



Crime and Punishment (Scotland) Act 1997

1997 CHAPTER 48

PART III

PRISONERS

CHAPTER I

EARLY RELEASE

Application of early release provisions in certain cases

39 Fine defaulters and persons convicted of contempt of court

- (1) Sections 34 and 37 of this Act apply to persons on whom imprisonment or, as the case may be, detention in a young offenders institution has been imposed—
 - (a) under section 219 of the 1995 Act (imprisonment for non-payment of fine); or
 - (b) for contempt of court,as they apply to persons sentenced to imprisonment, or on whom detention has been imposed, on conviction of an offence.
- (2) Section 34 of this Act shall apply to children in respect of whom detention has been imposed for fine default or contempt of court as it applies, by virtue of subsections (5), (6) and (7) of section 35 of this Act, to persons sentenced to be detained under 44 (detention of children in summary proceedings) or detained for determinate periods under section 208 (detention of children convicted on indictment) of the 1995 Act.

40 Persons liable to removal from the United Kingdom

- (1) Subject to the provisions of this section, sections 34, 35 and 37 of this Act apply to persons liable to removal from the United Kingdom.

Status: This is the original version (as it was originally enacted).

- (2) In calculating any period following the release of such a person for the purposes of any of those sections, no account shall be taken of any period during which that person was furth of the United Kingdom.
- (3) For the purposes of this section a person is liable to removal from the United Kingdom if he—
 - (a) 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) is liable to deportation under section 3(6) of that Act;
 - (c) has been notified of a decision to refuse him leave to enter the United Kingdom; or
 - (d) is an illegal immigrant within the meaning of section 33(1) of that Act.

41 Mentally disordered offenders

- (1) This section applies to prisoners who have to serve some part of their sentence in hospital in consequence of—
 - (a) a transfer under section 71 of the 1984 Act (removal to hospital of persons serving sentences of imprisonment and other persons); or
 - (b) a hospital direction under section 59A of the 1995 Act (hospital directions), (in this section referred to as “mentally disordered offenders”).
- (2) For the purposes of section 34 of this Act, where a mentally disordered offender spends any period in hospital, he shall be treated as if he had spent that period in prison, and as if he had been awarded the maximum number of early release days which he could have been awarded under that section had he been detained in a prison during that period.
- (3) Sections 37 and 38 of this Act apply to a mentally disordered offender who is in hospital on the day on which his sentence (taking into account any early release days which he has been awarded) expires as if he had been released from prison on that day.