



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 7

SENTENCING AND RELEASE

CHAPTER 1

CUSTODIAL SENTENCES

Penalties for offences involving children or vulnerable adults

122 Penalty for cruelty to children

- (1) In section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16), in subsection (1)(a) (penalty on conviction on indictment), for “ten” substitute “14”.
- (2) Subsection (1) applies only in relation to offences committed on or after the day on which this section comes into force.

123 Penalty for causing or allowing a child or vulnerable adult to die or suffer serious physical harm

- (1) Section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing a child or vulnerable adult to die or suffer serious harm) is amended in accordance with subsections (2) and (3).
- (2) In subsection (7) (penalty in the case of a person’s death), for the words “liable on conviction on indictment” substitute “liable—
 - (a) on conviction on indictment in England and Wales, to imprisonment for life or to a fine, or to both;

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- (b) on conviction on indictment in Northern Ireland.”.
- (3) In subsection (8) (penalty in the case of serious physical harm), for the words “liable on conviction on indictment” substitute “liable—
 - (a) on conviction on indictment in England and Wales, to imprisonment for a term not exceeding 14 years or to a fine, or to both;
 - (b) on conviction on indictment in Northern Ireland.”.
- (4) Subsections (2) and (3) apply only in relation to offences where the unlawful act to which the offence relates is an act that occurs, or so much of such an act as occurs, on or after the day on which this section comes into force.
- (5) In Schedule 19 to the Sentencing Code (list of certain specified offences carrying maximum sentence on indictment of imprisonment for life), after paragraph 20 insert—

“Domestic Violence, Crime and Victims Act 2004

- 20A (1) An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 that meets the conditions in sub-paragraph (2).
- (2) The conditions are that—
 - (a) the unlawful act to which the offence relates was an act that occurred, or so much of an act as occurred, on or after the day on which section 123 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
 - (b) the offender is liable on conviction on indictment to imprisonment for life.”

Minimum sentences for particular offences

124 Minimum sentences for particular offences

- (1) The Sentencing Code is amended in accordance with subsections (2) to (8).
- (2) In section 312 (minimum sentence for offences of threatening with weapon or bladed article)—
 - (a) in subsection (2), for “The court” substitute “If the offence was committed before the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court”, and
 - (b) after subsection (2) insert—
 - “(2A) If the offence was committed on or after the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court must impose an appropriate custodial sentence unless the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to the offence or to the offender, and
 - (b) justify not doing so.”
- (3) In section 313 (minimum sentence of 7 years for third class A drug trafficking offence)

- (a) in subsection (2), for “The court” substitute “If the index offence was committed before the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court”,
 - (b) after subsection (2) insert—
 - “(2A) If the index offence was committed on or after the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court must impose an appropriate custodial sentence for a term of at least 7 years unless the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to any of the offences or to the offender, and
 - (b) justify not doing so.”, and
 - (c) in subsection (4)(b), after “subsection (2)” insert “or (2A)”.
- (4) In section 314 (minimum sentence of 3 years for third domestic burglary)—
- (a) in subsection (2), for “The court” substitute “If the index offence was committed before the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court”,
 - (b) after subsection (2) insert—
 - “(2A) If the index offence was committed on or after the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court must impose an appropriate custodial sentence for a term of at least 3 years unless the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to any of the offences or to the offender, and
 - (b) justify not doing so.”, and
 - (c) in subsection (4)(b), after “subsection (2)” insert “or (2A)”.
- (5) In section 315 (minimum sentence for repeat offence involving weapon or bladed article)—
- (a) in subsection (2), for “The court” substitute “If the index offence was committed before the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court”,
 - (b) after subsection (2) insert—
 - “(2A) If the index offence was committed on or after the day on which section 124 of the Police, Crime, Sentencing and Courts Act 2022 came into force, the court must impose an appropriate custodial sentence unless the court is of the opinion that there are exceptional circumstances which—
 - (a) relate to the offence, to the previous offence or to the offender, and
 - (b) justify not doing so.”, and
 - (c) in subsection (3), for “subsection (2)” substitute “subsections (2) and (2A)”.
- (6) In section 316(1)(a) (appeals where previous conviction set aside), after “subsection (2)” insert “or (2A)”.
- (7) In section 320 (determination of day when offence committed), after “311,” insert “312,”.
- (8) In section 399(c) (mandatory sentence requirements)—

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- (a) in sub-paragraph (ii), after “312(2)” insert “or (2A)”,
 - (b) in sub-paragraph (iii), after “313(2)” insert “or (2A)”,
 - (c) in sub-paragraph (iv), after “314(2)” insert “or (2A)”, and
 - (d) in sub-paragraph (v), after “315(2)” insert “or (2A)”.
- (9) In Schedule 22 to the Sentencing Act 2020—
- (a) in paragraph 66 (amendments of section 313 of the Code), after paragraph (a) insert—
 - “(aa) in subsection (2A), for “an appropriate custodial sentence” substitute “a sentence of imprisonment”,”, and
 - (b) in paragraph 67 (amendments of section 314 of the Code), after paragraph (a) insert—
 - “(aa) in subsection (2A), for “an appropriate custodial sentence” substitute “a sentence of imprisonment”,”,
- (10) Schedule 12 contains amendments which are consequential on this section.
- (11) An amendment made by Schedule 12, so far as it has effect—
- (a) in relation to dealing with a person for an offence, or
 - (b) in relation to a sentence passed for an offence,
- has effect only where the person committed the offence on or after the day on which the Schedule came into force.
- (12) For the purposes of subsection (11), where an offence is found to have been committed—
- (a) over a period of 2 or more days, or
 - (b) at some time during a period of 2 or more days,
- it is to be taken to have been committed on the last of those days.

Life sentences: time to be served

125 Whole life order as starting point for premeditated child murder

In Schedule 21 to the Sentencing Code (minimum terms in mandatory life sentences), in paragraph 2(2), after paragraph (b) insert—

- “(ba) the murder of a child involving a substantial degree of premeditation or planning, where the offence was committed on or after the day on which section 125 of the Police, Crime, Sentencing and Courts Act 2022 came into force”,.

126 Whole life orders for young adult offenders in exceptional cases

- (1) The Sentencing Code is amended as follows.
- (2) In section 321 (orders to be made on passing life sentence)—
- (a) in subsection (3)(a), for the words from “the offender” to “committed” substitute “the case is within subsection (3A) or (3B)”;
 - (b) after subsection (3) insert—
 - “(3A) A case is within this subsection if the offender was aged 21 or over when the offence was committed.

(3B) A case is within this subsection if—

- (a) the offence was committed on or after the day on which section 126 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
- (b) the offender was aged 18 or over but under 21 when the offence was committed.

(3C) In a case within subsection (3B), the court may arrive at the opinion set out in subsection (3)(b) only if it considers that the seriousness of the offence, or combination of offences, is exceptionally high even by the standard of offences which would normally result in a whole life order in a case within subsection (3A).”

- (3) In section 322 (further provision about mandatory life sentences), in subsection (3) (a), after “321(3)” insert “or (3C)”.

127 Starting points for murder committed when under 18

In Schedule 21 to the Sentencing Code (minimum terms in mandatory life sentences), for paragraph 6 substitute—

“5A (1) This paragraph applies if—

- (a) the offender was aged under 18 when the offence was committed, and
 - (b) the offender was convicted of the offence on or after the day on which section 127 of the Police, Crime, Sentencing and Courts Act 2022 came into force.
- (2) The appropriate starting point, in determining the minimum term, is the period given in the entry in column 2, 3 or 4 of the following table that corresponds to—
- (a) the age of the offender when the offence was committed, as set out in column 1, and
 - (b) the provision of this Schedule that would have supplied the appropriate starting point had the offender been aged 18 when the offence was committed, as set out in the headings to columns 2, 3 and 4.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>
<i>Age of offender when offence committed</i>	<i>Starting point supplied by paragraph 3(1) had offender been 18</i>	<i>Starting point supplied by paragraph 4(1) had offender been 18</i>	<i>Starting point supplied by paragraph 5 had offender been 18</i>
<i>17</i>	27 years	23 years	14 years
<i>15 or 16</i>	20 years	17 years	10 years
<i>14 or under</i>	15 years	13 years	8 years

- 6 (1) This paragraph applies if—

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- (a) the offender was aged under 18 when the offence was committed, and
 - (b) the offender was convicted of the offence before the day on which section 127 of the Police, Crime, Sentencing and Courts Act 2022 came into force.
- (2) The appropriate starting point, in determining the minimum term, is 12 years.”

128 Sentences of detention during Her Majesty’s pleasure: review of minimum term

- (1) Before the italic heading above section 28 of the Crime (Sentences) Act 1997 insert—

“Sentence of detention during Her Majesty’s pleasure: review of minimum term

27A Sentence of detention during Her Majesty’s pleasure imposed on a person under 18: application for minimum term review

- (1) This section applies to a person who—
- (a) is serving a DHMP sentence, and
 - (b) was under the age of 18 when sentenced;
- and such a person is referred to in this section as a “relevant young offender”.
- (2) A relevant young offender may make an application for a minimum term review to the Secretary of State after serving half of the minimum term.
- (3) An “application for a minimum term review” is an application made by a relevant young offender for a reduction in the minimum term.
- (4) Where a relevant young offender has made an application for a minimum term review under this section, the offender may only make a further such application if—
- (a) the period of 2 years beginning with the day on which the previous application was determined has expired, and
 - (b) the offender is under the age of 18 on the day on which the further application is made.
- (5) Where the Secretary of State receives an application under this section, the Secretary of State must—
- (a) consider the application, and
 - (b) unless the Secretary of State forms the view that the application is frivolous or vexatious, refer it to the High Court.
- (6) Where the Secretary of State decides not to refer the application to the High Court, the Secretary of State must give notice of that decision, and the reasons for it, to the relevant young offender.
- (7) If the relevant young offender makes representations or provides further evidence in support of the application before the end of the period of 4 weeks beginning with the day on which the notice under subsection (6) is given, the Secretary of State must consider the representations or evidence and—
- (a) if the Secretary of State is no longer of the view mentioned in subsection (5)(b), refer the application to the High Court, or

- (b) give notice to the offender confirming the decision not to refer the application.

- (8) In this section—

“DHMP sentence” means a sentence of detention during Her Majesty’s pleasure imposed (whether before or after this section comes into force) under a provision listed in column 1 of the table in subsection (9);

“minimum term”, in relation to a person serving a DHMP sentence, means the part of the sentence specified—

- (a) in the minimum term order made in respect of the sentence, or
 (b) where one or more reduction orders have been made under section 27B in respect of the sentence, in the most recent of those orders;

“minimum term order”, in relation to a DHMP sentence, means the order made under the provision listed in column 2 of the table in subsection (9) that corresponds to the entry in column 1 that relates to the sentence.

- (9) The table is as follows—

<i>Provision under which DHMP sentence imposed</i>	<i>Provision under which minimum term order made</i>
Section 259 of the Sentencing Code	Section 322 of the Sentencing Code
Section 90 of the Powers of Criminal Courts (Sentencing) Act 2000	Section 82A of the Powers of Criminal Courts (Sentencing) Act 2000 or section 269 of the Criminal Justice Act 2003
Section 218 of the Armed Forces Act 2006	Section 269 of the Criminal Justice Act 2003 or section 322 of the Sentencing Code.

- (10) For the purposes of subsection (4), an application for a minimum term review is determined—
- (a) when the court makes a reduction order or a decision confirming the minimum term (see section 27B), or
- (b) in a case where the application is not referred to the court, when the Secretary of State gives the relevant young offender notice in relation to the application under subsection (6).
- (11) There is no right for any person who is serving a DHMP sentence to request a review of the minimum term other than that conferred by this section.

27B Power of High Court to reduce minimum term

- (1) This section applies where the Secretary of State refers an application for a minimum term review made by a relevant young offender under section 27A to the High Court.
- (2) The court may—
- (a) make a reduction order in relation to relevant young offender, or
- (b) confirm the minimum term in respect of the offender’s DHMP sentence,

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and a decision of the court under this subsection is final.

- (3) A reduction order is an order that the relevant young offender’s minimum term is to be reduced to such part of the offender’s DHMP sentence as the court considers appropriate and is specified in the reduction order.
- (4) In deciding whether to make a reduction order, the court must, in particular, take into account any evidence—
- (a) that the relevant young offender’s rehabilitation has been exceptional;
 - (b) that the continued detention or imprisonment of the offender for the remainder of the minimum term is likely to give rise to a serious risk to the welfare or continued rehabilitation of the offender which cannot be eliminated or mitigated to a significant degree.
- (5) In this section “DHMP sentence”, “minimum term” and “relevant young offender” have the same meaning as in section 27A.”
- (2) In section 28 of that Act (duty to release certain life prisoners), in subsection (1A), for the words from “the part of” to the end substitute—
- “(a) the part of the sentence specified in the minimum term order, or
 - (b) in a case where one or more reduction orders has been made in relation to the prisoner (see section 27B), the part of the sentence specified in the most recent of those orders.”
- (3) A pre-commencement application—
- (a) is to be treated for the purposes of subsection (4) of section 27A of the Crime (Sentences) Act 1997 as if it was made under that section if, at the time the relevant young offender made the application, they had served at least half of the minimum term;
 - (b) if not determined before the day on which this section comes into force, is to be dealt with in the manner in which it would have been dealt with immediately before this section comes into force.
- (4) In this section—
- “minimum term”, in relation to a relevant young offender, means the part of the offender’s DHMP sentence specified in the minimum term order made in respect of the sentence (and for these purposes “DHMP sentence” and “minimum term order” have same meanings as in that section 27A);
- “pre-commencement application” means an application by a relevant young offender for a review of the minimum term that was made to the Secretary of State before the day on which this section comes into force;
- “relevant young offender” has the same meaning as in section 27A of the Crime (Sentences) Act 1997.

129 Life sentence not fixed by law: minimum term

- (1) In section 323 of the Sentencing Code (minimum term order for life sentence not fixed by law)—
- (a) after subsection (1) insert—
- “(1A) The starting point, in determining the minimum term, is the relevant portion of the notional determinate sentence.

- (1B) The “notional determinate sentence”, in relation to a life sentence, is the custodial sentence that the court would have imposed if the court had not imposed the life sentence.
- (1C) The “relevant portion” of the notional determinate sentence is—
- (a) where that sentence is within section 247A(2A) of the Criminal Justice Act 2003 (terrorist prisoners not entitled to early release), the term that the court would have determined as the appropriate custodial term (within the meaning given by subsection (8) of that section);
 - (b) where that sentence is a sentence under section 252A, 254, 265, 266, 278 or 279 (and is not within paragraph (a)), two-thirds of the term that the court would have determined as the appropriate custodial term under that section;
 - (c) where that sentence is any other custodial sentence, two-thirds of the term of the sentence.”;
- (b) in subsection (2)—
- (i) for the words before paragraph (a), substitute “The minimum term must be the starting point adjusted as the court considers appropriate, taking into account—”;
 - (ii) omit paragraph (b) (but not the final “and”).
- (2) In section 261A(3) of the Armed Forces Act 2006 (life sentences: further provision), before paragraph (a) insert—
- “(za) subsection (1C)(b) has effect as if for “section 252A, 254, 265, 266, 278 or 279” there were substituted—
- (i) section 224A or 224B of the Armed Forces Act 2006, or
 - (ii) section 254, 266, 278 or 279 passed as a result of section 219A, 219ZA or 221A of that Act.”.
- (3) In the Sentencing Act 2020—
- (a) in section 61 (sentencing guidelines for life sentences etc)—
 - (i) for subsection (6), for the words from “the notional” to “made under” substitute “the notional determinate sentence within the meaning of”;
 - (ii) omit subsection (7);
 - (b) omit the following (which concern the commencement of paragraph 85 of Schedule 22)—
 - (i) section 407(1)(b)(ii) (but not the final “or”);
 - (ii) section 417(8);
 - (c) in Schedule 22 (prospective amendments of the Sentencing Code)—
 - (i) in paragraph 68A (amendments of section 323 of the Sentencing Code in relation to prospective abolition of detention in young offender institution), before sub-paragraph (a) insert—

“(za) in subsection (1C)(b), omit “265, 266,”;
 - (ii) omit paragraph 85 (prospective amendments of section 323);
 - (d) in paragraph 20A of Schedule 26 (amendments of section 261A of Armed Forces Act 2006 in relation to prospective abolition of detention in young offender institution), before sub-paragraph (a) insert—

“(za) in paragraph (za)—

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(i) in the words before sub-paragraph (i), omit “265, 266,”;

(ii) in sub-paragraph (ii), omit “266,”.

Release on licence

130 Increase in requisite custodial period for certain violent or sexual offenders

- (1) The Criminal Justice Act 2003 is amended in accordance with subsections (2) to (8).
- (2) In section 244 (general duty to release prisoners)—
 - (a) in the heading, at the end insert “not subject to special provision for release”;
 - (b) in subsection (1), after “243A,” insert “244ZA,”.
- (3) After section 244 insert—

“244ZA Release on licence of certain violent or sexual offenders

- (1) As soon as a fixed-term prisoner to whom this section applies has served the requisite custodial period for the purposes of this section, it is the duty of the Secretary of State to release the prisoner on licence under this section.
- (2) This section applies to a prisoner who—
 - (a) is serving a fixed-term sentence within subsection (4), (5) or (6),
 - (b) is not a prisoner to whom section 244A, 246A or 247A applies, and
 - (c) has not been released on licence (provision for the release of persons recalled under section 254 being made by sections 255B and 255C).
- (3) Subsection (1) does not apply if—
 - (a) the prisoner’s case has been referred to the Board under section 244ZB, or
 - (b) a notice given to the prisoner under subsection (4) of that section is in force.
- (4) A fixed-term sentence is within this subsection if it—
 - (a) is a sentence of—
 - (i) imprisonment, or
 - (ii) detention under section 96 of the PCC(S)A 2000 or section 262 of the Sentencing Code,
 - (b) is for a term of 7 years or more,
 - (c) was imposed on or after 1 April 2020, and
 - (d) was imposed in respect of an offence—
 - (i) that is specified in Part 1 or 2 of Schedule 15, and
 - (ii) for which a sentence of life imprisonment could have been imposed (in the case of an offender aged 21 or over) at the time when the actual sentence was imposed.
- (5) A fixed-term sentence is within this subsection if it—
 - (a) is a sentence of imprisonment or a sentence of detention under section 262 of the Sentencing Code,
 - (b) is for a term of at least 4 years but less than 7 years,

- (c) was imposed on or after the day on which section 130 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
- (d) was imposed in respect of an offence within subsection (7).
- (6) A fixed-term sentence is within this subsection if it—
- (a) is a sentence of detention under section 250 of the Sentencing Code,
- (b) is for a term of 7 years or more,
- (c) was imposed on or after the day on which section 130 of the Police, Crime, Sentencing and Courts Act 2022 came into force, and
- (d) was imposed in respect of an offence within subsection (7).
- (7) An offence is within this subsection if—
- (a) it is specified in any of the following paragraphs of Part 1 of Schedule 15—
- (i) paragraph 1 (manslaughter);
- (ii) paragraph 4 (soliciting murder);
- (iii) paragraph 6 (wounding with intent to cause grievous bodily harm);
- (iv) paragraph 64 (ancillary offences), so far as it relates to an offence listed in paragraph 1, 4 or 6;
- (v) paragraph 65 (inchoate offences in relation to murder), or
- (b) it is an offence—
- (i) that is specified in Part 2 of that Schedule (sexual offences), and
- (ii) for which a sentence of life imprisonment could have been imposed (in the case of an offender aged 21 or over) at the time when the actual sentence was imposed.
- (8) For the purposes of this section “the requisite custodial period” means—
- (a) in relation to a prisoner serving one sentence, two-thirds of the prisoner’s sentence, and
- (b) in relation to a prisoner serving two or more concurrent or consecutive sentences, the period determined under sections 263(2) and 264(2B) or (2E).”
- (4) In section 260(5) (powers and duties of Secretary of State that continue to apply to prisoner removed from prison pending deportation), after “244,” insert “244ZA,”.
- (5) In section 261(5)(b) (application of release provisions to returning deported prisoner), after “244,” insert “244ZA,”.
- (6) In section 264(6) (consecutive terms of imprisonment: meaning of custodial period), after paragraph (ca) (inserted by section 131) (but before the final “and”), insert—
- “(cb) in relation to a sentence in respect of which section 244ZA applies to the offender, two-thirds of the sentence,”.
- (7) In section 268(1A) (meaning of “requisite custodial period” in Chapter 6 of Part 12), in paragraph (d), for “or section 244” substitute “, 244 or 244ZA”.
- (8) In Schedule 15 (specified offences for certain purposes to do with release of offenders)
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- (a) in the heading, for “section” substitute “sections 244ZA and”;

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(b) in the shoulder reference, for “Section” substitute “Sections 244ZA and”.

(9) The Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 (S.I. 2020/158) is revoked.

131 Increase in requisite custodial period for certain other offenders of particular concern

(1) The Criminal Justice Act 2003 is amended as follows.

(2) In section 244A(6) (release on licence of prisoners serving sentence under section 278 of the Sentencing Code etc: interpretation), in the definition of “the requisite custodial period”—

(a) in paragraph (a), after “one sentence” insert “imposed before the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force”;

(b) after that paragraph (but before the final “and”) insert—

“(aa) in relation to a person serving one sentence imposed on or after that day, two-thirds of the appropriate custodial term.”.

(3) In section 264(6) (consecutive terms of imprisonment: meaning of custodial period)—

(a) in paragraph (c), after “Code” insert “before the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force”;

(b) after that paragraph (but before the final “and”) insert—

“(ca) in relation to a sentence imposed under section 265 or 278 of the Sentencing Code on or after the day on which section 131 of the Police, Crime, Sentencing and Courts Act 2022 came into force, two-thirds of the appropriate custodial term determined by the court under that section.”.

132 Power to refer high-risk offenders to Parole Board in place of automatic release

(1) The Criminal Justice Act 2003 is amended in accordance with subsections (2) to (10).

(2) In section 243A (release of prisoners serving sentences of less than 12 months), after subsection (2) insert—

“(2A) Subsection (2) does not apply if—

(a) the prisoner’s case has been referred to the Board under section 244ZB, or

(b) a notice given to the prisoner under subsection (4) of that section is in force.”

(3) In section 244 (general duty to release prisoners), after subsection (1) insert—

“(1ZA) Subsection (1) does not apply if—

(a) the prisoner’s case has been referred to the Board under section 244ZB, or

(b) a notice given to the prisoner under subsection (4) of that section is in force.”

(4) After section 244 insert—

“244ZB Referral of high-risk offenders to Parole Board in place of automatic release

- (1) This section applies to a prisoner who—
 - (a) would (but for anything done under this section and ignoring any possibility of release under section 246 or 248) be, or become, entitled to be released on licence under section 243A(2), 244(1) or 244ZA(1), and
 - (b) is (or will be) aged 18 or over on the first day on which the prisoner would be so entitled.
- (2) For the purposes of this section, the Secretary of State is of the requisite opinion if the Secretary of State believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of any of the following offences—
 - (a) murder;
 - (b) specified offences, within the meaning of section 306 of the Sentencing Code.
- (3) If the Secretary of State is of the requisite opinion, the Secretary of State may refer the prisoner’s case to the Board.
- (4) Before referring the prisoner’s case to the Board, the Secretary of State must notify the prisoner in writing of the Secretary of State’s intention to do so (and the reference may be made only if the notice is in force).
- (5) A notice given under subsection (4) must take effect before the prisoner becomes entitled as mentioned in subsection (1)(a).
- (6) A notice given under subsection (4) must explain—
 - (a) the effect of the notice (including its effect under section 243A(2A), 244(1ZA) or 244ZA(3)),
 - (b) why the Secretary of State is of the requisite opinion, and
 - (c) the prisoner’s right to make representations (see subsection (12)).
- (7) A notice given under subsection (4)—
 - (a) takes effect at whichever is the earlier of—
 - (i) the time when it is received by the prisoner, and
 - (ii) the time when it would ordinarily be received by the prisoner,and
 - (b) remains in force until—
 - (i) the Secretary of State refers the prisoner’s case to the Board under this section, or
 - (ii) the notice is revoked.
- (8) The Secretary of State—
 - (a) may revoke a notice given under subsection (4), and
 - (b) must do so if the Secretary of State is no longer of the requisite opinion.

Status: This is the original version (as it was originally enacted).

- (9) If a notice given under subsection (4) is in force and the prisoner would but for the notice have become entitled as mentioned in subsection (1)(a)—
- (a) the prisoner may apply to the High Court on the ground that the prisoner's release has been delayed by the notice for longer than is reasonably necessary in order for the Secretary of State to complete the referral of the prisoner's case to the Board, and
 - (b) the High Court, if satisfied that that ground is made out, must by order revoke the notice.
- (10) At any time before the Board disposes of a reference under this section, the Secretary of State—
- (a) may rescind the reference, and
 - (b) must do so if the Secretary of State is no longer of the requisite opinion.
- (11) If the reference is rescinded, the prisoner is no longer to be treated as one whose case has been referred to the Board under this section (but this does not have the effect of reviving the notice under subsection (4)).
- (12) The prisoner may make representations to the Secretary of State about the referral, or proposed referral, of the prisoner's case at any time after being notified under subsection (4) and before the Board disposes of any ensuing reference under this section.

But the Secretary of State is not required to delay the referral of the prisoner's case in order to give an opportunity for such representations to be made.

244ZC Proceedings following reference under section 244ZB

- (1) This section applies to a prisoner whose case has been referred to the Parole Board under section 244ZB.
- (2) If, in disposing of that reference or any subsequent reference of the prisoner's case to the Board under this subsection, the Board does not direct the prisoner's release, it is the duty of the Secretary of State to refer the prisoner's case to the Board again no later than the first anniversary of the disposal.
- (3) It is the duty of the Secretary of State to release the prisoner on licence as soon as—
 - (a) the prisoner has served the requisite custodial period, and
 - (b) the Board has directed the release of the prisoner under this section.
- (4) The Board must not give a direction under subsection (3) in disposing of the reference under section 244ZB unless the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (5) The Board must not subsequently give a direction under subsection (3) unless—
 - (a) the Secretary of State has referred the prisoner's case to the Board under subsection (2), and
 - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

- (6) For the purposes of this section, the “requisite custodial period” means the period ending with the day on which the prisoner would have become entitled as mentioned in section 244ZB(1)(a).”
- (5) In section 246(4) (exceptions from power to release early subject to curfew), after paragraph (f) insert—
- “(fa) the prisoner’s case has been referred to the Board under section 244ZB,
 - (fb) a notice given to the prisoner under subsection (4) of that section is in force.”.
- (6) In section 255A(2) (duty to consider suitability for automatic release following recall of certain prisoners) (as amended by the Counter-Terrorism and Sentencing Act 2021), for “or a serious terrorism prisoner” substitute “, a serious terrorism prisoner or a prisoner whose case was referred to the Board under section 244ZB”.
- (7) In section 255C(1) (prisoners whose release after recall is not automatic), for the words from “who” to the end substitute “—
- (a) whose suitability for automatic release does not have to be considered under section 255A(2), or
 - (b) who is not considered suitable for automatic release.”
- (8) In section 260(5) (powers and duties of Secretary of State that continue to apply to prisoner removed from prison pending deportation), after “244,” insert “244ZB,”.
- (9) In section 261(5)(b) (application of release provisions to returning deported prisoner), after “244,” insert “244ZC,”.
- (10) In section 268(1A) (meaning of “requisite custodial period” in Chapter 6 of Part 12), after paragraph (c) insert—
- “(ca) in relation to a prisoner whose case has been referred to the Parole Board under section 244ZB, the requisite custodial period for the purposes of section 244ZC,”.
- (11) In Schedule 1 to the Crime (Sentences) Act 1997—
- (a) in paragraph 8(2)(a) (provisions relating to release continuing to apply to prisoner transferred from England and Wales to Scotland), for “, 244,” substitute “to”;
 - (b) in paragraph 9(2)(a) (provisions relating to release continuing to apply to prisoner transferred from England and Wales to Northern Ireland), for “, 244,” substitute “to”.
- (12) In section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (power to alter test for release on licence at direction of Parole Board)—
- (a) in subsection (2), after paragraph (b) insert—
 - “(bza) a prisoner whose case has been referred to the Parole Board under section 244ZB of the Criminal Justice Act 2003 (power to refer to Parole Board in place of automatic release),”;
 - (b) in subsection (3), before paragraph (ab) insert—
 - “(aaa) amend section 244ZC of the Criminal Justice Act 2003 (proceedings following reference under section 244ZB of that Act),”.

133 Power to make provision for reconsideration and setting aside of Parole Board decisions

In section 239 of the Criminal Justice Act 2003 (the Parole Board), after subsection (5) insert—

“(5A) Rules under subsection (5) may, in particular, make provision—

- (a) requiring or permitting the Board to make provisional decisions;
- (b) about the circumstances—
 - (i) in which the Board must or may reconsider such decisions;
 - (ii) in which such decisions become final;
- (c) conferring power on the Board to set aside a decision or direction that is within subsection (5B),

and any such provision may relate to cases referred to the Board under this Chapter or under Chapter 2 of Part 2 of the 1997 Act.

(5B) The following are within this subsection—

- (a) a direction given by the Board for, or a decision made by it not to direct, the release of a prisoner which the Board determines it would not have given or made but for an error of law or fact, or
- (b) a direction given by the Board for the release of a prisoner which the Board determines it would not have given if—
 - (i) information that was not available to the Board when the direction was given had been so available, or
 - (ii) a change in circumstances relating to the prisoner that occurred after the direction was given had occurred before it was given.

(5C) Provision made by virtue of subsection (5A)(c)—

- (a) may not confer power on the Board to set aside a direction for the release of a prisoner at any time when the prisoner has already been released pursuant to that direction, but
- (b) may make provision for the suspension of any requirement under this Chapter or under Chapter 2 of Part 2 of the 1997 Act for the Secretary of State to give effect to a direction of the Board to release a prisoner, pending consideration by the Board as to whether to set it aside.”

134 Responsibility for setting licence conditions for fixed-term prisoners

(1) Section 250 of the Criminal Justice Act 2003 (licence conditions for fixed-term prisoners) is amended in accordance with subsections (2) and (3).

(2) For subsections (5A) to (5B) substitute—

“(5A) The Secretary of State must not—

- (a) include a condition referred to in subsection (4)(b)(ii) in a licence within subsection (5B), either on release or subsequently, or
- (b) vary or cancel any such condition included in such a licence, unless the Board directs the Secretary of State to do so (and must, if the Board so directs, include, vary or cancel such a condition).

(5B) A licence is within this subsection if it is granted to a relevant prisoner—

- (a) on their initial release in a case where that release is at the direction of the Board, or
 - (b) on their release after recall to prison in a case where that release is at the direction of the Board (see sections 255B(5), 255C(5) and 256A(5)).
- (5C) In subsection (5B), “relevant prisoner” means a prisoner to whom section 244ZC, 244A, 246A, 247 or 247A applies (or applied) for the purposes of their initial release.”
- (3) Omit subsection (9).
- (4) Subsection (5) applies to any condition of a licence that is in force immediately before commencement if—
- (a) the inclusion of the condition required a direction of the Board, but
 - (b) no such direction was given.
- (5) The condition is to be treated, for the purposes of any time after commencement, as if it was included in the licence at the direction of the Board.
- (6) Nothing in this section except subsection (5) affects the validity of any condition included in a licence before commencement.
- (7) In this section—
- “the Board” means the Parole Board;
 - “commencement” means the coming into force of this section;
 - “licence” means a licence under Chapter 6 of Part 12 of the Criminal Justice Act 2003.

135 Repeal of uncommenced provision for establishment of recall adjudicators

In the Criminal Justice and Courts Act 2015, omit the following (which make provision for recall adjudicators that has not been commenced)—

- (a) sections 8 to 10, and
- (b) Schedule 3.

136 Release at direction of Parole Board after recall: fixed-term prisoners

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 255B (automatic release), after subsection (4) insert—
- “(4A) The Board must not give a direction for P’s release on a reference under subsection (4) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison until the end of the period mentioned in subsection (1)(b).”
- (3) In section 255C (fixed-term prisoners not suitable for automatic release), after subsection (4) insert—
- “(4A) The Board must not give a direction for P’s release on a reference under subsection (4) unless the Board is satisfied that it is not necessary for the protection of the public that P should remain in prison.”
- (4) Omit section 256 (power of Board to fix date for future release).

Status: This is the original version (as it was originally enacted).

(5) In section 256A (further review)—

(a) for subsection (1) substitute—

“(1) This section applies to a person if—

- (a) there has been a previous reference of the person’s case to the Board under section 255C(4) or this section, and
- (b) the person has not been released.

(1A) The Secretary of State must refer the person’s case back to the Board not later than the first anniversary of the most recent determination by the Board not to release the person (the “review date”).

(1B) Subsection (1A) does not apply where the review date is 13 months or less before the date on which the person is required to be released by the Secretary of State.”;

(b) in subsection (2), for “that anniversary” substitute “the review date”;

(c) in subsection (3), for “a person’s” substitute “the person’s”;

(d) for subsections (4) and (5) substitute—

“(4) The Board must not give a direction for a person’s release on a reference under subsection (1A) or (2) unless the Board is satisfied that it is not necessary for the protection of the public that the person should remain in prison.

(5) Where on a reference under subsection (1A) or (2) the Board directs a person’s release on licence under this Chapter, the Secretary of State must give effect to the direction.”

(6) After section 256A insert—

“256AZA Release after recall where further sentence being served

(1) This section applies where a person (“the offender”) is serving two or more terms of imprisonment.

(2) Nothing in sections 255A to 256A requires the Secretary of State to release the offender in respect of any of the terms unless and until the Secretary of State is required to release the offender in respect of each of the others.

(3) Nothing in sections 255A to 256A requires the Secretary of State to refer the offender’s case to the Board in respect of any of the terms unless and until the Secretary of State is required either—

- (a) to refer the offender’s case to the Board, or
- (b) to release the offender,

in respect of each of the others.

(4) If the offender is released on licence under section 255B, 255C or 256A, the offender is to be on licence—

- (a) until the last date on which the offender is required to be on licence in respect of any of the terms, and
- (b) subject to such conditions as are required by this Chapter in respect of any of the sentences.

- (5) This section applies to a determinate sentence of detention under any of the following provisions as it applies to a term of imprisonment—
- (a) section 91 or 96 of the PCC(S)A 2000;
 - (b) section 250, 252A, 254, 262, 265, 266 or 268A of the Sentencing Code;
 - (c) section 226A, 226B, 227, 228 or 236A of this Act.”
- (7) In Schedule 20A (application of Chapter 6 of Part 12 of the 2003 Act to pre-4 April 2005 cases), omit paragraph 6(5) (certain determinations to be treated as made under section 256(1)).

137 Power to change test for release of fixed-term prisoners following recall

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) After section 256AZA insert—

“256AZB Power to change test for release following recall

- (1) The Secretary of State may by order change—
 - (a) the test to be applied by the Secretary of State in deciding under section 255A whether a person is suitable for automatic release;
 - (b) the test to be applied by the Secretary of State in deciding whether to release a person under section 255B(2) or 255C(2);
 - (c) the test to be applied by the Board in deciding whether to give a direction for a person’s release when determining a reference under section 255B(4), 255C(4) or 256A(1A) or (2).
- (2) An order under subsection (1) may in particular—
 - (a) apply to a person recalled before the day on which the order comes into force (as well as to a person recalled on or after that day);
 - (b) amend this Chapter.”
- (3) In section 330(5)(a) (orders subject to affirmative procedure), at the appropriate place insert—

“section 256AZB,”.

138 Imprisonment for public protection etc: duty to refer person released on licence to Parole Board

- (1) Section 31A of the Crime (Sentences) Act 1997 (imprisonment or detention for public protection: termination of licences) is amended in accordance with subsections (2) to (6).
- (2) In subsection (2)(a), after “Chapter” insert “(whether or not the prisoner has subsequently been recalled to prison under section 32)”.
- (3) For subsection (3) substitute—

“(3) Where—

Status: This is the original version (as it was originally enacted).

- (a) the prisoner has been released on licence under this Chapter (whether or not the prisoner has subsequently been recalled to prison under section 32);
 - (b) the qualifying period has expired; and
 - (c) if the Secretary of State has made a previous reference of the prisoner’s case under this subsection, the period of twelve months beginning with the day of the disposal of that reference has expired,
- the Secretary of State must refer the prisoner’s case to the Parole Board under this subsection.”
- (4) In subsection (4)—
- (a) in the words before paragraph (a), for “an application” substitute “a reference”, and
 - (b) in paragraph (b), for “application” substitute “reference”.
- (5) After subsection (4) insert—
- “(4A) A reference under subsection (3) must be made, and a reference under that subsection must be determined by the Parole Board under subsection (4), even if at the time of the reference or determination the prisoner is in prison having been recalled under section 32.
- (4B) If at the time of the determination the prisoner is in prison having been recalled under section 32—
- (a) subsection (2) does not apply, and
 - (b) subsection (4)(a) has effect as if it required the Parole Board—
 - (i) to determine whether it is satisfied that it is not necessary for the protection of the public for the prisoner, when released, to be released on licence in respect of the preventative sentence or sentences, and
 - (ii) if it is so satisfied, to direct the Secretary of State accordingly.
- (4C) Where the Parole Board gives a direction under subsection (4B)(b)(ii)—
- (a) if at any time the Board directs the prisoner’s release under section 28, that section has effect in relation to the prisoner as if, in subsection (5), for “to release him on licence” there were substituted “to release the prisoner unconditionally”, and
 - (b) if at any time the Board directs the prisoner’s release under section 32, that section has effect in relation to the prisoner as if, in subsection (5), for “immediate release on licence” there were substituted “immediate unconditional release”.”
- (6) In subsection (5), in the definition of “the qualifying period”, after “on licence” insert “(whether or not the prisoner has subsequently been recalled to prison under section 32)”.
- (7) Subsection (8) applies to an application made by a person under section 31A(3) of the Crime (Sentences) Act 1997 before this section comes into force.
- (8) If the application has not been determined when this section comes into force, subsections (4) to (4C) of section 31A of the Crime (Sentences) Act 1997 apply in relation to it as if it were a reference of the person’s case by the Secretary of State to the Parole Board under subsection (3) of that section.

- (9) Subsection (10) applies if a person remains on licence under Chapter 2 of Part 2 of the Crime (Sentences) Act 1997, or remains subject to release on licence under that Chapter, following—
- (a) the disposal before this section comes into force of the person’s application to the Parole Board under section 31A(3) of that Act, or
 - (b) the disposal under subsection (4) of section 31A of that Act, as it has effect by virtue of subsection (8) of this section, of the person’s application to the Parole Board under subsection (3) of that section.
- (10) Subsection (3) of section 31A of the Crime (Sentences) Act 1997 applies in relation to the person as if the application had been a reference of the person’s case by the Secretary of State to the Parole Board under that subsection.

139 Release at direction of Parole Board: timing

- (1) In the Crime (Sentences) Act 1997—
- (a) in section 32(5) (duty to release life prisoner after recall), omit “immediate”;
 - (b) after section 32ZA insert—

“Release at the direction of Parole Board

32ZB Release at direction of Parole Board: timing

- (1) This section applies where the Parole Board directs the release of a life prisoner under section 28 or 32.
 - (2) The Secretary of State must give effect to the direction of the Parole Board as soon as is reasonably practicable in all the circumstances including, in particular, the need to make arrangements in connection with any conditions that are to be included in the life prisoner’s licence under this Chapter.
 - (3) The duty under subsection (2) is subject to provision made pursuant to section 239(5C)(b) of the Criminal Justice Act 2003 (provision in Parole Board rules in relation to setting aside of release directions).”
- (2) In the Criminal Justice Act 2003—
- (a) in section 255B(5) (automatic release after recall), omit “immediate”;
 - (b) in section 255C(5) (release after recall of fixed-term prisoner not suitable for automatic release), omit “immediate”;
 - (c) after section 256AZB insert—

“Release at the direction of the Board

256AZC Release at direction of Parole Board: timing

- (1) This section applies where the Board directs the release of a person on licence under this Chapter.
- (2) The Secretary of State must give effect to the direction of the Parole Board as soon as is reasonably practicable in all the circumstances

Status: This is the original version (as it was originally enacted).

including, in particular, the need to make arrangements in connection with any conditions that are to be included in the person’s licence under this Chapter.

- (3) The duty under subsection (2) is subject to provision made pursuant to section 239(5C)(b).”

Driving disqualification: extension in connection with custodial sentence

140 Extension of driving disqualification where custodial sentence imposed: England and Wales

- (1) In section 35A(4) of the Road Traffic Offenders Act 1988 (extension of driving disqualification period where custodial sentence also imposed)—

(a) in paragraph (e), after “custodial sentence,” insert “but the sentence is not within section 247A(2A) of the Criminal Justice Act 2003 (sentences for terrorist offenders in respect of which no early release possible),”;

(b) in paragraph (f), after “custodial sentence,” insert “but the sentence is not within section 247A(2A) of the Criminal Justice Act 2003,”;

(c) after paragraph (f) insert—

“(fza) in a case that would fall within paragraph (e) or (f) but for the fact that the custodial sentence falls within section 247A(2A) of the Criminal Justice Act 2003, a period equal to the term imposed under section 266(a) or 279(a) or (as the case may be) section 254(a) of the Sentencing Code;”;

(d) in paragraph (fa)—

(i) after “under section” insert “252A,”;

(ii) for “half” substitute “two-thirds”;

(iii) after “pursuant to section” insert “252A(4)(a),”;

(e) after paragraph (fa) insert—

“(fb) in the case of a sentence under section 268A or 282A of that Code (serious terrorism sentences), a period equal to the term imposed by the court pursuant to section 268C(2) or 282C(2) of that Code;

(fc) in the case of a sentence in respect of which section 244ZA of the Criminal Justice Act 2003 applies to the offender, a period equal to two-thirds of the sentence;

(fd) in any other case where section 247A of the Criminal Justice Act 2003 applies to the offender in respect of the custodial sentence, a period equal to two-thirds of the sentence;”.

- (2) In section 166 of the Sentencing Code (extension of driving disqualification period where custodial sentence also imposed)—

(a) in the table in subsection (5)—

(i) in entries 3 and 5, in the third column, for “half” substitute “two-thirds of”;

(ii) after entry 6A insert—

“6B	a custodial sentence in respect of	two-thirds of the sentence
	which section 244ZA of the Criminal	

6C	Justice Act 2003 applies to the offender	two-thirds of the sentence”;
	a custodial sentence not within any of the preceding entries in respect of which section 247A of the Criminal Justice Act 2003 applies to the offender	

(b) after subsection (5) insert—

“(5A) In the case of a sentence specified in entry 2, 4 or 6 of column 2 in the table which is within section 247A(2A) of the Criminal Justice Act 2003, the corresponding entry in column 3 of the table is to be read with the omission of “two-thirds of”.”

(3) The amendments made by subsection (2)(a)(i) do not have effect in relation to an offender who—

- (a) is sentenced before the coming into force of section 107 (increase in requisite custodial period for certain offenders of particular concern), and
- (b) on being sentenced, will be a prisoner to whom section 244A of the Criminal Justice Act 2003 (release on licence of prisoners serving sentence under 278 of the Sentencing Code etc) applies.

(4) In the Sentencing Act 2020—

- (a) in section 417 (commencement of prospective amendments), in subsection (3) (a), after “40,” insert “40A,”;
- (b) in Schedule 22, after paragraph 40 (prospective amendment of section 166(5) of the Sentencing Code) insert—

“40A In section 166(5A) (adaptation of disqualification period in certain terrorist cases), in paragraph (a), omit “, 4”;

- (c) also in Schedule 22, in paragraph 102 (prospective amendment of section 35A of the Road Traffic Offenders Act 1988)—
 - (i) in the words before sub-paragraph (a), omit “as amended by paragraph 102(2) of Schedule 24”;
 - (ii) after sub-paragraph (a) insert—
 - “(aa) in paragraph (fza) omit “266(a) or”;
 - (iii) at the end insert—
 - “(c) in paragraph (fb) omit “268A or” and “268C(2) or”.”

(5) In Schedule 22 to the Coroners and Justice Act 2009, omit paragraph 34 (power to make transitional provision in relation to section 35A of the Road Traffic Offenders Act 1988).

141 Increase in driving disqualification periods under certain existing orders: England and Wales

(1) Subsection (2) applies where—

- (a) a driving disqualification order was made in accordance with an extended disqualification provision,
- (b) the custodial sentence as a result of which the extended disqualification provision applied was imposed before the day on which section 140 came into force,

Status: This is the original version (as it was originally enacted).

- (c) section 244ZA (inserted by section 130) or 247A of the Criminal Justice Act 2003 applies to the offender in respect of the sentence (the offender, in particular, not having been released in respect of the sentence), and
 - (d) the appropriate extension period for the purposes of the order would have been longer had the sentence been imposed on the day on which section 140 came into force.
- (2) The order has effect, on and after the day on which section 140 comes into force, as if the period of disqualification included an appropriate extension period of such length as it would have included had the custodial sentence been imposed on that day.
- (3) For the purposes of this section, the “extended disqualification provisions” are—
- (a) section 35A of the Road Traffic Offenders Act 1988,
 - (b) section 147A of the Powers of Criminal Courts (Sentencing) Act 2000, and
 - (c) section 166 of the Sentencing Code,
- and “appropriate extension period”, “driving disqualification order” and “custodial sentence” are to be read in accordance with the extended disqualification provision concerned.
- (4) In the application of this section before section 130 comes into force, the reference in subsection (1)(c) to section 244ZA of the Criminal Justice Act 2003 is to be read as a reference to section 244 of that Act as modified by the Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 (S.I. 2020/158).
- (5) In the application of this section in relation to a custodial sentence imposed under a provision repealed by the Sentencing Act 2020, the references to the sentence in subsections (1)(d) and (2) are to be read as referring to an equivalent sentence imposed under the corresponding provision of the Sentencing Code.

142 Extension of driving disqualification where custodial sentence imposed: Scotland

- (1) Section 35C of the Road Traffic Offenders Act 1988 (extension of driving disqualification period where custodial sentence also imposed) is amended in accordance with subsections (2) to (5).
- (2) In subsection (4)—
- (a) after paragraph (a) insert—
 - “(aa) in the case of a person serving a serious terrorism sentence, a period equal to the appropriate custodial term;
 - (ab) in the case of a person serving an extended sentence that falls within section 1AB(2A) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”), a period equal to the custodial term;
 - (ac) in the case of a person serving an extended sentence in respect of which section 1AB(3) to (5) of the 1993 Act applies to the person, a period equal to two-thirds of the custodial term;”;
 - (b) omit paragraph (b);
 - (c) in paragraph (c)—
 - (i) for “an” substitute “any other”;
 - (ii) for “confinement” substitute “custodial”;
 - (d) after paragraph (c) insert—

- “(ca) in the case of a person serving a sentence imposed under section 205ZC of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), a period equal to two-thirds of the appropriate custodial term;
- (cb) in the case of a person serving any other sentence of imprisonment in respect of which section 1AB of the 1993 Act applies to the person, a period equal to two-thirds of the sentence;”.
- (3) In subsection (7), for the words from “a different” to the end substitute “a reference in section 1(1) or (3) or 1AB(3)(a) of the 1993 Act to a particular proportion of a prisoner’s sentence to be construed as a reference to some other proportion (“the new proportion”) specified in the order”.
- (4) In subsection (8), for “(4)(b) and (c)” substitute “(4)(ac), (c), (ca), (cb) or (d)”.
- (5) In subsection (10)—
- (a) in the definition of “amending order”, for “section 7 of the 2007 Act” substitute “section 27(2)(b) of the 1993 Act”;
 - (b) after that definition insert—

““appropriate custodial term”—

 - (a) in relation to a serious terrorism sentence, means the term imposed under subsection (5)(a) or (as the case may be) (7)(a) of section 205ZA of the 1995 Act;
 - (b) in relation to a sentence imposed under section 205ZC of the 1995 Act, means the term imposed under subsection (3)(a) or (as the case may be) (4)(a) of that section;”;
 - (c) in the definition of “confinement term”—
 - (i) for “confinement” substitute “custodial”;
 - (ii) for “Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”)” substitute “1995 Act”;
 - (d) omit the definitions of “custody and community prisoner” and “custody part”;
 - (e) in the definition of “life prisoner”, for “section 4 of the 2007 Act” substitute “section 2(1) of the 1993 Act”;
 - (f) for the definition of “punishment part” substitute—

““punishment part”, in relation to a life sentence, means the punishment part of the sentence as specified in an order mentioned in section 2(2) of the 1993 Act;”;
 - (g) in the definition of “sentence of imprisonment”, in paragraph (b), after “205,” insert “205ZA(7), 205ZC(4),”;
 - (h) after the definition of “sentence of imprisonment” insert—

““serious terrorism sentence” means a sentence imposed under section 205ZA of the 1995 Act;”.
- (6) Section 248D of the Criminal Procedure (Scotland) Act 1995 (extension of driving disqualification period where custodial sentence also imposed) is amended in accordance with subsections (7) to (10).
- (7) In subsection (4)—
- (a) after paragraph (a) insert—

Status: This is the original version (as it was originally enacted).

- “(aa) in the case of a person serving a serious terrorism sentence, a period equal to the appropriate custodial term;
 - (ab) in the case of a person serving an extended sentence that falls within section 1AB(2A) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”), a period equal to the custodial term;
 - (ac) in the case of a person serving an extended sentence in respect of which section 1AB(3) to (5) of the 1993 Act applies to the person, a period equal to two-thirds of the custodial term;”;
 - (b) omit paragraph (b);
 - (c) in paragraph (c)—
 - (i) for “an” substitute “any other”;
 - (ii) for “confinement” substitute “custodial”;
 - (d) after paragraph (c) insert—
 - “(ca) in the case of a person serving a sentence imposed under section 205ZC of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”), a period equal to two-thirds of the appropriate custodial term;
 - (cb) in the case of a person serving any other sentence of imprisonment in respect of which section 1AB of the 1993 Act applies to the person, a period equal to two-thirds of the sentence;”.
- (8) In subsection (7), for the words from “a different” to the end substitute “a reference in section 1(1) or (3), 1AA(1) or 1AB(3)(a) of the 1993 Act to a particular proportion of a prisoner’s sentence to be construed as a reference to some other proportion (“the new proportion”) specified in the order”.
- (9) In subsection (8), for “(4)(b) and (c)” substitute “(4)(ac), (c), (ca), (cb) or (d)”.
- (10) In subsection (10)—
 - (a) in the definition of “amending order”, for “section 7 of the 2007 Act” substitute “section 27(2)(b) of the 1993 Act”;
 - (b) after that definition insert—
 - ““appropriate custodial term”—
 - (a) in relation to a serious terrorism sentence, means the term imposed under subsection (5)(a) or (as the case may be) (7)(a) of section 205ZA of the 1995 Act;
 - (b) in relation to a sentence imposed under section 205ZC of the 1995 Act, means the term imposed under subsection (3)(a) or (as the case may be) (4)(a) of that section;”;
 - (c) in the definition of “confinement term”—
 - (i) for “confinement” substitute “custodial”;
 - (ii) for “Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”)” substitute “1995 Act”;
 - (d) omit the definitions of “custody and community prisoner” and “custody part”;
 - (e) in the definition of “life prisoner”, for “section 4 of the 2007 Act” substitute “section 2(1) of the 1993 Act”;
 - (f) for the definition of “punishment part” substitute—

- ““punishment part”, in relation to a life sentence, means the punishment part of the sentence as specified in an order mentioned in section 2(2) of the 1993 Act;”;
- (g) in the definition of “sentence of imprisonment”, in paragraph (b), after “205,” insert “205ZA(7), 205ZC(4),”;
- (h) after the definition of “sentence of imprisonment” insert—
 ““serious terrorism sentence” means a sentence imposed under section 205ZA of the 1995 Act;”.
- (11) In Schedule 22 to the Coroners and Justice Act 2009, omit paragraphs 35 and 36 (powers to make transitional provision in relation to section 35C of the Road Traffic Offenders Act 1988).

143 Increase in driving disqualification periods under certain existing orders: Scotland

- (1) Subsection (2) applies where—
- a driving disqualification order was made in accordance with an extended disqualification provision,
 - the sentence of imprisonment as a result of which the extended disqualification provision applied was imposed before the day on which section 142 came into force,
 - section 1AB of the Prisoners and Criminal Proceedings (Scotland) Act 1993 applies to the offender in respect of the sentence (the offender, in particular, not having been released in respect of the sentence), and
 - the appropriate extension period for the purposes of the order would have been longer had the sentence been imposed on the day on which section 142 came into force.
- (2) The order has effect, on and after the day on which section 142 comes into force, as if the period of disqualification included an appropriate extension period of such length as it would have included had the sentence of imprisonment been imposed on that day.
- (3) In this section—
- “driving disqualification order” means an order under—
- section 34 or 35 of the Road Traffic Offenders Act 1988 (“the 1988 Act”), or
 - section 248 or 248A of the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”);
- “an extended disqualification provision” means—
- section 35C of the 1988 Act (in the case of an order under section 34 or 35 of that Act), or
 - section 248D of the 1995 Act (in the case of an order under section 248 or 248A of the 1995 Act);
- “appropriate extension period” and “sentence of imprisonment” are to be read in accordance with the extended disqualification provision concerned.

*Minor amendments***144 Calculation of period before release or Parole Board referral where multiple sentences being served**

- (1) In the Crime (Sentences) Act 1997—
- (a) in section 28(7) (time of Parole Board referral), omit paragraph (c) (and the “and” immediately before it);
 - (b) before section 34 insert—

“33A Life prisoners also serving fixed-term sentence

- (1) This section applies where a life prisoner is also serving one or more sentences by virtue of which the fixed-term provisions apply to the offender.
 - (2) Nothing in this Chapter requires the Secretary of State to release the prisoner unless the Secretary of State is also required by the fixed-term provisions to release the prisoner.
 - (3) Nothing in this Chapter requires the Secretary of State to refer the prisoner’s case to the Parole Board unless the Secretary of State is also required by the fixed-term provisions to—
 - (a) refer the prisoner’s case to the Board, or
 - (b) release the prisoner.
 - (4) Subsection (3) does not apply to a reference by the Secretary of State under section 31A(3).
 - (5) The fact that the prisoner is serving a life sentence is to be ignored in determining, for the purposes of subsections (2) and (3), what the fixed-term provisions require.
 - (6) In this section “the fixed-term provisions” means Chapter 6 of Part 12 of the Criminal Justice Act 2003.”;
 - (c) in section 34 (interpretation), omit subsection (4).
- (2) The Criminal Justice Act 2003 is amended in accordance with subsections (3) to (11).
- (3) In section 243A(3) (requisite custodial period before release in short sentence), for “264(2)” substitute “264(2B) or (2E)”.
- (4) In section 244(3)(d) (usual requisite custodial period before release), for “264(2)” substitute “264(2B) or (2E)”.
- (5) In section 244A(6) (periods before release or referral in sentences for offenders of particular concern), in paragraph (b) of the definition of “requisite custodial period”, for “264(2)” substitute “264(2D)”.
- (6) In section 246A(8) (periods before release or referral in extended sentences), in paragraph (b) of the definition of “requisite custodial period”, for “264(2)” substitute “264(2B), (2D) or (2E)”.

- (7) In section 247(7) (periods before release in old extended sentences), in paragraph (b) of the definition of “requisite custodial period”, for “264(2)” substitute “264(2B) or (2E)”.
- (8) In section 247A(8) (release of terrorist prisoners: definitions), in paragraph (c) of the definition of “requisite custodial period”, for “264(2)” substitute “264(2B), (2D) or (2E)”.
- (9) In section 263 (release in case of concurrent sentences), in subsection (2), after paragraph (a) insert—
- “(aza) nothing in this Chapter requires the Secretary of State to refer the offender’s case to the Board in respect of any of the terms unless and until the Secretary of State is required either—
- (i) to refer the offender’s case to the Board, or
- (ii) to release the offender,
- in respect of each of the others.”.
- (10) In section 264 (release in case of consecutive sentences)—
- (a) for subsection (2) substitute—
- “(2A) Subsection (2B) applies if each of the terms of imprisonment is subject to initial automatic release.
- (2B) Nothing in this Chapter requires the Secretary of State to release the offender until the offender has served a period equal to the aggregate of the length of the minimum custodial periods in each of the terms.
- (2C) Subsections (2D) and (2E) apply if at least one of the terms of imprisonment is subject to initial Parole Board referral.
- (2D) Nothing in this Chapter requires the Secretary of State to refer the offender’s case to the Board until the offender has served a period equal to the aggregate length of the minimum custodial periods in each of the terms.
- (2E) Nothing in this Chapter requires the Secretary of State to release the offender until—
- (a) the Board has directed the release of the offender, or
- (b) the offender has served a period equal to the aggregate length of—
- (i) the minimum custodial periods in each of the terms (if any) that is subject to initial automatic release, and
- (ii) the maximum custodial periods in each of the terms that is subject to initial Parole Board referral.
- (2F) For the purposes of subsections (2A) to (2E)—
- (a) a term of imprisonment is “subject to initial automatic release” if it is a sentence in respect of which—
- (i) section 243A(1), 244(1), 244ZA(1), 246A(2) or 247 applies to the offender, or
- (ii) section 247A applies, but subsections (3) to (5) of that section do not apply, to the offender;

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- (b) a term of imprisonment is “subject to initial Parole Board referral” if it is a sentence in respect of which—
 - (i) section 244ZC, 244A, 246A(3) to (7) or 247A(3) to (5) applies to the offender, or
 - (ii) a notice under section 244ZB(4) is in force.”;
- (b) in subsections (6) and (6A), in the words before paragraph (a), before “custodial” insert “minimum”;
- (c) after subsection (6A) insert—

“(6B) In this section “maximum custodial period” means—

 - (a) in relation to a sentence imposed under section 226A, 226B, 227, 228 or 236A of this Act or section 252A, 254, 265, 266, 278 or 279 of the Sentencing Code, the “appropriate custodial term” determined by the court under that section;
 - (b) in relation to any other sentence, the term of the sentence.”

(11) After section 267B insert—

“267C Fixed-term prisoners also serving life sentence

- (1) This section applies where a fixed-term prisoner is also serving one or more sentences by virtue of which the life sentence provisions apply to the offender.
- (2) Nothing in this Chapter requires the Secretary of State to release the prisoner unless the Secretary of State is also required by the life sentence provisions to release the prisoner.
- (3) Nothing in this Chapter requires the Secretary of State to refer the prisoner’s case to the Board unless the Secretary of State is also required by the life sentence provisions to—
 - (a) refer the prisoner’s case to the Board, or
 - (b) release the prisoner.
- (4) The reference in subsection (3)(a) to a requirement of the Secretary of State to refer a prisoner’s case to the Board does not include a requirement to do so under section 31A(3) of the 1997 Act.
- (5) The fact that the prisoner is also serving a fixed-term sentence is to be ignored in determining, for the purposes of subsections (2) and (3), what the life sentence provisions require.
- (6) In this section “the life sentence provisions” means Chapter 2 of Part 2 of the 1997 Act.”

(12) In section 11 of the Criminal Justice and Courts Act 2015 (release on licence of life prisoners), omit subsections (1) and (4).

145 Application of release provisions to repatriated prisoners

- (1) In the Schedule to the Repatriation of Prisoners Act 1984, in paragraph 2 (application of early release provisions) as it applies in relation to prisoners repatriated to England and Wales—
 - (a) omit sub-paragraphs (3) and (3A);

- (b) for sub-paragraphs (3B) to (3F) (inserted by the Counter-Terrorism and Sentencing Act 2021) substitute—

“(3ZA) The Secretary of State may specify in the warrant that the prisoner is to be treated for the purposes of the enactments relating to release on licence as if the sentence to be served by the prisoner was imposed in respect of—

- (a) a particular offence under the law of England and Wales,
- (b) such an offence carried out in a certain manner or in certain circumstances, or
- (c) such an offence in relation to which certain findings were made by the court before which the prisoner was convicted or sentenced for the offence;

and if that is done those enactments have effect accordingly.

(3ZB) An offence may be specified under sub-paragraph (3ZA) only if it corresponds to the offence in respect of which the prisoner is required to be detained in the country or territory from which the prisoner is transferred (“the overseas offence”).

(3ZC) A specification under sub-paragraph (3ZA)(b) may be made only if, in the opinion of the Secretary of State, findings made by the court before which the prisoner was convicted or sentenced for the overseas offence show that the overseas offence was committed in the manner or circumstances to be specified (or in a corresponding manner or corresponding circumstances).

(3ZD) A finding may be specified under sub-paragraph (3ZA)(c) only if, in the opinion of the Secretary of State, findings made by the court before which the prisoner was convicted or sentenced for the overseas offence show that the finding to be specified could properly have been made by a court in England and Wales dealing with the prisoner.

(3ZE) Sub-paragraph (3ZA) does not result in the enactments relating to release on licence applying in a way in which they could not apply in relation to a sentence imposed in respect of the offence specified under that sub-paragraph—

- (a) that was committed at the same time as the overseas offence was committed, or
- (b) in respect of which a conviction was made, or sentence passed, at the same time as occurred in respect of the overseas offence.

(3ZF) The Secretary of State may amend a warrant (whether issued before or after sub-paragraph (3ZA) comes into force and whether or not the transfer it authorised has taken place) so as to specify the matters there referred to.”;

- (c) in sub-paragraph (4), in the definition of “the enactments relating to release on licence”, for “and Chapter 6 of Part 12 of the Criminal Justice Act 2003” substitute “, Chapter 6 of Part 12 of the Criminal Justice Act 2003 and section 28 of the Offender Management Act 2007”.

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- (2) The repeal by subsection (1)(b) of sub-paragraphs (3B) to (3F) of the amended paragraph does not affect the continued operation of the enactments relating to release on licence (within the meaning of that paragraph as amended by subsection (1)) in relation to a warrant issued or amended in accordance with those sub-paragraphs before their repeal.
- (3) In Schedule 26 to the Criminal Justice and Immigration Act 2008, the following provisions (which contain superseded amendments of or in connection with the paragraph amended by subsection (1)) are repealed—
- (a) paragraph 19(4) and (5), and
 - (b) paragraph 33(2) and (3).

146 Sentences and offences in respect of which polygraph condition may be imposed

In section 28 of the Offender Management Act 2007 (application of polygraph condition)—

- (a) in subsection (3), for paragraphs (a) to (g) substitute—
 - “(a) a life sentence within the meaning of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (see section 34(2) of that Act), or
 - (b) a fixed-term sentence within the meaning of Chapter 6 of Part 12 of the Criminal Justice Act 2003 (see section 237 of that Act) of a term of 12 months or more.”;
- (b) in subsection (4), for the words from “means—” to the end substitute “means an offence specified in any one or more of—
 - (a) Schedule 3 to the Sexual Offences Act 2003 (sexual offences attracting notification requirements),
 - (b) Part 2 of Schedule 15 to the Criminal Justice Act 2003 (sexual offences under the law of England and Wales specified for certain purposes),
 - (c) paragraphs 1 to 21 of Schedule 16 to that Act (sexual offences under the law of Scotland specified for certain purposes), as that Schedule had effect immediately before its repeal on 14 July 2008, and
 - (d) Part 2 of Schedule 17 to that Act (sexual offences under the law of Northern Ireland specified for certain purposes), as that Schedule had effect immediately before its repeal on 14 July 2008.”;
- (c) after subsection (4) insert—

“(4ZA) In determining for the purposes of subsection (4) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded.”;
- (d) in subsection (4A) (inserted by the Counter-Terrorism and Sentencing Act 2021), omit paragraph (b) (but not the final “or”);
- (e) in subsection (4B) (also so inserted), omit paragraph (a);
- (f) after subsection (4B) insert—

“(4C) A sentence in respect of a service offence is to be treated for the purposes of this section as if it were a sentence in respect of the corresponding offence.

(4D) In subsection (4C)—

- (a) “service offence” means an offence under—
- (i) section 42 of the Armed Forces Act 2006,
 - (ii) section 70 of the Army Act 1955 or the Air Force Act 1955, or
 - (iii) section 42 of the Naval Discipline Act 1957;
- (b) “corresponding offence” means—
- (i) in relation to an offence under section 42 of the Armed Forces Act 2006, the corresponding offence under the law of England and Wales within the meaning of that section;
 - (ii) in relation to an offence under section 70 of the Army Act 1955 or the Air Force Act 1955, the corresponding civil offence within the meaning of that Act;
 - (iii) in relation to an offence under section 42 of the Naval Discipline Act 1957, the civil offence within the meaning of that section.

(4E) Section 48 of the Armed Forces Act 2006 (supplementary provisions relating to ancillary service offences) applies for the purposes of subsection (4D)(b)(i) above as it applies for the purposes of the provisions of that Act referred to in subsection (3)(b) of that section.”

147 Minor amendments to do with weapons-related offences

(1) In Schedule 15 to the Criminal Justice Act 2003 (specified offences for certain purposes to do with release of offenders)—

- (a) after paragraph 60 insert—
- “60A An offence under section 47 of the Anti-Terrorism, Crime and Security Act 2001 (use etc of nuclear weapons).
- 60B An offence under section 50 of that Act (assisting or inducing certain weapons-related acts overseas).”;
- (b) omit paragraphs 163 and 164;
- (c) in paragraph 165, for “that Act” substitute “the Anti-Terrorism, Crime and Security Act 2001”.

(2) In Schedule 18 to the Sentencing Code (specified offences for certain sentencing purposes)—

- (a) after paragraph 23 insert—

“Anti-Terrorism, Crime and Security Act 2001

23A An offence under either of the following provisions of the Anti-Terrorism, Crime and Security Act 2001—

- (a) section 47 (use etc of nuclear weapons);

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- (b) section 50 (assisting or inducing certain weapons-related acts overseas).”;
- (b) for paragraph 42 substitute—
 - “42 An offence under section 113 of the Anti-Terrorism, Crime and Security Act 2001 (use of noxious substance or thing to cause harm or intimidate).”

148 Application of provision about minimum terms to service offences

In section 261A of the Armed Forces Act 2006 (life sentences imposed by Court Martial), at the end insert—

- “(5) Schedule 21, as it applies in relation to a sentence passed by the Court Martial, has effect as if a reference to murder included reference to an offence under section 42 as respects which the corresponding offence under the law of England and Wales is murder.”