

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 2: Sentencing

Section 29: Release of prisoners after recall

Section 255A Further release after recall: introductory

253. Section 255A introduces the new procedures governing further release following a prisoner's recall, including automatic release at the end of a fixed period of 28 days (subsection (4)). Subsection (2) provides that recalled prisoners will be eligible for automatic release unless they are serving an extended sentence or a sentence for a sexual or violent offence specified in Schedule 15, they have been released early on the home detention curfew scheme or on compassionate grounds and recalled before the date on which they would otherwise have been released or they have previously been recalled and released under section 255B(1)(b) or (2) or section 255C(2). However, eligible prisoners will only be released automatically if they are also suitable for automatic release, which means that the Secretary of State must be satisfied that they will not present a risk of serious harm to members of the public if they are released after 28 days (subsections (3) and (5)).
254. Subsection (6) summarises which of the new further release procedures will apply to which category of recalled prisoner:
- a) prisoners who are suitable for automatic release are dealt with under section 255B;
 - b) prisoners who are eligible but not suitable for automatic release, and prisoners serving a sentence for a specified offence and certain other prisoners, are dealt with under section 255C; and
 - c) extended sentence prisoners are dealt with under section 255D.
255. Subsection (7) defines "extended sentence prisoner" for this purpose as a prisoner serving an extended sentence under the 2003 Act, the Crime and Disorder Act 1998 or the 2000 Act.
256. Subsection (8) defines a "specified offence prisoner" for this purpose with reference to section 224 of the 2003 Act, namely as a prisoner serving a sentence imposed for an offence specified in Schedule 15 to the 2003 Act. Subsection (9) and (10) extend this definition to the relevant armed services offences (The definition of specified offence prisoner does not include those serving extended sentences).

*These notes refer to the Criminal Justice and Immigration
Act 2008 (c.4) which received Royal Assent on 8 May 2008*

257. Subsection (12) sets out how consecutive and concurrent sentences should be treated for the purpose of determining whether the prisoner is ineligible for automatic release because he has, during the same term of imprisonment, already been released under section 255(1)(b) or (2) or 255C(2).
258. Subsection (13) defines “serious harm” for the purpose of assessing a prisoner’s suitability for automatic release as a risk of death or causing serious physical or psychological personal injury.
259. Subsection (14) defines term of imprisonment to ensure that it includes determinate sentences of detention imposed on juveniles under section 91 of the 2000 Act or section 228 of the 2003 Act