

SCHEDULES

SCHEDULE 6

Section 47(2).

TRANSITIONAL PROVISIONS AND SAVINGS

- 1 In this Schedule—
- “existing provisions” means such provisions as relate to the detention or release of persons and are amended or repealed by this Act, as they had effect immediately before such amendment or repeal;
- “new provisions” means sections 1 to 21 and 27 of this Act (together with the provisions of the 1975 Act and of the Mental Health (Scotland) Act 1984 which so relate and are so amended);
- “existing child detainee” means any child (“child” having the meaning assigned to that expression by section 30 of the Social Work (Scotland) Act 1968) who, at the relevant date, is detained under section 206 of the 1975 Act other than without limit of time or is detained in residential care by virtue of section 413 of the 1975 Act;
- “existing licensee” means any person who, before the relevant date, has been released on licence under the 1989 Act;
- “existing life prisoner” means any person who, at the relevant date, is serving—
- (a) a sentence of imprisonment for life;
 - (b) a sentence of detention without limit of time or for life under section 205 of the 1975 Act;
 - (c) a sentence of detention without limit of time under section 206 of that Act; or
 - (d) a period of detention without limit of time or for life under section 207(2) of that Act;
- “existing prisoner” means any person who, at the relevant date, is serving—
- (a) a sentence of imprisonment; or
 - (b) a sentence of detention in a young offenders institution; and
- “relevant date” means the date of commencement of the new provisions.
- 2 (1) Subject to sub-paragraph (2) and paragraph 7 below, the new provisions shall apply only to persons who are sentenced (or on whom detention is imposed) on or after the relevant date; and notwithstanding any repeal or amendment effected by or by virtue of this Act, but subject to that sub-paragraph and to the following paragraphs of this Schedule, the existing provisions shall continue to apply to persons sentenced (or on whom detention has been imposed) before that date.
- (2) Section 3 of this Act shall apply irrespective of the date on which a person is sentenced (or on which detention is imposed on him).
- 3 An existing prisoner whose sentence is for a term of less than two years and who, by the relevant date, has served—

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- (a) one-half or more of that sentence, shall be released unconditionally by the Secretary of State on that date;
 - (b) less than one-half of that sentence, shall be so released as soon as he has served one-half of that sentence.
- 4 (1) An existing child detainee whose sentence under section 206 of the 1975 Act is for a period—
- (a) of less than four years and who, by the relevant date, has served—
 - (i) one-half or more of that sentence, shall be released on licence by the Secretary of State on that date;
 - (ii) less than one-half of that sentence, shall be so released as soon as he has served one-half of that sentence;
 - (b) of four years or more and who, by the relevant date, has served—
 - (i) two-thirds or more of that sentence, shall be released on licence by the Secretary of State on that date;
 - (ii) less than two-thirds of that sentence, shall be so released as soon as he has served two-thirds of that sentence.
- (2) An existing child detainee detained under section 206 of the 1975 Act may, on the recommendation of the Parole Board made at any time, be released on licence by the Secretary of State.
- 5 (1) An existing child detainee who, by the relevant date, has completed—
- (a) one-half or more of a period of detention in residential care for which he has been committed, shall be released from such care on that date;
 - (b) less than one-half of that period, shall be so released as soon as he has completed one-half of that period,
- but until the entire such period has elapsed may be required by the appropriate local authority to submit to supervision in accordance with such conditions as they consider appropriate.
- (2) Where a child released under sub-paragraph (1) above is subject to a supervision requirement within the meaning of the Social Work (Scotland) Act 1968, the effect of that requirement shall commence, or as the case may be resume, upon such release.
- 6 (1) This paragraph applies where, in the case of an existing life prisoner, the Lord Justice General, whom failing the Lord Justice Clerk, after consultation with the trial judge, if available, certifies his opinion that, if section 2 of this Act had been in force at the time when the prisoner was sentenced, the court by which he was 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 paragraph applies, sections 1 to 27 of this Act except sections 1(4) and 2(9) shall apply as if—
- (a) the existing life prisoner were a discretionary life prisoner within the meaning of section 2 of this Act; and
 - (b) the relevant part of his sentence within the meaning of that section were the part specified in the certificate.
- (3) Where a person is serving two or more sentences of imprisonment for life or detention without limit of time or for life—

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- (a) he shall be treated as a discretionary life prisoner within the meaning of section 2 of this Act only if the requirements of sub-paragraph (1) above are satisfied in respect of each of those sentences; and
 - (b) notwithstanding the terms of any certificate under that sub-paragraph, subsections (4) and (6) of section 2 shall not apply to him until he has served the relevant part of each of those sentences.
- 7 Where a transferred life prisoner is a discretionary life prisoner for the purposes of Part II of the Criminal Justice Act 1991 by virtue of section 48 of or paragraph 9 of Schedule 12 to that Act, paragraph 6 above shall apply as if the certificate under the said section 48 or paragraph 9 were a certificate under sub-paragraph (1) of the said paragraph 6.
- 8 Unless revoked, a licence under—
 - (a) paragraph 4(1)(a)(i) or (b)(i) above shall remain in force until at least twelve months have elapsed after the date of release and until the entire period of sentence has elapsed;
 - (b) paragraph 4(1)(a)(ii) or (b)(ii) above shall remain in force until a date determined by the Parole Board, being a date not later than the date by which the entire period of sentence has elapsed.
- 9 Section 12 of this Act shall apply in respect of a licence granted under this Schedule.