

CRIMINAL JUSTICE AND IMMIGRATION ACT 2008

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 2: Sentencing

Section 33: Removal under Criminal Justice Act 1991

283. This section amends the early removal scheme in sections 46A and 46B of the 1991 Act under which prisoners who are liable to deportation may be released from prison for the purpose of removing them from the UK.
284. *Subsection (2)* inserts a new section 46ZA, which defines a new category of prisoners who are not liable to removal from the UK at the end of their sentence but who have demonstrated a settled intention to reside permanently outside the UK upon release.
285. *Subsection (4)* extends the early removal scheme to those prisoners.
286. *Subsection (5)* provides that removal under the early removal scheme is not available once the prisoner has reached the halfway point of the sentence.
287. *Subsection (6)* removes existing exclusions which bar certain categories of prisoner from removal under the early removal scheme. Consequently, removal of these exclusions will ensure that a prisoner who falls into one or more of the following categories may be removed early under the scheme:
- a prisoner serving an extended sentence;
 - a prisoner serving a sentence under the Prisoners (Return to Custody Act) 1995;
 - a prisoner subject to registration under the Sexual Offenders Act 2003.
 - a prisoner subject to a hospital order, hospital direction or transfer direction under section 37, 45A or 47 of the Mental Health Act 1983.
288. This section also extends the possibility of removal under the early removal scheme to the 14 day period immediately prior to the halfway point of the sentence.
289. *Subsections (7) and (8)* make consequential amendments arising from the inclusion of the new category of prisoners who are to be eligible for removal under the early removal scheme.