



# Terrorist Offenders (Restriction of Early Release) Act 2020

## 2020 CHAPTER 3

### *Consequential and transitional provision*

#### **6 Consequential amendments relating to transitional cases: England and Wales**

- (1) Schedule 20B to the Criminal Justice Act 2003 (modifications of release provisions in certain transitional cases) is amended as follows.
- (2) In paragraph 5 (duty to release on licence at two-thirds of sentence)—
  - (a) in sub-paragraph (1), after “paragraph 4 applies” insert “ (but to whom section 247A does not apply) ”;
  - (b) after sub-paragraph (3) insert—
    - “(4) Where section 247A applies to a person—
      - (a) to whom paragraph 4 also applies, and
      - (b) who is serving a section 85 extended sentence,it does so with the modifications set out in sub-paragraphs (5) and (6).
    - (5) Section 247A(7) applies to the person (despite subsection (6) of that section).
    - (6) References in section 247A to—
      - (a) the “appropriate custodial term” are to be read as references to the custodial term;
      - (b) the “requisite custodial period” are to be read as references to two-thirds of the custodial term.”
- (3) In paragraph 6(1) (duty to release on direction of Parole Board) after “paragraph 4 applies” insert “ (but to whom section 247A does not apply) ”.
- (4) In paragraph 15(2) (modification of section 247 for certain extended sentence prisoners under section 227 or 228) for “Section 247 (release of prisoner on licence)

---

**Changes to legislation:** There are currently no known outstanding effects for the Terrorist Offenders (Restriction of Early Release) Act 2020, Cross Heading: Consequential and transitional provision. (See end of Document for details)

---

applies to P” substitute “ If section 247 (release of prisoner on licence) applies to P, it applies ”.

- (5) In paragraph 17 (licence to remain in force for three-quarters of sentence)—
- (a) in sub-paragraph (1), after “244” insert “, 247A ”;
  - (b) after sub-paragraph (1) insert—
    - “(1A) But if section 247A would (disregarding this sub-paragraph) require the release on licence of a person to whom paragraph 16 applies at any time after the end of the period referred to in sub-paragraph (1)—
    - (a) that requirement does not apply, and
    - (b) it is instead the duty of the Secretary of State to release the person unconditionally.”;
  - (c) in sub-paragraph (3), for “(1) and (2)” substitute “ (1) to (2) ”.
- (6) In paragraph 19 (period for which licence to remain in force for section 85 extended sentence prisoners)—
- (a) in sub-paragraph (2), for the words from “the period found” to the end substitute “ the relevant period ”;
  - (b) after sub-paragraph (4) insert—
    - “(5) In sub-paragraph (2), “the relevant period”—
    - (a) in relation to a person released on licence under section 247A at any time after the end of the period of three-quarters of the custodial term, means the period found by adding—
      - (i) the proportion of the custodial term served before release, and
      - (ii) the extension period;
    - (b) in relation to any other case, means the period found by adding—
      - (i) three-quarters of the custodial term, and
      - (ii) the extension period.”

## 7 Other consequential amendments: England and Wales

- <sup>F1</sup>(1) . . . . .
- (2) The Criminal Justice Act 2003 is amended in accordance with subsections (3) to (8).
- (3) In section 256AA (supervision after end of sentence of prisoners serving less than 2 years) in subsection (1), after paragraph (ba) (but before the “or” at the end of it) insert—
- “(bb) section 247A applied to the offender in respect of the sentence.”.
- (4) In section 256B (supervision after release of certain young offenders serving less than 12 months) after subsection (1A) insert—
- “(1B) But this section does not apply where a person (“the offender”) is released from a sentence in respect of which section 247A applied to the offender.”
- (5) In section 260 (early removal of prisoners liable to removal from the United Kingdom) —
- (a) in subsection (1), for “subsection (2)” substitute “ subsections (2) and (2C) ”;

---

**Changes to legislation:** There are currently no known outstanding effects for the Terrorist Offenders (Restriction of Early Release) Act 2020, Cross Heading: Consequential and transitional provision. (See end of Document for details)

---

- (b) in subsection (2A), at the beginning insert “ Subject to subsection (2C), ”;
  - (c) after subsection (2B) insert—
    - “(2C) Subsections (1) and (2A) do not apply in relation to a prisoner to whom section 247A applies.”;
  - (d) at the end insert—
    - “(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.”
- (6) In section 261 (re-entry into the United Kingdom of offender removed from prison early)—
- (a) in subsection (5)(b), for “or 247” substitute “ , 247 or 247A ”;
  - (b) in subsection (6), after the definition of “outstanding custodial period”, insert—
    - ““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);”.
- (7) In section 264 (release on licence of prisoners serving consecutive sentences)—
- (a) in subsection (6), after ““custodial period”” insert “ , except if subsection (6A) applies, ”;
  - (b) after that subsection insert—
    - “(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 228, or a sentence imposed under section 236A, 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.”
- (8) In section 268 (interpretation of release provisions) in subsection (1A), after “ “the requisite custodial period” means” insert “ (except where it has the meaning given by section 247A(8)) ”.
- (9) In section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (power to change test for discretionary release)—
- (a) in subsection (2)—
    - (i) after paragraph (ba) (but before the “or” at the end of it) insert—
      - “(bb) a terrorist prisoner,”;
    - (ii) in paragraph (c), after “a person” insert “ , other than a terrorist prisoner, ”;
  - (b) in subsection (3), after paragraph (b) insert—
    - “(ba) amend section 247A of the Criminal Justice Act 2003 (restricted eligibility for release on licence of terrorist prisoners);”;

*Changes to legislation: There are currently no known outstanding effects for the Terrorist Offenders (Restriction of Early Release) Act 2020, Cross Heading: Consequential and transitional provision. (See end of Document for details)*

- (c) in subsection (6)—
- (i) in the definitions of “extended sentence prisoner” and “section 236A prisoner”, after “a prisoner” insert “, other than a terrorist prisoner,”;
  - (ii) at the end insert—

““terrorist prisoner” means a prisoner to whom section 247A of the Criminal Justice Act 2003 applies (or would apply but for the prisoner’s release on licence).”

#### Textual Amendments

- F1** S. 7(1) 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

## 8 Transitional provision for terrorist prisoners subject to supervised release orders: Scotland

- (1) This section applies where—
- (a) a terrorist prisoner was sentenced before the coming into force of section 1AB of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (the “1993 Act”) (inserted by section 3), and
  - (b) the court, on passing sentence, made a supervised release order under section 209 of the Criminal Procedure (Scotland) Act 1995 (the “1995 Act”) in respect of the prisoner.
- (2) If the terrorist prisoner is not released under section 1AB of the 1993 Act until the end of the prisoner's sentence, the supervised release order is revoked on the prisoner's release.
- (3) If the Parole Board for Scotland recommends the release of the terrorist prisoner under section 1AB of the 1993 Act before the end of the prisoner's sentence—
- (a) the Scottish Ministers must release the prisoner unconditionally (despite section 1AB(4)), and
  - (b) the supervised release order applies in relation to the prisoner subject to the modifications in subsection (4).
- (4) Where the terrorist prisoner is released under subsection (3), the supervised release order has effect during the period—
- (a) beginning with the day on which the terrorist prisoner is released, and
  - (b) ending with whichever of the following is the earlier—
    - (i) the day on which the supervised release order would, but for section 3 and this section, have ceased to have effect, and
    - (ii) the end of the prisoner's sentence,
 and section 209 of the 1995 Act and the supervised release order are to be read accordingly.
- (5) Terms used in this section and defined for the purposes of section 1AB of the 1993 Act have the same meaning in this section as in that section.

---

**Changes to legislation:** There are currently no known outstanding effects for the Terrorist Offenders (Restriction of Early Release) Act 2020, Cross Heading: Consequential and transitional provision. (See end of Document for details)

---

## 9 Consequential amendments: Scotland

- (1) Section 11 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (duration of licence) is amended as follows.
- (2) In subsection (3)(a)—
  - (a) after “until” insert—
    - “(i) in the case of a person to whom section 1AB applies, the date on which, but for such release, the entire period specified in the prisoner's sentence (reckoned from the commencement of the sentence) has elapsed, and
    - (ii) in any other case,” and
  - (b) for “such release” substitute “ the release under section 3(1) ”.
- (3) After subsection (3) insert—

“(3ZA) Where a short-term prisoner is released on licence under section 1AB, the licence (unless revoked) remains in force until the entire period specified in the prisoner's sentence (reckoned from the commencement of the sentence) has elapsed.”

**Changes to legislation:**

There are currently no known outstanding effects for the Terrorist Offenders (Restriction of Early Release) Act 2020, Cross Heading: Consequential and transitional provision.