



Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 2

SENTENCING

Release and recall of prisoners

21 Credit for period of remand on bail: terms of imprisonment and detention

- (1) The Criminal Justice Act 2003 (c. 44) is amended as follows.
- (2) In section 237 (meaning of “fixed term prisoner”), in subsection (1B), after “Armed Forces Act 2006)” insert “or section 240A”.
- (3) In the italic heading before section 240, after “custody” insert “*or on bail subject to certain types of condition*”.
- (4) After section 240 insert—

“240A Crediting periods of remand on bail: terms of imprisonment and detention

- (1) This section applies where—
 - (a) a court sentences an offender to imprisonment for a term in respect of an offence committed on or after 4th April 2005,
 - (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, after the coming into force of section 21 of the Criminal Justice and Immigration Act 2008, and
 - (c) the offender’s bail was subject to a qualifying curfew condition and an electronic monitoring condition (“the relevant conditions”).

Status: This is the original version (as it was originally enacted).

- (2) Subject to subsection (4), the court must direct that the credit period is to count as time served by the offender as part of the sentence.
- (3) The “credit period” is the number of days represented by half of the sum of—
 - (a) the day on which the offender’s bail was first subject to conditions that, had they applied throughout the day in question, would have been relevant conditions, and
 - (b) the number of other days on which the offender’s bail was subject to those conditions (excluding the last day on which it was so subject), rounded up to the nearest whole number.
- (4) Subsection (2) does not apply if and to the extent that—
 - (a) rules made by the Secretary of State so provide, or
 - (b) it is in the opinion of the court just in all the circumstances not to give a direction under that subsection.
- (5) Where as a result of paragraph (a) or (b) of subsection (4) the court does not give a direction under subsection (2), it may give a direction in accordance with either of those paragraphs to the effect that a period of days which is less than the credit period is to count as time served by the offender as part of the sentence.
- (6) Rules made under subsection (4)(a) may, in particular, make provision in relation to—
 - (a) sentences of imprisonment for consecutive terms;
 - (b) sentences of imprisonment for terms which are wholly or partly concurrent;
 - (c) periods during which a person granted bail subject to the relevant conditions is also subject to electronic monitoring required by an order made by a court or the Secretary of State.
- (7) In considering whether it is of the opinion mentioned in subsection (4)(b) the court must, in particular, take into account whether or not the offender has, at any time whilst on bail subject to the relevant conditions, broken either or both of them.
- (8) Where the court gives a direction under subsection (2) or (5) it shall state in open court—
 - (a) the number of days on which the offender was subject to the relevant conditions, and
 - (b) the number of days in relation to which the direction is given.
- (9) Subsection (10) applies where the court—
 - (a) does not give a direction under subsection (2) but gives a direction under subsection (5), or
 - (b) decides not to give a direction under this section.
- (10) The court shall state in open court—
 - (a) that its decision is in accordance with rules made under paragraph (a) of subsection (4), or
 - (b) that it is of the opinion mentioned in paragraph (b) of that subsection and what the circumstances are.

- (11) Subsections (7) to (10) of section 240 apply for the purposes of this section as they apply for the purposes of that section but as if—
- (a) in subsection (7)—
 - (i) the reference to a suspended sentence is to be read as including a reference to a sentence to which an order under section 118(1) of the Sentencing Act relates;
 - (ii) in paragraph (a) after “Schedule 12” there were inserted “or section 119(1)(a) or (b) of the Sentencing Act”; and
 - (b) in subsection (8) the reference to subsection (3) of section 240 is to be read as a reference to subsection (2) of this section and, in paragraph (b), after “Chapter” there were inserted “or Part 2 of the Criminal Justice Act 1991”.
- (12) In this section—
- “electronic monitoring condition” means any electronic monitoring requirements imposed under section 3(6ZAA) of the Bail Act 1976 for the purpose of securing the electronic monitoring of a person’s compliance with a qualifying curfew condition;
 - “qualifying curfew condition” means a condition of bail which requires the person granted bail to remain at one or more specified places for a total of not less than 9 hours in any given day; and
 - “related offence” means an offence, other than the offence for which the sentence is imposed (“offence A”), with which the offender was charged and the charge for which was founded on the same facts or evidence as offence A.”
- (5) In section 241 (effect of direction under section 240 of that Act) after the words “section 240”, in each place where they occur (including in the title), insert “or 240A”.
- (6) In section 242 (interpretation of sections 240 and 241), in the title and in subsection (1), after “sections 240” insert “, 240A”.
- (7) In section 330 (Parliamentary procedure for subordinate legislation made under that Act), in subsection (5)(d), after “section 240(4)(a)” insert “or 240A(4)(a)”.