

# CRIMINAL JUSTICE AND COURTS ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1 – Criminal Justice

#### Release and recall of prisoners

#### *Section 12: Offence of remaining unlawfully at large after recall*

187. **Section 12** creates a new offence of remaining unlawfully at large following a recall to custody.
188. *Subsection (1)* inserts a new section 32ZA into the Crime (Sentences) Act 1997 to provide for it to be a criminal offence for recalled indeterminate sentence prisoners to remain unlawfully at large. The offence is committed once the offender has been notified of the recall and fails to take all necessary steps to return to prison unless they have a reasonable excuse. Subsection (2) of section 32ZA provides that an offender is treated as being notified of recall if written notification has been delivered to an appropriate address and the period specified in the notice has expired. Subsection (3) of section 32ZA defines an appropriate address as either an address at which the offender is permitted to stay or an address which is nominated under their licence. Subsection (4) of section 32ZA provides that an offender is also treated as being notified of their recall if their licence requires them to keep in contact with probation in accordance with instructions given by probation officers, they have failed to comply with an instruction and they have not complied with an instruction for at least 6 months.
189. Subsection (5) of section 32ZA provides that the offence of being unlawfully at large can be tried in either the magistrates' court or the Crown Court (an "either way" offence). The maximum penalty of 6 months which can be imposed by a magistrates' court will become 12 months when section 154(1) of the Criminal Justice Act 2003 is commenced (subsection (6) of section 32ZA). Section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, when brought into force, will remove the limit on the fine that can be imposed in the magistrates' court for this offence; however until that point any fine imposed by the magistrates' court may not exceed the statutory maximum (subsection (7) of section 32ZA).
190. *Subsection (2)* inserts a new section 255ZA into the Criminal Justice Act 2003 to provide for it to be a criminal offence for recalled determinate sentence prisoners to remain unlawfully at large and provides the same provisions as outlined in paragraphs 187 and 188 above.
191. *Subsection (3)* provides that the offence of remaining unlawfully at large after recall will apply to all those who are already unlawfully at large after the revocation of their licences. Therefore, on commencement, offenders who are already unlawfully at large will be committing this offence if they have been notified of the recall, the time in the notification expires and the offender has not, without reasonable excuse, taken all necessary steps to return to prison.