



# Crime (Sentences) Act 1997

## 1997 CHAPTER 43

### PART II

#### EFFECT OF CUSTODIAL SENTENCES

#### CHAPTER II

#### LIFE SENTENCES

#### *Release on licence*

#### **28 Duty to release certain life prisoners**

- (1) A life prisoner is one to whom this section applies if—
  - (a) the conditions mentioned in subsection (2) below are fulfilled; or
  - (b) he was under 18 at the time when he committed the offence for which his sentence was imposed.
- (2) The conditions referred to in subsection (1)(a) above are—
  - (a) that the prisoner's sentence was imposed for an offence the sentence for which is not fixed by law; and
  - (b) that 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.
- (3) A part of a sentence specified in an order under subsection (2)(b) above 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 effect of any direction which it would have given under section 9 above if it had sentenced him to a term of imprisonment.

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- (4) Where in the case of a life prisoner to whom this section applies the conditions mentioned in subsection (2) above are not fulfilled, the Secretary of State shall direct that this section shall apply to him as soon as he has served a part of his sentence specified in the direction.
- (5) As soon as, in the case of a life prisoner to whom this section applies—
- (a) he has served the part of his sentence specified in the order or direction (“the relevant part”); and
  - (b) the Parole Board has directed his release under this section,
- it shall be the duty of the Secretary of State to release him on licence.
- (6) The Parole Board shall not give a direction under subsection (5) above with respect to a life prisoner to whom this section applies 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.
- (7) A life prisoner to whom this section applies may require the Secretary of State to refer his case to the Parole 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 or detention for a term, after the time when, but for his life sentence, he would be entitled to be released;
- and in this subsection “previous reference” means a reference under subsection (6) above or section 32(4) below.
- (8) In determining for the purpose of subsection (5) or (7) above whether a life prisoner to whom this section applies 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.
- (9) An offence is associated with another for the purposes of this section if it is so associated for the purposes of Part I of the 1991 Act.

## **29 Power to release other life prisoners**

- (1) If recommended to do so by the Parole 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 one to whom section 28 above applies.
- (2) The Parole Board shall not make a recommendation under subsection (1) 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.

## **30 Power to release life prisoners on compassionate grounds**

- (1) The Secretary of State may at any time release a life prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner’s release on compassionate grounds.

- (2) Before releasing a life prisoner under subsection (1) above, the Secretary of State shall consult the Parole Board, unless the circumstances are such as to render such consultation impracticable.

### *Licences and recall*

## **31 Duration and conditions of licences**

- (1) Where a life prisoner is released on licence, the licence shall, unless previously revoked under section 32(1) or (2) below, remain in force until his death.
- (2) A life prisoner 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.
- (3) The Secretary of State shall not include on release, or subsequently insert, a condition in the licence of a 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 life prisoner to whom section 28 above applies, in accordance with recommendations of the Parole Board; and
  - (b) in any other case, after consultation with the Board.
- (4) For the purposes of subsection (3) above, the Secretary of State shall be treated as having consulted the Parole 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.
- (5) 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.
- (6) In relation to a life prisoner who is liable to removal from the United Kingdom (within the meaning given by section 24(2) above), subsection (2) above shall have effect as if the words in parentheses were omitted.

## **32 Recall of life prisoners while on licence**

- (1) If recommended to do so by the Parole Board in the case of a life prisoner who has been released on licence under this Chapter, the Secretary of State may revoke his licence and recall him to prison.
- (2) The Secretary of State may revoke the licence of any life prisoner and recall him to prison without a recommendation by the Parole 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 life prisoner 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 Parole Board—

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- (a) the case of a life prisoner recalled under subsection (1) above who makes representations under subsection (3) above; and
  - (b) the case of a life prisoner recalled under subsection (2) above.
- (5) Where on a reference under subsection (4) above the Parole Board—
- (a) directs in the case of a life prisoner to whom section 28 above applies; or
  - (b) recommends in the case of any other life prisoner,
- 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 life prisoner 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.

*Miscellaneous and supplemental*

**33 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) the prisoner’s offence had been committed after the commencement of this Chapter; and
  - (b) he had been sentenced for it in England and Wales,
- the court by which he was so sentenced would have ordered that section 28 above should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) This section also applies where, in the case of a transferred life prisoner, the Secretary of State certifies his opinion that, if—
- (a) the prisoner’s offence had been committed after the commencement of this Chapter; and
  - (b) he had been sentenced for it in England and Wales,
- the Secretary of State would have directed that section 28 above should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (3) In a case to which this section applies, this Chapter except section 29(1) above shall apply as if—
- (a) the transferred life prisoner were a life prisoner to whom section 28 above applies; and
  - (b) the relevant part of his sentence within the meaning of section 28 above were the part specified in the certificate.
- (4) 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 paragraph 1 of Schedule 1 to this Act or section 2 of the Colonial Prisoners Removal Act 1884; or

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- (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.
- (5) A person who is required so to serve the whole or part of two or more such sentences shall not be treated as a life prisoner to whom section 28 above applies unless the requirements of subsection (1) or (2) above are satisfied as respects each of those sentences; and subsections (5) and (7) of section 28 above shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.

### **34 Interpretation of Chapter II**

- (1) In this Chapter “life prisoner” means a person serving one or more life sentences; but—
- (a) a person serving two or more such sentences shall not be treated as a life prisoner to whom section 28 above applies unless the requirements of section 28(1) above are satisfied as respects each of those sentences; and
  - (b) subsections (5) and (7) of that section shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.
- (2) In this section “life sentence” means any of the following imposed for an offence, whether committed before or after the commencement of this Chapter, namely—
- (a) a sentence of imprisonment for life;
  - (b) a sentence of detention during Her Majesty’s pleasure or for life under section 53 of the 1933 Act; and
  - (c) a sentence of custody for life under section 8 of the 1982 Act.
- (3) In this Chapter “court” includes a court-martial and “trial judge” includes a trial judge advocate; and in subsection (2) above—
- (a) the reference to section 53 of the 1933 Act includes a reference to subsections (3) and (4) of section 71A of the Army Act 1955 and the Air Force Act 1955 and section 43A of the Naval Discipline Act 1957; and
  - (b) the reference to section 8 of the 1982 Act includes a reference to subsections (1A) and (1B) of those sections.