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**Changes to legislation:** There are currently no known outstanding effects for the Counter-Terrorism and Sentencing Act 2021, SCHEDULE 11. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 11

Section 33

#### RELEASE ON LICENCE OF REPATRIATED TERRORIST PRISONERS

- 1 The Schedule to the Repatriation of Prisoners Act 1984 is amended as follows.
- 2 In paragraph 2 (application of early release provisions), as it applies in relation to prisoners repatriated to England and Wales, after sub-paragraph (3A) insert—
- “(3B) If sub-paragraph (3D) or (3E) applies by virtue of an offence in relation to which a determinate sentence is to be served, Chapter 6 of Part 12 of the Criminal Justice Act 2003 applies to the prisoner as if that offence was within section 247A(2) of that Act (terrorist offences carrying restricted eligibility for release on licence).
- (3C) If sub-paragraph (3D) or (3E) applies by virtue of any offence, section 28 of the Offender Management Act 2007 applies to the prisoner as if that offence was within subsection (4A) of that section (terrorist offences in relation to which polygraph conditions can be included in release licence).
- (3D) This sub-paragraph applies if the warrant specifies that the offence or any of the offences in relation to which a sentence is to be served corresponds to an offence specified in Part 1 or 2 of Schedule 19ZA to the Criminal Justice Act 2003 (terrorism offences carrying restricted eligibility for release on licence).
- (3E) This sub-paragraph applies if the warrant specifies that—
- (a) the offence or any of the offences in relation to which a sentence is to be served (“the overseas offence”) corresponds to an offence under the law of England and Wales (“the corresponding offence”),
  - (b) section 69 of the Sentencing Code or (as the case may be) section 30 of the Counter-Terrorism Act 2008 would have applied to the corresponding offence if—
    - (i) it had been committed at the same time as the overseas offence, and
    - (ii) the prisoner had been convicted of and sentenced for it in England and Wales at the same time respectively as the conviction and sentencing for the overseas offence, and
  - (c) findings made by the court before which the prisoner was tried or sentenced for the overseas offence would, had the prisoner been tried and sentenced in England and Wales for the corresponding offence, have justified a determination under that section that the corresponding offence had a terrorist connection.
- (3F) The Secretary of State may amend a warrant (whether issued before or after sub-paragraph (3B) or (3C) comes into force and whether or not the transfer it authorises has taken place) so as to specify the matters referred to in sub-paragraph (3D) or (3E).”

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- 3 (1) Paragraph 2 (application of early release provisions), as it applies in relation to certain prisoners repatriated to Scotland on or after 27 June 2003 in accordance with section 33(2) of the Criminal Justice (Scotland) Act 2003 (asp 7), is amended as follows.
- (2) In sub-paragraph (1), after “(3),” insert “ 1AB(3), ”.
- (3) In sub-paragraph (2), in the words before paragraph (a), after “licence)” insert “ , or of section 1AB(3) of that Act in the case of a long-term prisoner to whom that section applies ”.
- (4) After sub-paragraph (3) insert—
- “(3A) If sub-paragraph (3B) or (3C) applies by virtue of an offence in relation to which a determinate sentence is to be served, Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 applies to the prisoner as if that offence was within section 1AB(2) of that Act (terrorist offences carrying restricted eligibility for release on licence).
- (3B) This sub-paragraph applies if the warrant specifies that the offence or any of the offences in relation to which a sentence is to be served corresponds to an offence specified in Part 1 or 2 of Schedule 1A to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (terrorism offences carrying restricted eligibility for release on licence).
- (3C) This sub-paragraph applies if the warrant specifies that—
- (a) the offence or any of the offences in relation to which a sentence is to be served (“the overseas offence”) corresponds to an offence under the law of Scotland (“the corresponding offence”),
- (b) section 31 of the Counter-Terrorism Act 2008 (sentences for offences aggravated by terrorist connection) would have been capable of applying in relation to the corresponding offence if—
- (i) it had been committed at the same time as the overseas offence, and
- (ii) the prisoner had been convicted of and sentenced for it in Scotland at the same time respectively as the conviction and sentencing for the overseas offence, and
- (c) findings made by the court before which the prisoner was tried or sentenced for the overseas offence would, had the prisoner been tried and sentenced in Scotland for the corresponding offence, have justified its being found proved for the purposes of that section that the corresponding offence was aggravated by reason of having a terrorist connection.
- (3D) The Scottish Ministers may amend a warrant (whether issued before or after sub-paragraph (3A) comes into force and whether or not the transfer it authorises has taken place) so as to specify the matters referred to in sub-paragraph (3B) or (3C).”
- 4 (1) Paragraph 2 (application of early release provisions), as it applies in relation to prisoners repatriated to Scotland other than as mentioned in paragraph 3(1), is amended as follows.
- (2) In sub-paragraph (1A)(b), after “(3),” insert “ 1AB(3), ”.

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(3) After sub-paragraph (2) insert—

“(3) If sub-paragraph (4) applies by virtue of an offence in relation to which a determinate sentence is to be served, Part 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 applies to the prisoner as if that offence was within section 1AB(2) of that Act (terrorist offences carrying restricted eligibility for release on licence).

(4) This sub-paragraph applies if the warrant specifies that the offence or any of the offences in relation to which a sentence is to be served corresponds to an offence specified in Part 1 or 2 of Schedule 1A to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (terrorism offences carrying restricted eligibility for release on licence).

(5) The Scottish Ministers may amend a warrant (whether issued before or after sub-paragraph (3) comes into force and whether or not the transfer it authorises has taken place) so as to specify the matters referred to in sub-paragraph (4).”

5 In paragraph 2A (application of early release provisions to prisoners repatriated to Northern Ireland), after sub-paragraph (4) insert—

“(4A) If sub-paragraph (4B) or (4C) applies by virtue of an offence in relation to which a determinate sentence is to be served, Chapter 4 of Part 2 of the Criminal Justice (Northern Ireland) Order 2008 applies to the prisoner as if that offence was within Article 20A(2) (terrorist offences carrying restricted eligibility for release on licence).

(4B) This sub-paragraph applies if the warrant specifies that the offence or any of the offences in relation to which a sentence is to be served corresponds to an offence specified in Part 2, 4, 5 or 7 of Schedule 2A to the Criminal Justice (Northern Ireland) Order 2008 (terrorism offences carrying restricted eligibility for release on licence).

(4C) This sub-paragraph applies if the warrant specifies that—

- (a) the offence or any of the offences in relation to which a sentence is to be served (“the overseas offence”) corresponds to an offence under the law of Northern Ireland (“the corresponding offence”),
- (b) section 30 of the Counter-Terrorism Act 2008 would have applied to the corresponding offence if—
  - (i) it had been committed at the same time as the overseas offence, and
  - (ii) the prisoner had been convicted of and sentenced for it in Northern Ireland at the same time respectively as the conviction and sentencing for the overseas offence, and
- (c) findings made by the court before which the prisoner was tried or sentenced for the overseas offence would, had the prisoner been tried and sentenced in Northern Ireland for the corresponding offence, have justified a determination under that section that the corresponding offence had a terrorist connection.

(4D) The Department of Justice may amend a warrant (whether issued before or after sub-paragraph (4A) comes into force and whether or not the transfer

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it authorises has taken place) so as to specify the matters referred to in subparagraph (4B) or (4C).”

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