



Criminal Justice Act 1991

1991 CHAPTER 53

PART II

EARLY RELEASE OF PRISONERS

Preliminary

32 The Parole Board

- (1) There shall continue to be a body to be known as the Parole Board (“the Board”) which shall discharge the functions conferred on it by this Part.
- (2) It shall be the duty of the Board to advise the Secretary of State with respect to any matter referred to it by him which is connected with the early release or recall of prisoners.
- (3) The Board shall deal with cases as respects which it makes recommendations under this Part on consideration of—
 - (a) any documents given to it by the Secretary of State; and
 - (b) any other oral or written information obtained by it,and if in any particular case the Board thinks it necessary to interview the person to whom the case relates before reaching a decision, the Board may authorise one of its members to interview him and shall consider the report of the interview made by that member.
- (4) The Board shall deal with cases as respects which it gives directions under this Part on consideration of all such evidence as may be adduced before it.
- (5) Without prejudice to subsections (3) and (4) above, the Secretary of State may make rules with respect to the proceedings of the Board, including provision authorising cases to be dealt with by a prescribed number of its members or requiring cases to be dealt with at prescribed times.

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- (6) The Secretary of State may also give to the Board directions as to the matters to be taken into account by it in discharging any functions under this Part; and in giving any such directions the Secretary of State shall in particular have regard to—
- (a) the need to protect the public from serious harm from offenders; and
 - (b) the desirability of preventing the commission by them of further offences and of securing their rehabilitation.
- (7) Schedule 5 to this Act shall have effect with respect to the Board.

New arrangements for early release

33 Duty to release short-term and long-term prisoners

- (1) As soon as a short-term prisoner has served one-half of his sentence, it shall be the duty of the Secretary of State—
- (a) to release him unconditionally if that sentence is for a term of less than twelve months; and
 - (b) to release him on licence if that sentence is for a term of twelve months or more.
- (2) As soon as a long-term prisoner has served two-thirds of his sentence, it shall be the duty of the Secretary of State to release him on licence.
- (3) As soon as a short-term or long-term prisoner who—
- (a) has been released on licence under subsection (1)(b) or (2) above or section 35 or 36(1) below; and
 - (b) has been recalled to prison under section 38(2) or 39(1) below,
- would (but for his release) have served three-quarters of his sentence, it shall be the duty of the Secretary of State to release him unconditionally.
- (4) Where a prisoner whose sentence is for a term of less than twelve months has been released on licence under section 36(1) below and recalled to prison under section 38(2) below, subsection (3) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to one-half of that sentence.
- (5) In this Part—
- “long-term prisoner” means a person serving a sentence of imprisonment for a term of four years or more;
- “short-term prisoner” means a person serving a sentence of imprisonment for a term of less than four years.

34 Duty to release discretionary life prisoners

- (1) A life prisoner is a discretionary life prisoner for the purposes of this Part if—
- (a) his sentence was imposed for a violent or sexual offence the sentence for which is not fixed by law; and
 - (b) the court by which he was sentenced for that offence ordered that this section should apply to him as soon as he had served a part of his sentence specified in the order.

- (2) A part of a sentence so specified shall be such part as the court considers appropriate taking into account—
- (a) the seriousness of the offence, or the combination of the offence and other offences associated with it; and
 - (b) the provisions of this section as compared with those of section 33(2) above and section 35(1) below.
- (3) As soon as, in the case of a discretionary life prisoner—
- (a) he has served the part of his sentence specified in the order (“the relevant part”); and
 - (b) the Board has directed his release under this section,
- it shall be the duty of the Secretary of State to release him on licence.
- (4) The Board shall not give a direction under subsection (3) above with respect to a discretionary life prisoner unless—
- (a) the Secretary of State has referred the prisoner’s case to the Board; and
 - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (5) A discretionary life prisoner may require the Secretary of State to refer his case to the Board at any time—
- (a) after he has served the relevant part of his sentence; and
 - (b) where there has been a previous reference of his case to the Board, after the end of the period of two years beginning with the disposal of that reference; and
 - (c) where he is also serving a sentence of imprisonment for a term, after he has served one-half of that sentence;
- and in this subsection “previous reference” means a reference under subsection (4) above or section 39(4) below made after the prisoner had served the relevant part of his sentence.
- (6) In determining for the purpose of subsection (3) or (5) above whether a discretionary life prisoner has served the relevant part of his sentence, no account shall be taken of any time during which he was unlawfully at large within the meaning of section 49 of the Prison Act 1952 (“the 1952 Act”).
- (7) In this Part “life prisoner” means a person serving one or more sentences of life imprisonment; but—
- (a) a person serving two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of this Part unless the requirements of subsection (1) above are satisfied as respects each of those sentences; and
 - (b) subsections (3) and (5) above shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

35 Power to release long-term and life prisoners

- (1) After a long-term prisoner has served one-half of his sentence, the Secretary of State may, if recommended to do so by the Board, release him on licence.
- (2) If recommended to do so by the Board, the Secretary of State may, after consultation with the Lord Chief Justice together with the trial judge if available, release on licence a life prisoner who is not a discretionary life prisoner.

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- (3) The Board shall not make a recommendation under subsection (2) above unless the Secretary of State has referred the particular case, or the class of case to which that case belongs, to the Board for its advice.

36 Power to release prisoners on compassionate grounds

- (1) The Secretary of State may at any time release a prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds.
- (2) Before releasing a long-term or life prisoner under subsection (1) above, the Secretary of State shall consult the Board, unless the circumstances are such as to render such consultation impracticable.

37 Duration and conditions of licences

- (1) Subject to subsection (2) below, where a short-term or long-term prisoner is released on licence, the licence shall, subject to any suspension under section 38(2) below or, as the case may be, any revocation under section 39(1) or (2) below, remain in force until the date on which he would (but for his release) have served three-quarters of his sentence.
- (2) Where a prisoner whose sentence is for a term of less than twelve months is released on licence under section 36(1) above, subsection (1) above shall have effect as if for the reference to three-quarters of his sentence there were substituted a reference to one-half of that sentence.
- (3) Where a life prisoner is released on licence, the licence shall, unless previously revoked under section 39(1) or (2) below, remain in force until his death.
- (4) A person subject to a licence shall comply with such conditions (which shall include on his release conditions as to his supervision by a probation officer) as may for the time being be specified in the licence; and the Secretary of State may make rules for regulating the supervision of any description of such persons.
- (5) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a long-term or life prisoner, or vary or cancel any such condition, except—
- (a) in the case of the inclusion of a condition in the licence of a discretionary life prisoner, in accordance with recommendations of the Board; and
 - (b) in any other case, after consultation with the Board.
- (6) For the purposes of subsection (5) above, the Secretary of State shall be treated as having consulted the Board about a proposal to include, insert, vary or cancel a condition in any case if he has consulted the Board about the implementation of proposals of that description generally or in that class of case.
- (7) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Misbehaviour after release

38 Breach of licence conditions by short-term prisoners

- (1) A short-term prisoner—
 - (a) who is released on licence under this Part; and
 - (b) who fails to comply with such conditions as may for the time being be specified in the licence,shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (2) The magistrates' court by which a person is convicted of an offence under subsection (1) above may, whether or not it passes any other sentence on him—
 - (a) suspend the licence for a period not exceeding six months; and
 - (b) order him to be recalled to prison for the period during which the licence is so suspended.
- (3) On the suspension of the licence of any person under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

39 Recall of long-term and life prisoners while on licence

- (1) If recommended to do so by the Board in the case of a long-term or life prisoner who has been released on licence under this Part, the Secretary of State may revoke his licence and recall him to prison.
- (2) The Secretary of State may revoke the licence of any such person and recall him to prison without a recommendation by the Board, where it appears to him that it is expedient in the public interest to recall that person before such a recommendation is practicable.
- (3) A person recalled to prison under subsection (1) or (2) above—
 - (a) may make representations in writing with respect to his recall; and
 - (b) on his return to prison, shall be informed of the reasons for his recall and of his right to make representations.
- (4) The Secretary of State shall refer to the Board—
 - (a) the case of a person recalled under subsection (1) above who makes representations under subsection (3) above; and
 - (b) the case of a person recalled under subsection (2) above.
- (5) Where on a reference under subsection (4) above the Board—
 - (a) directs in the case of a discretionary life prisoner; or
 - (b) recommends in the case of any other person,his immediate release on licence under this section, the Secretary of State shall give effect to the direction or recommendation.
- (6) On the revocation of the licence of any person under this section, he shall be liable to be detained in pursuance of his sentence and, if at large, shall be deemed to be unlawfully at large.

40 Convictions during currency of original sentences

- (1) This section applies to a short-term or long-term prisoner who is released under this Part if—
 - (a) before the date on which he would (but for his release) have served his sentence in full, he commits an offence punishable with imprisonment; and
 - (b) whether before or after that date, he is convicted of that offence (“the new offence”).
- (2) Subject to subsection (3) below, the court by or before which a person to whom this section applies is convicted of the new offence may, whether or not it passes any other sentence on him, order him to be returned to prison for the whole or any part of the period which—
 - (a) begins with the date of the order; and
 - (b) is equal in length to the period between the date on which the new offence was committed and the date mentioned in subsection (1) above.
- (3) A magistrates' court—
 - (a) shall not have power to order a person to whom this section applies to be returned to prison for a period of more than six months; but
 - (b) may commit him in custody or on bail to the Crown Court for sentence in accordance with section 42 of the 1973 Act (power of Crown Court to sentence persons convicted by magistrates' courts of indictable offences).
- (4) The period for which a person to whom this section applies is ordered under subsection (2) above to be returned to prison—
 - (a) shall be taken to be a sentence of imprisonment for the purposes of this Part;
 - (b) shall, as the court may direct, either be served before and be followed by, or be served concurrently with, the sentence imposed for the new offence; and
 - (c) in either case, shall be disregarded in determining the appropriate length of that sentence.

Remand time and additional days

41 Remand time to count towards time served

- (1) This section applies to any person whose sentence falls to be reduced under section 67 of the Criminal Justice Act 1967 (“the 1967 Act”) by any relevant period within the meaning of that section (“the relevant period”).
- (2) For the purpose of determining for the purposes of this Part—
 - (a) whether a person to whom this section applies has served one-half or two-thirds of his sentence; or
 - (b) whether such a person would (but for his release) have served three-quarters of that sentence,

the relevant period shall, subject to subsection (3) below, be treated as having been served by him as part of that sentence.
- (3) Nothing in subsection (2) above shall have the effect of reducing the period for which a licence granted under this Part to a short-term or long-term prisoner remains in force to a period which is less than—
 - (a) one-quarter of his sentence in the case of a short-term prisoner; or

- (b) one-twelfth of his sentence in the case of a long-term prisoner.

42 Additional days for disciplinary offences

- (1) Prison rules, that is to say, rules made under section 47 of the 1952 Act, may include provision for the award of additional days—
 - (a) to short-term or long-term prisoners; or
 - (b) conditionally on their subsequently becoming such prisoners, to persons on remand,who (in either case) are guilty of disciplinary offences.
- (2) Where additional days are awarded to a short-term or long-term prisoner, or to a person on remand who subsequently becomes such a prisoner, and are not remitted in accordance with prison rules—
 - (a) any period which he must serve before becoming entitled to or eligible for release under this Part; and
 - (b) any period for which a licence granted to him under this Part remains in force, shall be extended by the aggregate of those additional days.

Special cases

43 Young offenders

- (1) Subject to subsections (4) and (5) below, this Part applies to persons serving sentences of detention in a young offender institution, or determinate sentences of detention under section 53 of the 1933 Act, as it applies to persons serving equivalent sentences of imprisonment.
- (2) Subject to subsection (5) below, this Part applies to persons serving—
 - (a) sentences of detention during Her Majesty's pleasure or for life under section 53 of the 1933 Act; or
 - (b) sentences of custody for life under section 8 of the 1982 Act,as it applies to persons serving sentences of imprisonment for life.
- (3) References in this Part to prisoners (whether short-term, long-term or life prisoners), or to prison or imprisonment, shall be construed in accordance with subsections (1) and (2) above.
- (4) In relation to a short-term prisoner under the age of 18 years to whom subsection (1) of section 33 above applies, that subsection shall have effect as if it required the Secretary of State—
 - (a) to release him unconditionally if his sentence is for a term of twelve months or less; and
 - (b) to release him on licence if that sentence is for a term of more than twelve months.
- (5) In relation to a person under the age of 22 years who is released on licence under this Part, section 37(4) above shall have effect as if the reference to supervision by a probation officer included a reference to supervision by a social worker of a local authority social services department.

44 Sexual offenders

Where, in the case of a long-term or short-term prisoner—

- (a) the whole or any part of his sentence was imposed for a sexual offence; and
- (b) the court by which he was sentenced for that offence, having had regard to the matters mentioned in section 32(6)(a) and (b) above, ordered that this section should apply,

sections 33(3) and 37(1) above shall each have effect as if for the reference to three-quarters of his sentence there were substituted a reference to the whole of that sentence.

45 Fine defaulters and contemnors

- (1) Subject to subsection (2) below, this Part (except sections 35 and 40 above) applies to persons committed to prison or to be detained under section 9 of the 1982 Act—

- (a) in default of payment of a sum adjudged to be paid by a conviction; or
- (b) for contempt of court or any kindred offence,

as it applies to persons serving equivalent sentences of imprisonment; and references in this Part to short-term or long-term prisoners, or to prison or imprisonment, shall be construed accordingly.

- (2) In relation to persons committed as mentioned in subsection (1) above, the provisions specified in subsections (3) and (4) below shall have effect subject to the modifications so specified.

- (3) In section 33 above, for subsections (1) to (4) there shall be substituted the following subsections—

“(1) As soon as a person committed as mentioned in section 45(1) below has served the appropriate proportion of his term, that is to say—

- (a) one-half, in the case of a person committed for a term of less than twelve months;
- (b) two-thirds, in the case of a person committed for a term of twelve months or more,

it shall be the duty of the Secretary of State to release him unconditionally.

(2) As soon as a person so committed who—

- (a) has been released on licence under section 36(1) below; and
- (b) has been recalled under section 38(2) or 39(1) below,

would (but for his release) have served the appropriate proportion of his term, it shall be the duty of the Secretary of State to release him unconditionally.”

- (4) In section 37 above, for subsections (1) to (3) there shall be substituted the following subsection—

“(1) Where a person committed as mentioned in section 45(1) below is released on licence under section 36(1) above, the licence shall, subject to—

- (a) any suspension under section 38(2) below; or
- (b) any revocation under section 39(1) below,

continue in force until the date on which he would (but for his release) have served the appropriate proportion of his term; and in this subsection “appropriate proportion” has the meaning given by section 33(1) above.”

46 Persons liable to removal from the United Kingdom

- (1) In relation to a long-term prisoner who is liable to removal from the United Kingdom, section 35 above shall have effect as if the words “if recommended to do so by the Board” were omitted.
- (2) In relation to a person who is liable to removal from the United Kingdom, section 37(4) above shall have effect as if the words in parentheses were omitted.
- (3) A person is liable to removal from the United Kingdom for the purposes of this section if—
 - (a) he is liable to deportation under section 3(5) of the Immigration Act 1971 and has been notified of a decision to make a deportation order against him;
 - (b) he is liable to deportation under section 3(6) of that Act;
 - (c) he has been notified of a decision to refuse him leave to enter the United Kingdom; or
 - (d) he is an illegal entrant within the meaning of section 33(1) of that Act.

47 Persons extradited to the United Kingdom

- (1) A short-term or long-term prisoner is an extradited prisoner for the purposes of this section if—
 - (a) he was tried for the offence in respect of which his sentence was imposed—
 - (i) after having been extradited to the United Kingdom; and
 - (ii) without having first been restored or had an opportunity of leaving the United Kingdom; and
 - (b) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a) above.
- (2) If, in the case of an extradited prisoner, the court by which he was sentenced so ordered, section 67 of the 1967 Act (computation of sentences of imprisonment) shall have effect in relation to him as if a period specified in the order were a relevant period for the purposes of that section.
- (3) The period that may be so specified is such period as in the opinion of the court is just in all the circumstances and does not exceed the period of custody mentioned in subsection (1)(b) above.
- (4) In this section—

“extradited to the United Kingdom” means returned to the United Kingdom—

 - (i) in pursuance of extradition arrangements;
 - (ii) under any law of a designated Commonwealth country corresponding to the Extradition Act 1989;
 - (iii) under that Act as extended to a colony or under any corresponding law of a colony; or
 - (iv) in pursuance of a warrant of arrest endorsed in the Republic of Ireland under the law of that country corresponding to the Backing of Warrants (Republic of Ireland) Act 1965;

“extradition arrangements” has the meaning given by section 3 of the Extradition Act 1989;

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“designated Commonwealth country” has the meaning given by section 5(1) of that Act.

48 Life prisoners transferred to England and Wales

- (1) This section applies where, in the case of a transferred life prisoner, the Secretary of State, after consultation with the Lord Chief Justice, certifies his opinion that, if—
- (a) he had been sentenced for his offence in England and Wales after the commencement of section 34 above; and
 - (b) the reference in subsection (1)(a) of that section to a violent or sexual offence the sentence for which is not fixed by law were a reference to any offence the sentence for which is not so fixed,
- the court by which he was so sentenced would have ordered that that section should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) In a case to which this section applies, this Part except section 35(2) above shall apply as if—
- (a) the transferred life prisoner were a discretionary life prisoner for the purposes of this Part; and
 - (b) the relevant part of his sentence within the meaning of section 34 of this Act were the part specified in the certificate.
- (3) In this section “transferred life prisoner” means a person—
- (a) on whom a court in a country or territory outside England and Wales has imposed one or more sentences of imprisonment or detention for an indeterminate period; and
 - (b) who has been transferred to England and Wales, in pursuance of—
 - (i) an order made by the Secretary of State under section 26 of the Criminal Justice Act 1961 or section 2 of the Colonial Prisoners Removal Act 1884; or
 - (ii) a warrant issued by the Secretary of State under the Repatriation of Prisoners Act 1984,
 there to serve his sentence or sentences or the remainder of his sentence or sentences.
- (4) A person who is required so to serve the whole or part of two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of this Part unless the requirements of subsection (1) above are satisfied as respects each of those sentences; and subsections (3) and (5) of section 34 above shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

Supplemental

49 Alteration by order of relevant proportions of sentences

- (1) The Secretary of State may by order made by statutory instrument provide—
- (a) that the references in section 33(5) above to four years shall be construed as references to such other period as may be specified in the order;
 - (b) that any reference in this Part to a particular proportion of a prisoner’s sentence shall be construed as a reference to such other proportion of a prisoner’s sentence as may be so specified.

- (2) An order under this section may make such transitional provisions as appear to the Secretary of State necessary or expedient in connection with any provision made by the order.
- (3) No order shall be made under this section unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

50 Transfer by order of certain functions to Board

- (1) The Secretary of State, after consultation with the Board, may by order made by statutory instrument provide that, in relation to such class of case as may be specified in the order, the provisions of this Part specified in subsections (2) to (4) below shall have effect subject to the modifications so specified.
- (2) In section 35 above, in subsection (1) for the word “may” there shall be substituted the word “shall”; but nothing in this subsection shall affect the operation of that subsection as it has effect in relation to a long-term prisoner who is liable to removal from the United Kingdom (within the meaning of section 46 above).
- (3) In section 37 above, in subsection (5)(a) after the words “in the case of” there shall be inserted the words “the licence of a long-term prisoner or”, and subsection (6) shall be omitted.
- (4) In section 39 above, in subsection (1) for the word “may” there shall be substituted the word “shall”, and subsection (2) shall be omitted.
- (5) No order shall be made under this section unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

51 Interpretation of Part II

- (1) In this Part—
 - “the Board” means the Parole Board;
 - “discretionary life prisoner” has the meaning given by section 34 above (as extended by section 43(2) above);
 - “life prisoner” has the meaning given by section 34(7) above (as extended by section 43(2) above);
 - “long-term prisoner” and “short-term prisoner” have the meanings given by section 33(5) above (as extended by sections 43(1) and 45(1) above);
 - “sentence of imprisonment” does not include a committal in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone.
 - “sexual offence” and “violent offence” have the same meanings as in Part I of this Act.
- (2) For the purposes of any reference in this Part, however expressed, to the term of imprisonment to which a person has been sentenced or which, or part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.
- (3) Nothing in this Part shall require the Secretary of State to release a person who is serving—

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- (a) a sentence of imprisonment for a term; and
 - (b) one or more sentences of imprisonment for life,
- unless and until he is entitled under this Part to be released in respect of each of those sentences.
- (4) Subsections (2) and (3) of section 31 above shall apply for the purposes of this Part as they apply for the purposes of Part I of this Act.