

# **CUSTODIAL SENTENCES AND WEAPONS (SCOTLAND) ACT 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON PARTS**

#### **Part 2 - Confinement and Release of Prisoners** *Schedule 2 (introduced by [section 52](#))*

#### ***Prisoners Serving More Than One Sentence: Application of Part 2***

##### **Multiple custody-only sentences**

101. [Paragraph 1\(1\)](#) provides that paragraph 1 applies where a prisoner is serving, or is likely to serve, two or more custody-only sentences and is not serving, or is not likely to serve, any other custodial sentence. Paragraph 1(2) provides that Part 2 of the Act applies subject to the modifications specified in paragraph 1(3) i.e. that a reference to a prisoner's sentence in sections 5 and 28(1) are to be read as a reference to the sentence with the latest date of expiry.

##### **Multiple custody and community sentences**

102. [Paragraph 2\(1\)](#) provides that paragraph 2 applies where a prisoner is serving, or is likely to serve, two or more custody and community sentences and is not serving, or is not likely to serve, any other custodial sentence.
103. Where a prisoner is serving two or more custody and community sentences, references in Part 2 to the expiry of the custody part will be to the latest expiry date. This prevents the case being referred to the Parole Board until shortly before the expiry of all custody parts. The prisoner will only be released on licence on expiry of the latest custody part.
104. [Paragraph 2\(5\)](#) provides that the prisoner can, following review by the Parole Board, be detained on the grounds of risk until he or she has served at least three-quarters of each of the sentences. Paragraph 2(6) provides that the sentence end date is the latest expiry date of the sentences.

##### **Combinations of custody-only and custody and community sentences**

105. [Paragraph 3\(1\)](#) provides that paragraph 3 has effect where a prisoner is serving, or is likely to serve, a combination of at least one custody-only and one custody and community sentence.
106. References in Part 2 to the expiry of the custody part will be to the expiry of whichever is the later (or latest) of the custody parts and custody-only sentences imposed on the prisoner. This prevents the case being referred to the Parole Board until shortly before the expiry of all custody parts and custody-only sentences.
107. [Paragraph 3\(5\)](#) provides that the prisoner can, following review by the Parole Board, be detained on the grounds of risk until he or she has served at least three-quarters of

each of the sentences and the custody-only sentence. Paragraph 5(6) provides that the sentence end date is the latest expiry date of the sentences.

### **Multiple life sentences**

108. Paragraph 4(1) provides that paragraph 4 has effect where a prisoner is serving, or is likely to serve, two or more life sentences. Where a prisoner is serving two or more life sentences, his case will not be able to be referred to the Parole Board until shortly before the expiry of the latest punishment part.

### **Combinations of life sentences and other sentences**

109. Paragraph 5(1) provides that paragraph 5 has effect where a prisoner is serving, or is likely to serve, a combination of at least one life sentence and any number or combination of custody-only or custody and community sentences.
110. Where a prisoner is serving such a combination of sentences. This prevents the case being referred to the Parole Board until shortly before the expiry of the latest custody only sentence, custody part of a custody and community sentence or punishment part of a life sentence. The prisoner will only be released on licence on expiry of the latest custody only sentence, custody part or punishment part.

### **Single licence for released prisoner serving multiple sentences**

111. Paragraph 6 provides that where paragraph 2, 3, 4 or 5 applies to a prisoner, he will be released on a single licence covering all sentences of imprisonment.

### **Special case: extended sentences**

112. Paragraph 7 provides that where a custody and community sentence mentioned in paragraphs 2 and 3 is an extended sentence, references to the prisoner's sentences are to be read as references to the confinement period/s of the extended sentence/s.