

SCHEDULES

SCHEDULE 2

Section 42.

REPATRIATION OF PRISONERS TO THE BRITISH ISLANDS

Preliminary

- 1 Any reference in this Schedule to prisoners repatriated to any part of the United Kingdom is a reference to prisoners transferred there in pursuance of a warrant issued under the Repatriation of Prisoners Act 1984 (“the 1984 Act”).

Prisoners repatriated to England and Wales

- 2 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to England and Wales before 25th October 1996 who were still serving their sentences on that date; and
 - (b) prisoners repatriated to England and Wales on or after that date and before the commencement of this Schedule.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the omission of sub-paragraph (1A) and the insertion after sub-paragraph (2) of the following sub-paragraphs—
- “(3) The following questions, namely—
- (a) whether the prisoner is a short-term or long-term prisoner for the purposes of the enactments relating to release on licence; and
 - (b) whether or not he is an existing prisoner for the purposes of paragraph 8 of Schedule 12 to the 1991 Act,
- shall be determined by reference to the length or, as the case may require, commencement of the sentence imposed in the country or territory from which he is transferred.
- (4) In this paragraph—
- “the enactments relating to release on licence” means sections 33(1)(b) and (2), 34(3) and (5), 35(1) and 37(1) and (2) of the Criminal Justice Act 1991;
 - “sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”
- 3 (1) This paragraph applies in relation to prisoners repatriated to England and Wales after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed for offences committed before the commencement of Chapter I of Part II of this Act.
- (2) In paragraph 2 of the Schedule to the 1984 Act, for sub-paragraphs (1A) and (2) there shall be substituted the following sub-paragraphs—

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“(2) If the warrant specifies a period to be taken into account for the purposes of sections 34(3) and (5) and 35(1) of the Criminal Justice Act 1991—

- (a) the amount of time the prisoner has served; and
- (b) where his sentence is a determinate one, his sentence,

shall, so far only as the question whether he has served any particular proportion or part of his sentence is concerned, be deemed to be increased by that period.

(3) The following questions, namely—

- (a) whether the prisoner is a long-term prisoner for the purposes of the enactments relating to release on licence; and
- (b) whether or not he is an existing prisoner for the purposes of paragraph 8 of Schedule 12 to the 1991 Act,

shall be determined by reference to the length or, as the case may require, commencement of the sentence imposed in the country or territory from which he is transferred.

(4) In this paragraph—

“the enactments relating to release on licence” means sections 33(1)(b) and (2), 34(3) and (5), 35(1) and 37(1) and (2) of the Criminal Justice Act 1991;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

4 (1) This paragraph applies in relation to prisoners repatriated to England and Wales after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed for offences committed after the commencement of Chapter I of Part II of this Act.

(2) In section 2 of the 1984 Act (transfer of prisoners out of United Kingdom), in subsection (4)(b), for sub-paragraph (i) there shall be substituted the following sub-paragraph—

“(i) subject to a release supervision order under section 16 of the Crime (Sentences) Act 1997, or released on licence under section 28(5) or 29(1) of that Act;”.

(3) In section 3 of the 1984 Act (transfer of prisoners into United Kingdom), in subsection (9)—

- (a) for the words “section 48 of the Criminal Justice Act 1991 (discretionary life prisoners transferred to England and Wales)” there shall be substituted the words “section 33 of the Crime (Sentences) Act 1997 (life prisoner transferred to England and Wales)”; and

- (b) for the words “section 34 of that Act (duty of Secretary of State to release discretionary life prisoners)” there shall be substituted the words “section 28 of that Act (duty to release certain life prisoners)”.

(4) For paragraph 2 of the Schedule to the 1984 Act there shall be substituted the following paragraph—

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“Early release

- 2 (1) Subject to sub-paragraph (2) below, the prisoner’s sentence, that is to say, the provision included in the warrant which is equivalent to a sentence, shall be deemed—
- (a) for the purposes of Chapter I of Part II of the Crime (Sentences) Act 1997, to have been imposed on the day on which the relevant provisions take effect;
 - (b) for the purposes of Chapter II of that Part, to have been imposed on the same day as the sentence imposed in the country or territory from which he is transferred.
- (2) The question whether—
- (a) section 11 of the Crime (Sentences) Act 1997 (award of early release days for good behaviour); or
 - (b) section 12 of that Act (release on Parole Board recommendation),
- applies in the case of the prisoner shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.”

- (5) For paragraph 3 of that Schedule there shall be substituted the following paragraph—

“Life imprisonment

- 3 Where the relevant provisions include provision equivalent to a sentence in relation to which subsection (1) of section 29 of the Crime (Sentences) Act 1997 (power to release certain life prisoners etc.) applies, that subsection shall have effect as if the reference to consultation with the trial judge if available were omitted.”

Prisoners repatriated to Scotland

- 5 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed before 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
 - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date.
- (2) Paragraph 2 of the Schedule to the 1984 Act, as originally enacted, shall have effect, and shall be deemed to have had effect since 16th February 1990, as if—
- (a) in sub-paragraph (1), for the words “section 60 of the Criminal Justice Act 1967” there were substituted the words “section 22 of the Prisons (Scotland) Act 1989”; and
 - (b) at the end there were added the following sub-paragraph—
- “(3) In this paragraph “sentence” means the provision included in a warrant which is equivalent to a sentence.”
- 6 (1) This paragraph applies in relation to—

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- (a) prisoners repatriated to Scotland before 25th October 1996 (the “relevant date”) who were still serving sentences, which were imposed on or after 1st October 1993 in the country or territory from which they were transferred, on the relevant date; and
 - (b) prisoners repatriated to Scotland in respect of such sentences on or after the relevant date and before the commencement of this Schedule.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the omission of sub-paragraph (1A) and the insertion after sub-paragraph (2) of the following sub-paragraphs—
- “(3) The question whether the prisoner is a short-term or long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.
- (4) For the purposes of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner’s sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.
- (5) In this paragraph—
- “the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;
- “sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”
- 7 (1) This paragraph applies in relation to prisoners repatriated to Scotland after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed on or after 1st October 1993 for offences committed before the commencement of section 33 of the Crime and Punishment (Scotland) Act 1997.
- (2) In paragraph 2 of the Schedule to the 1984 Act, for sub-paragraphs (1A) and (2) there shall be substituted the following sub-paragraphs—
- “(2) If the warrant specifies a period to be taken into account for the purposes of sections 1(3) and 2(2) and (7) of the Prisoners and Criminal Proceedings (Scotland) Act 1993—
- (a) the amount of time the prisoner has served; and
 - (b) where his sentence is a determinate one, his sentence,
- shall, so far only as the question whether he has served any particular proportion or part of his sentence is concerned, be deemed to be increased by that period.
- (3) The question whether the prisoner is a long-term prisoner for the purposes of the enactments relating to release on licence shall be determined by reference to the length of the sentence imposed in the country or territory from which he is transferred.
- (4) For the purposes of Schedule 6 to the Prisoners and Criminal Proceedings (Scotland) Act 1993 a prisoner’s sentence shall be deemed to have been imposed on the day on which the relevant provisions take effect.

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(5) In this paragraph—

“the enactments relating to release on licence” means sections 1(2) and (3), 2(2) and (7) and 7(1) of the Prisoners and Criminal Proceedings (Scotland) Act 1993;

“sentence”, except in sub-paragraph (3) above, means the provision included in the warrant which is equivalent to a sentence.”

- 8 (1) This paragraph applies in relation to prisoners repatriated to Scotland after the commencement of this Schedule whose sentences in the country or territory from which they are transferred were imposed for offences committed after the commencement of section 33 of the Crime and Punishment (Scotland) Act 1997.
- (2) For paragraph 2 of the Schedule to the 1984 Act there shall be substituted the following paragraph—

“Early release

2 The prisoner’s sentence, that is to say, the provision included in the warrant which is equivalent to a sentence, shall be deemed—

- (a) for the purposes of Chapter I of Part III of the Crime and Punishment (Scotland) Act 1997, to have been imposed on the day on which the relevant provisions take effect;
- (b) for the purposes of section 2(2) and (7) of the Prisoners and Criminal Proceedings (Scotland) Act 1993, to have been imposed on the same day as the sentence imposed in the country or territory from which he is transferred.”

- (3) For paragraph 3 of that Schedule there shall be substituted the following paragraph—

“Life imprisonment

3 Where the relevant provisions include provision equivalent to a sentence in relation to which subsection (4) of section 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993 (power to release certain life prisoners etc.) applies, that subsection shall have effect as if the reference to consultation with the trial judge if available were omitted.”

Prisoners repatriated to Northern Ireland

- 9 (1) This paragraph applies in relation to—
- (a) prisoners repatriated to Northern Ireland before 25th October 1996 who were still serving their sentences on that date; and
- (b) prisoners repatriated to Northern Ireland on or after that date.
- (2) Paragraph 2 of the Schedule to the 1984 Act shall have effect, and shall be deemed always to have had effect, with the insertion after sub-paragraph (2) of the following sub-paragraph—

“(3) In this paragraph “sentence” means the provision included in the warrant which is equivalent to a sentence.”

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- 10 (1) This paragraph applies in relation to prisoners repatriated to Northern Ireland after the commencement of this Schedule.
- (2) For paragraph 3 of the Schedule to the 1984 Act there shall be substituted the following paragraph—

“Life imprisonment

- 3 Where the relevant provisions include provision equivalent to a sentence in relation to which subsection (3) of section 1 of the Northern Ireland (Emergency Provisions) Act 1973 (power to release certain life prisoners etc.) applies, that subsection shall have effect as if the reference to consultation with the trial judge if available were omitted.”

Prisoners repatriated to the Islands

- 11 (1) This paragraph applies where any Order in Council under section 9(4) of the 1984 Act extends the provisions of that Act to any of the Channel Islands or the Isle of Man.
- (2) The modifications of that Act made by the Order may include modifications broadly corresponding to those made by any of paragraphs 1 to 10 above.