



# Legal Aid, Sentencing and Punishment of Offenders Act 2012

## 2012 CHAPTER 10

### PART 3

#### SENTENCING AND PUNISHMENT OF OFFENDERS

### CHAPTER 4

#### RELEASE ON LICENCE ETC

#### *Calculation of days to be served*

#### **108 Crediting of periods of remand in custody**

- (1) Omit section 240 of the Criminal Justice Act 2003 (court to direct that remand time be credited towards time served).
- (2) Before section 240A of that Act insert—

**“240ZA Time remanded in custody to count as time served: terms of imprisonment and detention**

- (1) This section applies where—
  - (a) an offender is serving a term of imprisonment in respect of an offence, and
  - (b) the offender has been remanded in custody (within the meaning given by section 242) in connection with the offence or a related offence.
- (2) It is immaterial for that purpose whether, for all or part of the period during which the offender was remanded in custody, the offender was also remanded in custody in connection with other offences (but see subsection (5)).

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- (3) The number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by the offender as part of the sentence.
- But this is subject to subsections (4) to (6).
- (4) If, on any day on which the offender was remanded in custody, the offender was also detained in connection with any other matter, that day is not to count as time served.
- (5) A day counts as time served—
- in relation to only one sentence, and
  - only once in relation to that sentence.
- (6) A day is not to count as time served as part of any period of 28 days served by the offender before automatic release (see section 255B(1)).
- (7) For the purposes of this section a suspended sentence—
- is to be treated as a sentence of imprisonment when it takes effect under paragraph 8(2)(a) or (b) of Schedule 12, and
  - is to be treated as being imposed by the order under which it takes effect.
- (8) In this section “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.
- (9) For the purposes of the references in subsections (3) and (5) to the term of imprisonment to which a person has been sentenced (that is to say, the reference to the offender’s “sentence”), consecutive terms and terms which are wholly or partly concurrent are to be treated as a single term if—
- the sentences were passed on the same occasion, or
  - where they were passed on different occasions, the person has not been released at any time during the period beginning with the first and ending with the last of those occasions.
- (10) The reference in subsection (4) to detention in connection with any other matter does not include remand in custody in connection with another offence but includes—
- detention pursuant to any custodial sentence;
  - committal in default of payment of any sum of money;
  - committal for want of sufficient distress to satisfy any sum of money;
  - committal for failure to do or abstain from doing anything required to be done or left undone.
- (11) This section applies to a determinate sentence of detention under section 91 or 96 of the Sentencing Act or section 227 or 228 of this Act as it applies to an equivalent sentence of imprisonment.”

## **109 Crediting of periods of remand on bail**

(1) Section 240A of the Criminal Justice Act 2003 (crediting periods of remand on bail: terms of imprisonment and detention) is amended as follows.

(2) In subsection (2), for “subsection (4)” substitute “subsections (3A) and (3B)”.

(3) For subsections (3) to (7) substitute—

“(3) The credit period is calculated by taking the following steps.

*Step 1*

Add—

- (a) the day on which the offender’s bail was first subject to the relevant conditions (and for this purpose a condition is not prevented from being a relevant condition by the fact that it does not apply for the whole of the day in question), and
- (b) the number of other days on which the offender’s bail was subject to those conditions (but exclude the last of those days if the offender spends the last part of it in custody).

*Step 2*

Deduct the number of days on which the offender, whilst on bail subject to the relevant conditions, was also—

- (a) subject to any requirement imposed for the purpose of securing the electronic monitoring of the offender’s compliance with a curfew requirement, or
- (b) on temporary release under rules made under section 47 of the Prison Act 1952.

*Step 3*

From the remainder, deduct the number of days during that remainder on which the offender has broken either or both of the relevant conditions.

*Step 4*

Divide the result by 2.

*Step 5*

If necessary, round up to the nearest whole number.

(3A) A day of the credit period counts as time served—

- (a) in relation to only one sentence, and
- (b) only once in relation to that sentence.

(3B) A day of the credit period is not to count as time served as part of any period of 28 days served by the offender before automatic release (see section 255B(1)).”

(4) In subsection (8)—

- (a) omit “or (5)”;  
(b) for paragraph (b) substitute—

“(b) the number of days (if any) which it deducted under each of steps 2 and 3.”

(5) Omit subsections (9) and (10).

(6) In subsection (11)—

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- (a) for “Subsections (7) to (10) of section 240” substitute “Subsections (7) to (9) and (11) of section 240ZA”;
  - (b) in paragraph (b), for “in subsection (8) the reference to subsection (3) of section 240 is” substitute “in subsection (9) the references to subsections (3) and (5) of section 240ZA are”.
- (7) In subsection (12)—
- (a) before the definition of “electronic monitoring condition” insert—
    - ““curfew requirement” means a requirement (however described) to remain at one or more specified places for a specified number of hours in any given day, provided that the requirement is imposed by a court or the Secretary of State and arises as a result of a conviction;”;
  - (b) omit the definition of “related offence” and the “and” preceding it.
- (8) In the heading of the section, for “Crediting periods of remand on bail” substitute “Time remanded on bail to count towards time served”.

## **110 Amendments consequential on sections 108 and 109**

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 237(1C) (meaning of “fixed-term prisoner”)—
- (a) for “section 240” substitute “section 240ZA”;
  - (b) after “Armed Forces Act 2006” insert “or section 240A”.
- (3) Section 241 (effect of direction under section 240 or 240A) is amended as follows.
- (4) In subsection (1)—
- (a) for “to whom a direction under section 240 or 240A relates” substitute “to whom section 240ZA applies or a direction under section 240A relates”;
  - (b) for “specified in the direction” substitute “specified in section 240ZA or in the direction under section 240A”.
- (5) In subsection (1A), for “a direction under section 240 or 240A includes a direction under” substitute “section 240ZA includes”.
- (6) In the heading, for “direction under section 240 or 240A” substitute “section 240ZA or direction under section 240A”.
- (7) In section 242 (interpretation of sections 240 to 241), in subsections (1) and (2) and in the heading, for “sections 240” substitute “sections 240ZA”.
- (8) For section 243(2) (persons extradited to the United Kingdom) substitute—
- “(2) In the case of an extradited prisoner, the court must specify in open court the number of days for which the prisoner was kept in custody while awaiting extradition.
  - (2A) Section 240ZA applies to days specified under subsection (2) as if they were days for which the prisoner was remanded in custody in connection with the offence or a related offence.”
- (9) In section 246 (power to release prisoners early)—

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- (a) in subsection (4)(i), for “to whom a direction under section 240 or 240A relates” substitute “to whom section 240ZA applies or a direction under section 240A relates”;
  - (b) in subsection (4A)(b), for “a direction under section 240 includes a direction under” substitute “section 240ZA includes”.
- (10) In section 269 (determination of minimum term in relation to mandatory life sentence)
- (a) in subsection (3)(b), for the words from “any direction which it would have given” to “certain types of condition)” substitute “section 240ZA (crediting periods of remand in custody) or of any direction which it would have given under section 240A (crediting periods of remand on certain types of bail)”;
  - (b) after that subsection insert—
    - “(3A) The reference in subsection (3)(b) to section 240ZA includes section 246 of the Armed Forces Act 2006 (crediting periods in service custody).”
- (11) In section 305(1A) (modification of reference to want of sufficient distress), inserted by paragraph 155 of Schedule 13 to the Tribunals, Courts and Enforcement Act 2007, for “In the definition of “sentence of imprisonment” in subsection (1) the reference” substitute “In this Part any reference”.
- (12) In section 330(5) (rules to be subject to affirmative resolution)—
- (a) after paragraph (b) insert “or”, and
  - (b) omit paragraph (d) and the “or” preceding it.
- (13) Schedule 13 (crediting of time in custody) has effect.
- (14) In consequence of the amendments made by this section, in the Criminal Justice and Immigration Act 2008 omit—
- (a) section 21(2), (5) and (7);
  - (b) section 22(2) and (3);
  - (c) section 23 and Schedule 6.