

**2008 No. 1587**

**CRIMINAL LAW, ENGLAND AND WALES**

**CRIMINAL LAW, NORTHERN IRELAND**

**PRISONS**

**The Criminal Justice and Immigration Act 2008 (Transitory Provisions) Order 2008**

<i>Made</i> - - - -	<i>17th June 2008</i>
<i>Laid before Parliament</i>	<i>19th June 2008</i>
<i>Coming into force</i> - -	<i>14th July 2008</i>

The Secretary of State makes this Order in exercise of the powers conferred by section 148(3) and (4)(a) of the Criminal Justice and Immigration Act 2008(a).

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Criminal Justice and Immigration Act 2008 (Transitory Provisions) Order 2008 and shall come into force on 14<sup>th</sup> July 2008.

(2) In this Order—

“the 2003 Act” means the Criminal Justice Act 2003(b);

“the 2008 Act” means the Criminal Justice and Immigration Act 2008.

**Modifications for sentencing of offenders aged at least 18 but under 21**

2.—(1) In relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000(c) (abolition of sentences of detention in a young offender institution, custody for life etc), the following provisions of Part 12 of the 2003 Act shall have effect subject to the modifications specified in paragraphs (2) to (4).

(2) Section 225 (life sentence or imprisonment for public protection for serious offences) has effect as if—

(a) in subsection (3)(d), after the words “public protection” there were inserted “or, in the case of a person aged at least 18 but under 21, a sentence of detention in a young offender institution for public protection”;

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(a) 2008 c.4  
(b) 2003 c.44  
(c) 2000 c.43  
(d) Section 225 has been modified by S.I. 2005/643, and subsection (3) of section 225 was substituted by section 13(1) of the 2008 Act.

- (b) in subsection (3C)(a), after the words “public protection” there were inserted “or, in the case of a person aged at least 18 but under 21, a sentence of detention in a young offender institution for public protection”.

(3) Section 227 (extended sentence for certain violent or sexual offences: persons 18 or over) has effect as if —

- (a) in subsection (1)(c)(b), after the words “a sentence of imprisonment for life” there were inserted “or, in the case of a person aged at least 18 but under 21, a sentence of custody for life”;
- (b) in subsection (2B)(c), after the words “extended sentence of imprisonment” there were inserted “or, in the case of an offender aged at least 18 but under 21, an extended sentence of detention in a young offender institution”;
- (c) in subsection (2C)(d)—
  - (i) after the words “extended sentence of imprisonment” there were inserted “or, in the case of an offender aged at least 18 but under 21, an extended sentence of detention in a young offender institution”; and
  - (ii) after the words “a sentence of imprisonment” there were inserted “or detention in a young offender institution”.

(4) Section 305(4)(c)(e) has effect as if, after the words “a sentence of imprisonment for life” there were inserted “or, in the case of a person aged at least 18 but under 21, a sentence of custody for life”.

### **Modifications in relation to the release and recall of offenders aged at least 18 but under 21**

3. In relation to any sentence passed before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000, section 255A(14) of the 2003 Act(f) (further release after recall) has effect as if, after the words “section 91” there were inserted “or 96” and after the words “or under section” there were inserted “227 or”.

### **Modification of references to Supreme Court**

4. References to the Supreme Court in section 5 of the Administration of Justice Act 1960(g) are to be read as references to the House of Lords until the coming into force of paragraph 13(5) of Schedule 9 to the Constitutional Reform Act 2005(h).

5. References to the Supreme Court in section 37 of the Criminal Appeal Act 1968(i) are to be read as references to the House of Lords until the coming into force of paragraph 16(6) of Schedule 9 to the Constitutional Reform Act 2005.

6. References to the Supreme Court in section 36 of the Criminal Appeal (Northern Ireland) Act 1980(j) are to be read as references to the House of Lords until the coming into force of paragraph 33(6) of Schedule 9 to the Constitutional Reform Act 2005.

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(a) Subsection (3C) of section 225 was added by section 13(1) of the 2008 Act.  
(b) Section 227 has been modified by S.I. 2005/643. Subsection (1)(c) of section 227 was added by section 15(2)(b) of the 2008 Act.  
(c) Subsection (2B) of section 227 was added by section 15(4) of the 2008 Act.  
(d) Subsection (2C) of section 227 was added by section 15(4) of the 2008 Act.  
(e) Subsection (4)(c) of section 305 was substituted by paragraph 72(a) of Schedule 26 to the 2008 Act.  
(f) Section 255A of the Criminal Justice Act 2003 was added by section 29 of the 2008 Act.  
(g) 1960 c.65. Section 5 was amended by paragraph 26 of Schedule 8 to the 2008 Act.  
(h) 2005 c.4  
(i) 1968 c.19. Section 37 was amended by paragraph 13 of Schedule 8 to the 2008 Act.  
(j) 1980 c.47. Section 36 was amended by paragraph 24 of Schedule 8 to the 2008 Act.

Signed by the authority of the Secretary of State

17th June 2008

*David Hanson*  
Minister of State  
Ministry of Justice

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes transitory modifications to enactments amended or added by the Criminal Justice and Immigration Act 2008 (c.4).

The modifications in articles 2 and 3 are needed until such time as the sentences of detention in a young offender institution and of custody for life for offenders aged at least 18 but under 21 are repealed by section 61 of the Criminal Justice and Court Services Act 2000 (c.43).

The modifications made by article 2 relate to sentencing provisions in Part 12 of the Criminal Justice Act 2003 (c.44). They ensure that those provisions apply to offenders aged at least 18 but under 21. Such offenders, instead of serving a sentence of imprisonment, serve a sentence of detention in a young offender institution or a sentence of custody for life.

The modification made by article 3 to new section 255A of the Criminal Justice Act 2003 ensures that the release and recall provisions applicable to offenders aged 21 or over also apply to offenders aged at least 18 but under 21 who are sentenced to detention in a young offender institution or to an extended sentence as a dangerous offender.

The modifications made by articles 4, 5 and 6 are needed until such time as the House of Lords becomes the Supreme Court upon implementation of certain provisions of the Constitutional Reform Act 2005 (c.4).

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