
Changes to legislation: Criminal Justice Act 2003, SCHEDULE 22 is up to date with all changes known to be in force on or before 19 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

SCHEDULES

SCHEDULE 22

Section 276

MANDATORY LIFE SENTENCES: TRANSITIONAL CASES

Interpretation

- 1 In this Schedule—
- “the commencement date” means the day on which section 269 comes into force;
 - “the early release provisions” means the provisions of section 28(5) to (8) of the Crime (Sentences) Act 1997 (c. 43);
 - “existing prisoner” means a person serving one or more mandatory life sentences passed before the commencement date (whether or not he is also serving any other sentence);
 - “life sentence” means a sentence of imprisonment for life or custody for life passed in England and Wales or by a court-martial outside England and Wales;
 - “mandatory life sentence” means a life sentence passed in circumstances where the sentence was fixed by law.

Existing prisoners notified by Secretary of State

- 2 Paragraph 3 applies in relation to any existing prisoner who, in respect of any mandatory life sentence, has before the commencement date been notified in writing by the Secretary of State (otherwise than in a notice that is expressed to be provisional) either—
- (a) of a minimum period which in the view of the Secretary of State should be served before the prisoner’s release on licence, or
 - (b) that the Secretary of State does not intend that the prisoner should ever be released on licence.
- 3 (1) On the application of the existing prisoner, the High Court must, in relation to the mandatory life sentence, either—
- (a) order that the early release provisions are to apply to him as soon as he has served the part of the sentence which is specified in the order, which in a case falling within paragraph 2(a) must not be greater than the notified minimum term, or
 - (b) in a case falling within paragraph 2(b), order that the early release provisions are not to apply to the offender.
- (2) In a case falling within paragraph 2(a), no application may be made under this paragraph after the end of the notified minimum term.
- (3) Where no application under this paragraph is made in a case falling within paragraph 2(a), the early release provisions apply to the prisoner in respect of the sentence as

Changes to legislation: Criminal Justice Act 2003, SCHEDULE 22 is up to date with all changes known to be in force on or before 19 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

soon as he has served the notified minimum term (or, if he has served that term before the commencement date but has not been released, from the commencement date).

- (4) In this paragraph “the notified minimum term” means the minimum period notified as mentioned in paragraph 2(a), or where the prisoner has been so notified on more than one occasion, the period most recently so notified.
- 4 (1) In dealing with an application under paragraph 3, the High Court must have regard to—
- (a) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it,
 - (b) where the court is satisfied that, if the prisoner had been sentenced to a term of imprisonment, the length of his sentence would have been treated by section 67 of the Criminal Justice Act 1967 (c. 80) as being reduced by a particular period, the effect which that section would have had if he had been sentenced to a term of imprisonment, and
 - (c) the length of the notified minimum term or, where a notification falling within paragraph 2(b) has been given to the prisoner, to the fact that such a notification has been given.
- (2) In considering under sub-paragraph (1) the seriousness of the offence, or of the combination of the offence and one or more offences associated with it, the High Court must have regard to—
- (a) the general principles set out in Schedule 21, and
 - (b) any recommendation made to the Secretary of State by the trial judge or the Lord Chief Justice as to the minimum term to be served by the offender before release on licence.
- (3) In this paragraph “the notified minimum term” has the same meaning as in paragraph 3.

Existing prisoners not notified by Secretary of State

- 5 Paragraph 6 applies in relation to any existing prisoner who, in respect of any mandatory life sentence, has not before the commencement date been notified as mentioned in paragraph 2(a) or (b) by the Secretary of State.
- 6 The Secretary of State must refer the prisoner’s case to the High Court for the making by the High Court of an order under subsection (2) or (4) of section 269 in relation to the mandatory life sentence.
- 7 In considering under subsection (3) or (4) of section 269 the seriousness of an offence (or the combination of an offence and one or more offences associated with it) in a case referred to the High Court under paragraph 6, the High Court must have regard not only to the matters mentioned in subsection (5) of that section but also to any recommendation made to the Secretary of State by the trial judge or the Lord Chief Justice as to the minimum term to be served by the offender before release on licence.
- 8 In dealing with a reference under paragraph 6, the High Court—
- (a) may not make an order under subsection (2) of section 269 specifying a part of the sentence which in the opinion of the court is greater than that which, under the practice followed by the Secretary of State before December 2002, the Secretary of State would have been likely to notify as mentioned in paragraph 2(a), and

Changes to legislation: Criminal Justice Act 2003, SCHEDULE 22 is up to date with all changes known to be in force on or before 19 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

- (b) may not make an order under subsection (4) of section 269 unless the court is of the opinion that, under the practice followed by the Secretary of State before December 2002, the Secretary of State would have been likely to give the prisoner a notification falling within paragraph 2(b).

*Sentences passed on or after commencement date
in respect of offences committed before that date*

F19

Textual Amendments

- F1** Sch. 22 para. 9 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

F210

Textual Amendments

- F2** Sch. 22 para. 10 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

Proceedings in High Court

- 11 (1) An application under paragraph 3 or a reference under paragraph 6 is to be determined by a single judge of the High Court without an oral hearing.
- (2) In relation to such an application or reference, any reference to “the court” in section 269(2) to (5) and Schedule 21 is to be read as a reference to the High Court.

Giving of reasons

- 12 (1) Where the High Court makes an order under paragraph 3(1)(a) or (b), it must state in open court, in ordinary language, its reasons for deciding on the order made.
- (2) Where the order is an order under paragraph 3(1)(a) specifying a part of the sentence shorter than the notified minimum term the High Court must, in particular, state its reasons for departing from the notified minimum term.
- 13 Where the High Court makes an order under subsection (2) or (4) of section 269 on a reference under paragraph 6, subsection (2) of section 270 does not apply.

Right of appeal

- 14 (1) A person who has made an application under paragraph 3 or in respect of whom a reference has been made under paragraph 6 may with the leave of the Court of Appeal appeal to the Court of Appeal against the decision of the High Court on the application or reference.
- (2) Section 1(1) of the Administration of Justice Act 1960 (c. 65) (appeal to [F3Supreme 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

Changes to legislation: *Criminal Justice Act 2003, SCHEDULE 22 is up to date with all changes known to be in force on or before 19 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*

Court of Appeal in a criminal cause or matter) do not apply in relation to a decision to which sub-paragraph (1) applies.

- (3) The jurisdiction conferred on the Court of Appeal by this paragraph is to be exercised by the criminal division of that court.
- (4) 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 [F³Supreme Court] under this paragraph.
- (5) In relation to appeals to the Court of Appeal or the [F³Supreme Court] under this paragraph, 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

- F3** Words in Sch. 22 para. 14(2)(4)(5) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40(4), 148, [Sch. 9 para. 82\(6\)](#); S.I. 2009/1604, [art. 2\(d\)](#)

Review of minimum term on reference by Attorney General

- 15 Section 36 of the Criminal Justice Act 1988 (c. 33) applies in relation to an order made by the High Court under paragraph 3(1)(a) as it applies in relation to an order made by the Crown Court under section 269(2).

Modification of early release provisions

- 16 (1) In relation to an existing prisoner, section 28 of the Crime (Sentences) Act 1997 (c. 43) has effect subject to the following modifications.
- (2) Any reference to a life prisoner in respect of whom a minimum term order has been made includes a reference to—
 - (a) an existing prisoner in respect of whom an order under paragraph 3(1)(a) has been made, and
 - (b) an existing prisoner serving a sentence in respect of which paragraph 3(3) applies.
 - (3) Any reference to the relevant part of the sentence is to be read—
 - (a) in relation to a sentence in respect of which an order under paragraph 3(1)(a) has been made, as a reference to the part specified in the order, and
 - (b) in relation to a sentence in respect of which paragraph 3(3) applies, as a reference to the notified minimum term as defined by paragraph 3(4).
 - (4) In subsection (1B) (life prisoner serving two or more sentences), paragraph (a) is to be read as if it referred to each of the sentences being one—
 - (a) in respect of which a minimum term order or an order under paragraph 3(1)(a) has been made, or
 - (b) in respect of which paragraph 3(3) applies.
- 17 In section 34(1) of the Crime (Sentences) Act 1997 (c. 43) (interpretation of Chapter 2 of that Act), in the definition of “life prisoner”, the reference to a transferred prisoner as defined by section 273 of this Act includes a reference to an existing

Changes to legislation: Criminal Justice Act 2003, SCHEDULE 22 is up to date with all changes known to be in force on or before 19 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](#)

prisoner who immediately before the commencement date is a transferred life prisoner for the purposes of section 33 of that Act.

Transferred life prisoners

- 18 In relation to an existing prisoner who immediately before the commencement date is a transferred life prisoner for the purposes of section 33 of the Crime (Sentences) Act 1997, this Schedule is to be read as if—
- (a) any certificate under subsection (2) of that section were a notification falling within paragraph 2(a) of this Schedule, and
 - (b) references to any recommendation of the trial judge or the Lord Chief Justice were omitted.

Changes to legislation:

Criminal Justice Act 2003, SCHEDULE 22 is up to date with all changes known to be in force on or before 19 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.

[View outstanding changes](#)

Changes and effects yet to be applied to :

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

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

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

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

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