

SCHEDULE 2

TRANSITIONAL AND SAVING PROVISIONS

Saving and Transitional Provisions relating to Chapter 6 of Part 12

Saving for prisoners serving sentences of imprisonment of less than 12 months

14. The coming into force of sections 244 to 268 of, and paragraph 30 of Schedule 32 to the 2003 Act, and the repeal of sections 33 to 51 of the 1991 Act, is of no effect in relation to any sentence of imprisonment of less than twelve months (whether or not such a sentence is imposed to run concurrently or consecutively with another such sentence).

Power of court to recommend licence conditions for certain prisoners

15. The coming into force of section 238 of the 2003 Act (power of court to recommend licence conditions) is of no effect in a case in which a court sentences an offender in respect of an offence committed before 4th April 2005.

The Parole Board

16. Where the Parole Board is—

- (a) by virtue of paragraph 14 of this Schedule, dealing with a prisoner serving a sentence of less than 12 months; or
- (b) by virtue of paragraph 19 of this Schedule, dealing with a prisoner serving a term of imprisonment in respect of an offence committed before 4th April 2005,

any reference in section 239 of the 2003 Act to Chapter 6 of that Act shall be treated as a reference to Part 2 of the 1991 Act.

Remand Time

17. The coming into force of section 243 of the 2003 Act (persons extradited to the United Kingdom) is of no effect in the case of an extradited prisoner where the offence referred to in subsection (1) of section 243 was committed before 4th April 2005.

18. The coming into force of paragraph 10 of Schedule 32 to the 2003 Act is of no effect in a case where a court has imposed a sentence on conviction on retrial in respect of an offence committed before 4th April 2005.

Savings for prisoners convicted of offences committed before 4th April 2005

19. The coming into force of—

- (a) sections 244 (duty to release prisoners), 246 (power to release prisoners before required to do so), 248 (power to release on compassionate grounds), 249 (duration of licence) and 250 (licence conditions);
- (b) paragraph 8(2)(b) of Schedule 32 (Criminal Appeal Act 1968(1));
- (c) the repeal of sections 33, 33A to 38A, 40A to 44, and 46 to 47 and 51 of the 1991 Act; and

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- (d) the repeal of sections 59 and 60, 99 and 100, 101, 103 to 105 and 121 of the Crime and Disorder Act 1998,

is of no effect in relation to a prisoner serving a sentence of imprisonment imposed in respect of an offence committed before 4th April 2005.

20. The coming into force of the repeal of sections 49 and 50 of the 1991 Act does not affect the power of the Secretary of State to make orders under those provisions relating to prisoners serving sentences of imprisonment in respect of offences committed before 4th April 2005.

21. The coming into force of the repeal of section 38 of the Crime and Disorder Act 1998 is of no effect in relation to a child or young person whose post-release supervision relates to a sentence in respect of an offence committed before 4th April 2005.

22. Until the repeal of section 34A of the 1991 Act comes fully into force, subsection (2)(g) of that section shall be treated as if at the end there were added the words “or section 254 of the Criminal Justice Act 2003”.

Transitional arrangements for recall after release

23.—(1) Subject to sub-paragraphs (2) and (3), in relation to a prisoner who falls to be released under the provisions of Part 2 of the 1991 Act after 4th April 2005—

- (a) the reference to release on licence in section 254(1) of the 2003 Act (recall of prisoners while on licence) shall be taken to include release on licence under those provisions; and
- (b) the reference in sections 37(1) and 44(3) and (4) of the 1991 Act to revocation under section 39 of that Act shall be treated as a reference to revocation under section 254 of the 2003 Act.

(2) Paragraph 12(1) and (2) of Schedule 9 to the Crime and Disorder Act 1988 shall continue to apply to the recall of prisoners whose sentence was committed before the commencement of section 103 of that Act.

(3) The repeal of section 39 of the 1991 Act is of no effect in a case in which the Secretary of State has received a request for the recall of an offender from an officer of a local Probation Board before 4th April 2005.

Fine defaulters and contemnors

24. The coming into force of section 258 of the 2003 Act, and the repeal of section 45 of the 1991 Act (early release of fine defaulters and contemnors) is of no effect in relation to a person committed to prison in the circumstances set out in subsection (1)(a) or (b) of section 258 before 4th April 2005.

Consecutive or concurrent terms

25. The coming into force of—

- (a) sections 263 and 264 of the 2003 Act (consecutive or concurrent terms);
- (b) paragraphs 4 and 6(b) of Schedule 32 (Criminal Justice Act 1967(2));
- (c) in Schedule 37, the entry relating to section 104(2) of the Criminal Justice Act 1967,

does not affect the date on which the Secretary of State is required to release an offender from a sentence of imprisonment passed in respect of an offence committed before 4th April 2005, whether

(2) 1967 c. 80.

or not that sentence of imprisonment is to run concurrently or consecutively with one passed in respect of an offence committed after that date.

Repatriation of Prisoners Act 1984

26. The coming into force of paragraphs 40, 41 and 43 of Schedule 32 to the 2003 Act is of no effect in relation to a prisoner who is the subject of arrangements made under section 1 of the Repatriation of Prisoners Act 1984⁽³⁾, if the sentence of imprisonment that is to be served under those arrangements is in respect of an offence committed before 4th April 2005.

Crime (Sentences) Act 1997

27. The coming into force of paragraph 85 of Schedule 32 to the 2003 Act is of no effect in the case of a person who falls under Part 1 of Schedule 1 to the 1997 Act where the remand in custody or sentence of imprisonment referred to in that Part is in respect of an offence committed before 4th April 2005.

28. The coming into force of paragraph 86 of Schedule 32 to the 2003 Act and the entry in Part 7 of Schedule 37 to that Act relating to Schedule 2 of the 1997 Act does not affect the continuing application of paragraphs 2 and 3 to Schedule 2 to the 1997 Act to persons to whom they applied immediately before 4th April 2005.

Powers of Criminal Courts (Sentencing) Act 2000

29. The coming into force of paragraph 116 of Schedule 32 to the 2003 Act and the repeal of sections 6(4)(d), 116 and 117 of the Sentencing Act is of no effect in relation to a person in a case in which the sentence of imprisonment referred to in section 116(1)(a) of the Powers of Criminal Courts (Sentencing) Act 2000—

- (a) is imposed in respect of an offence committed before 4th April 2005; or
- (b) is for a term of less than twelve months.

30. The coming into force of the repeal of section 84 of the Sentencing Act is of no effect in a case in which the sentence of imprisonment referred to in that section was imposed in respect of an offence committed before 4th April 2005.

The Criminal Justice and Court Services Act 2000

31. The commencement of paragraph 136(2) of Schedule 32 to the 2003 Act is of no effect in relation to a person released under section 34A of the 1991 Act, whether or not that release takes place after 4th April 2005.

The International Criminal Court Act 2001

32. The commencement of paragraph 139 of Schedule 32 to the 2003 Act is of no effect in the case of a prisoner on whom a sentence of imprisonment has been imposed in relation to an offence committed before 4th April 2005, and to whom the provisions mentioned in paragraph 2(1)(d) and 3(1) of Schedule 7 to the International Criminal Court Act 2001⁽⁴⁾ would have applied if that sentence had been imposed by a court in England and Wales.

(3) 1984 c. 47.

(4) 2001 c. 17.

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Persons liable to removal from the United Kingdom

33. The coming into force of section 260 of the 2003 Act, and the repeal of sections 46 to 46B of the 1991 Act, is of no effect in relation to a prisoner liable to removal from the United Kingdom, if the requisite custodial period referred to in section 260(1) relates to a sentence of imprisonment imposed in respect of an offence committed before 4th April 2005.

Saving for service prisoners

34. The coming into force of the entry in Part 7 of Schedule 37 to the 2003 Act relating to the 1991 Act is of no effect in relation to a prisoner whose sentence of imprisonment is imposed by a service court⁽⁵⁾.

(5) “Service court” is defined by section 305 of the Sentencing Act.