

*Draft Order laid before Parliament under section 330(5)(a) of the Criminal Justice Act 2003, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

**PRISONS, ENGLAND AND WALES**

**The Criminal Justice Act 2003 (Removal  
of Prisoners for Deportation) Order 2023**

*Made* - - - - *\*\*\**  
*Coming into force* - - *16th January 2024*

The Secretary of State, in exercise of the power conferred by section 260(6)(b) of the Criminal Justice Act 2003(1), makes the following Order.

In accordance with section 330(5)(a) of that Act, a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

**Citation, commencement and extent**

- 1.—(1) This Order may be cited as the Criminal Justice Act 2003 (Removal of Prisoners for Deportation) Order 2023.
- (2) This Order comes into force on 16th January 2024.
- (3) This Order extends to England and Wales only.

**Amendment to section 260 of the Criminal Justice Act 2003**

2. In section 260(2)(b)(2) of the Criminal Justice Act 2003, for “one year” substitute “545 days”.

Date

Minister of State  
Ministry of Justice

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(1) [2003 c. 44](#). Paragraphs (a) to (c) of section 260(6) were substituted by paragraphs (a) and (b) by sections 47 (8) of the Nationality and Borders Act [2022 \(c. 36\)](#).

(2) Subsections (1) to (2B) of Section 260 were substituted by subsections (1) and (2), by section 47(1) to (3) of the Nationality and Borders Act 2022 (subsections 2A and 2B having been previously inserted by paragraph 9(1) and (2) of Schedule 20 to the Legal Aid, Sentencing and Punishment of Offenders Act [2012 \(c. 10\)](#)).

## EXPLANATORY NOTE

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

This Order amends section 260 of the Criminal Justice Act 2003 (c. 44) (“the 2003 Act”).

Sections 260 and 261 of the 2003 Act allow for the removal of determinate sentence foreign national prisoners from prison for the purposes of deportation from the UK. As currently drafted, section 260(2) provides that the Secretary of State may remove from prison an eligible fixed-term prisoner up to one year before their automatic release point once they have served at least half of the custodial part of their sentence (the minimum pre-removal custodial period).

This Order increases the maximum removal period in section 260(2)(b) by substituting a reference to 545 days (18 months), in place of the previous reference to one year. This means that the pre-removal custodial period is now the later date of a) half of the requisite custodial period or b) 545 days (eighteen months) before the end of the requisite custodial period.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.