



Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 2

SENTENCING

Early removal of prisoners from the United Kingdom

33 Removal under Criminal Justice Act 1991

- (1) Part 2 of the Criminal Justice Act 1991 (early release of prisoners: offences before 4th April 2005 etc.) is amended as follows.
- (2) After section 46 insert—

“46ZA Persons eligible for removal from the United Kingdom

- (1) For the purposes of section 46A below, to be “eligible for removal from the United Kingdom” a person must show, to the satisfaction of the Secretary of State, that the condition in subsection (2) is met.
 - (2) The condition is that the person has the settled intention of residing permanently outside the United Kingdom if removed from prison under section 46A below.
 - (3) The person must not be one who is liable to removal from the United Kingdom.”
- (3) Section 46A (early removal of persons liable to removal from the United Kingdom) is amended as follows.
 - (4) In subsection (1) (the power of removal) after “is liable to” insert “, or eligible for,”.

- (5) Also in subsection (1), for “at any time after he has served the requisite period” substitute “at any time in the period—
- (a) beginning when the person has served the requisite period (see subsection (5)), and
 - (b) ending when the person has served one-half of the term.”
- (6) Subsection (2) (cases where subsection (1) does not apply) ceases to have effect.
- (7) In subsection (3) (purpose of removal from prison etc.)—
- (a) at the beginning of paragraph (a) insert “if liable to removal from the United Kingdom,”;
 - (b) for “and” at the end of that paragraph substitute—
 - “(aa) if eligible for removal from the United Kingdom, is so removed only for the purpose of enabling the prisoner to leave the United Kingdom in order to reside permanently outside the United Kingdom, and”;
 - (c) at the beginning of paragraph (b) insert “in either case,”.
- (8) In consequence of the amendments made by this section, the heading to section 46A becomes “Early removal of persons liable to, or eligible for, removal from United Kingdom”.

34 Removal under Criminal Justice Act 2003

- (1) In Part 12 of the Criminal Justice Act 2003 (c. 44) (sentencing) Chapter 6 (release on licence) is amended as follows.
- (2) After section 259 (persons liable to removal from the United Kingdom) insert—

“259A Persons eligible for removal from the United Kingdom

- (1) For the purposes of this Chapter, to be “eligible for removal from the United Kingdom” a person must show, to the satisfaction of the Secretary of State, that the condition in subsection (2) is met.
 - (2) The condition is that the person has the settled intention of residing permanently outside the United Kingdom if removed from prison under section 260.
 - (3) The person must not be one who is liable to removal from the United Kingdom.”
- (3) Section 260 (early removal of prisoners liable to removal from United Kingdom) is amended as follows.
- (4) In subsection (1) (the power of removal)—
- (a) for “subsections (2) and (3)” substitute “subsection (2)”, and
 - (b) after “is liable to” insert “, or eligible for,”.
- (5) For subsection (2) (conditions relating to time) substitute—
- “(2) Subsection (1) does not apply in relation to a prisoner unless he has served at least one-half of the requisite custodial period.”

- (6) Subsections (3) and (3A) (cases where subsection (1) does not apply) cease to have effect.
- (7) In subsection (4) (purpose of removal from prison etc.)—
- (a) at the beginning of paragraph (a) insert “if liable to removal from the United Kingdom,”;
 - (b) for “and” at the end of that paragraph substitute—
 - “(aa) if eligible for removal from the United Kingdom, is so removed only for the purpose of enabling the prisoner to leave the United Kingdom in order to reside permanently outside the United Kingdom, and”;
 - (c) at the beginning of paragraph (b) insert “in either case,”.
- (8) In subsection (6) (order-making powers)—
- (a) in paragraph (a) omit “or (3)(e)”,
 - (b) omit paragraph (b), and
 - (c) in paragraph (c) for “subsection (2)(b)(ii)” substitute “subsection (2)”.
- (9) For subsection (7) (meaning of “requisite custodial period”) substitute—
- “(7) In this section “requisite custodial period”—
- (a) in relation to a prisoner serving an extended sentence imposed under section 227 or 228, means one-half of the appropriate custodial term (determined by the court under that section);
 - (b) in any other case, has the meaning given by paragraph (a), (b) or (d) of section 244(3).”
- (10) In consequence of the amendments made by this section—
- (a) the italic heading preceding section 259 becomes “Persons liable to, or eligible for, removal from the United Kingdom”, and
 - (b) the heading to section 260 becomes “Early removal of persons liable to, or eligible for, removal from the United Kingdom”.