoner from prison under this section at any time after the prisoner has served the minimum pre-removal custodial period (whether or not the Board has directed the prisoner’s release under this Chapter).

- (2) The minimum pre-removal custodial period is the longer of—
 - (a) one half of the requisite custodial period, and
 - (b) the requisite custodial period less [^{F3}545 days].]

[^{F4}(2C) [^{F5}Subsection (1) does] do not apply in relation to a prisoner to whom section 247A applies.]

^{F6}(3)

^{F7}(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
 - [^{F8}(b) so long as remaining in the United Kingdom, and in the event of a return to the United Kingdom after removal, is liable to be detained in pursuance of his sentence.]

[^{F9}(4A) Where a person has been removed from prison under this section, a day on which the person has not spent any part of the day in prison or otherwise detained in pursuance of their sentence is not, unless the Secretary of State otherwise directs, to be included—

- (a) when determining for the purposes of any provision of this Chapter how much of their sentence they have (or would have) served, or
- (b) when determining for the purposes of section 244ZC(2), 244A(2)(b) or 246A(4)(b) the date of an anniversary of a disposal of a reference of the

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person’s case to the Board (so that the anniversary is treated as falling x days after the actual anniversary, where x is the number of days on which the person has not spent any part of the day in prison or otherwise detained in pursuance of their sentence).

(4B) Where—

- (a) before a prisoner’s removal from prison under this section their case had been referred to the Board under section 244ZB(3), 244ZC(2), 244A(2) or 246A(4), and
- (b) the person is removed from the United Kingdom before the Board has disposed of the reference,

the reference lapses upon the person’s removal from the United Kingdom (and paragraph 8 of Schedule 19B applies in the event of their return).]

^{F10}(5)

(6) The Secretary of State may by order—

- [^{F11}(a) amend the fraction for the time being specified in subsection (2)(a);
- (b) amend the time period for the time being specified in subsection (2)(b).]

^{F12}(7)

[^{F13}(8) Paragraphs 36 and 37 of Schedule 20B (transitional cases) make further provision about early removal of certain prisoners.]

[^{F14}(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

- F2** S. 260(1)(2) substituted for s. 260(1)-(2B) (28.6.2022) by Nationality and Borders Act 2022 (c. 36), ss. 47(3), 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 24 (with Sch. 2 para. 9)
- F3** Words in s. 260(2)(b) substituted (16.1.2024) by The Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2023 (S.I. 2023/1368), arts. 1(2), 2
- F4** S. 260(2C) inserted (26.2.2020) by Terrorist Offenders (Restriction of Early Release) Act 2020 (c. 3), ss. 7(5)(c), 10(4)
- F5** Words in s. 260(2C) substituted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), ss. 47(4), 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 24 (with Sch. 2 para. 9)
- F6** 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)
- F7** 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)
- F8** S. 260(4)(b) substituted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), ss. 47(5), 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 24 (with Sch. 2 para. 9)
- F9** S. 260(4A)(4B) inserted (28.6.2022) by Nationality and Borders Act 2022 (c. 36), ss. 47(6), 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 24 (with Sch. 2 para. 9)
- F10** S. 260(5) omitted (28.6.2022) by virtue of Nationality and Borders Act 2022 (c. 36), ss. 47(7), 87(1); S.I. 2022/590, regs. 1(2), 2, Sch. 1 para. 24 (with Sch. 2 para. 9)

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- F11** S. 260(6)(a)(b) substituted for s. 260(6)(a)-(c) (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\), ss. 47\(8\), 87\(1\)](#); S.I. 2022/590, regs. 1(2), 2, [Sch. 1 para. 24](#) (with Sch. 2 para. 9)
- F12** 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](#)
- F13** 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)
- F14** S. 260(9) inserted (26.2.2020) by [Terrorist Offenders \(Restriction of Early Release\) Act 2020 \(c. 3\), ss. 7\(5\)\(d\), 10\(4\)](#)

Commencement Information

- I2** 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](#))

^{F15}261 Removal under section 260 and subsequent return to UK: effect on sentence

Where a person—

- (a) has been removed from prison under section 260 on or after the day on which section 47 of the Nationality and Borders Act 2022 came into force,
- (b) has been removed from the United Kingdom following that removal from prison, and
- (c) returns to the United Kingdom,

this Chapter applies to the person with the modifications set out in Schedule 19B.]

Textual Amendments

- F15** S. 261 substituted (28.6.2022) by [Nationality and Borders Act 2022 \(c. 36\), ss. 47\(9\), 87\(1\)](#); S.I. 2022/590, regs. 1(2), 2, [Sch. 1 para. 24](#) (with Sch. 2 para. 9)

^{F16}262 Prisoners liable to removal from United Kingdom: modifications of Criminal Justice Act 1991

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Textual Amendments

- F16** 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)

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Changes and effects yet to be applied to :

- s. 259 cross-heading substituted by [2008 c. 4 s. 34\(10\)\(a\)](#) (This amendment not applied to legislation.gov.uk. S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))
- s. 260 heading substituted by [2008 c. 4 s. 34\(10\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))
- specified provision(s) amendment to earlier commencing SI 2012/2574, Sch. by [S.I. 2012/2761 art. 2](#)

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

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

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

- s. 256A(1)-(1B) substituted for s. 256A(1) by [2015 c. 2 s. 9\(6\)\(a\)](#)
- s. 256A(4A)(4B) inserted by [2015 c. 2 s. 9\(6\)\(f\)](#)
- s. 256A(5)(6) substituted for s. 256A(5) by [2015 c. 2 s. 9\(6\)\(g\)](#)
- s. 256AZA inserted by [2015 c. 2 s. 10\(1\)](#)
- s. 257(3) inserted by [2006 c. 48 s. 34\(4\)](#)
- s. 258(1A) inserted by [2006 c. 48 s. 34\(5\)](#)
- s. 260(4)(aa) substituted for word by [2008 c. 4 s. 34\(7\)\(b\)](#) (This amendment not applied to legislation.gov.uk. S. 34(2)(4)(b)(7)(10) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(b); S.I. 2012/2906, art. 2(d))
- Sch. 15B para. 49A omitted by [S.I. 2019/780 reg. 26\(4\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 15B para. 49B omitted by [S.I. 2019/780 reg. 26\(4\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Regs. 21, 25, 26, 27, 30 revoked (1.12.2020) by 2020 c. 17, Sch. 28; S.I. 2020/1236, reg. 2)
- Sch. 20B para. 34(6)(7) substituted for Sch. 20B para. 34(6) by [2015 c. 2 Sch. 3 para. 10](#)