



# Police, Crime, Sentencing and Courts Act 2022

## 2022 CHAPTER 32

### PART 7

#### SENTENCING AND RELEASE

#### CHAPTER 1

#### CUSTODIAL SENTENCES

#### *Release on licence*

### **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—
    - (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,

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*Changes to legislation:* There are currently no known outstanding effects for the Police, Crime, Sentencing and Courts Act 2022, Section 138. (See end of Document for details)

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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

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(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.

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**Commencement Information**

**II** S. 138 in force at 28.6.2022, see [s. 208\(5\)\(o\)](#)

**Changes to legislation:**

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