



# Crime and Punishment (Scotland) Act 1997

## 1997 CHAPTER 48

### PART I

#### SENTENCING

##### *Miscellaneous*

#### **16 Designated life prisoners.**

(1) In section 2 of the 1993 Act (duty to release discretionary life prisoners)—

(a) for subsection (1) there shall be substituted the following subsection—

“(1) In this Part of this Act “designated life prisoner”, subject to subsection (9)(a) below and except where the context otherwise requires, means a person—

- (a) sentenced to life imprisonment for an offence for which, subject to paragraph (b) below, such a sentence is not the sentence fixed by law;
- (b) whose sentence was imposed under section 205A(2) of the 1995 Act (imprisonment for life on further conviction for certain offences); or
- (c) whose sentence was imposed in respect of a murder committed by him before he attained the age of 18 years,

and in respect of whom the court which sentenced him for that offence made the order mentioned in subsection (2) below.”; and

(b) in subsection (2)—

- (i) the word “and” shall cease to have effect; and
- (ii) after paragraph (b), there shall be inserted the words—

“; and

---

*Changes to legislation: There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Cross Heading: Miscellaneous. (See end of Document for details)*

---

- (c) where appropriate, the matters mentioned in paragraphs (a) and (b) of section 196(1) of the 1995 Act.”.
- (2) <sup>F1</sup>[Except in a case to which subsection (3A) or (3B) below applies,]this subsection applies where, in the case of a person sentenced, prior to the coming into force of this section, in respect of a murder committed by him before he attained the age of 18 years, 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 the 1993 Act, as amended by 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.
- (3) In a case to which subsection (2) above applies, Part I of the 1993 Act, except <sup>F2</sup>[section 2(9)], shall apply as if—
- (a) the life prisoner concerned were a <sup>F3</sup>. . . life prisoner within the meaning of section 2 of that Act; and
  - (b) the <sup>F4</sup>[punishment] part of his sentence within the meaning of that section were the part specified in the certificate.
- <sup>F5</sup>(3A) This subsection applies in a case where a person—
- (a) was sentenced, prior to 20 October 1997, in respect of a murder committed by him before he attained the age of 18 years; and
  - (b) has been released on licence, other than under section 3 of the 1993 Act, whether before or on that date.
- <sup>F5</sup>(3B) This subsection applies in a case where a person—
- (a) was sentenced, prior to 20 October 1997, in respect of a murder committed by him before he attained the age of 18 years; and
  - (b) has been released on licence, other than under section 3 of the 1993 Act, after that date without his case having been considered under subsection (2) above.
- <sup>F5</sup>(3C) In a case to which subsection (3A) or (3B) applies, Part I of the 1993 Act shall apply as if the person were a designated life prisoner, within the meaning of section 2 of that Act, whose licence had been granted under subsection (4) of that section on his having served the designated part of his sentence.]
- <sup>F6</sup>(4) . . . . .

#### Textual Amendments

- F1** Words in s. 16(2) inserted (*retrospective* to 20.10.1997) by 1998 c. 37, s. 109(1)(2)
- F2** Words in s. 16(3) substituted (8.10.2001) by 2001 asp 7, s. 1(8)(a)(i); S.S.I. 2001/274, art. 3(3)
- F3** Words in s. 16(3)(a)(4)(a) repealed (8.10.2001) by 2001 asp 7, s. 1(8)(a)(ii)(b)(i); S.S.I. 2001/274, art. 3(3)
- F4** Words in s. 16(3)(b)(4)(b) substituted (8.10.2001) by 2001 asp 7, s. 1(8)(a)(iii)(b)(ii); S.S.I. 2001/274, art. 3(3)
- F5** S. 16(3A)-(3C) inserted (*retrospective* to 20.10.1997) by 1998 c. 37, s. 109(1)(3)
- F6** S. 16(4) repealed (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), s. 89(2), Sch. 5; S.S.I. 2003/288, art. 2, Sch.

---

**Changes to legislation:** There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Cross Heading: Miscellaneous. (See end of Document for details)

---

#### **Commencement Information**

- II** S. 16 partly in force; s. 16 not in force at Royal Assent see s. 65(2); s. 16 in force for certain purposes at 20.10.1997 by [S.I. 1997/2323](#), [art. 3](#), [Sch. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Crime and Punishment (Scotland) Act 1997, Cross Heading: Miscellaneous.