



Legal Aid, Sentencing and Punishment of Offenders Act 2012

2012 CHAPTER 10

PART 3

SENTENCING AND PUNISHMENT OF OFFENDERS

CHAPTER 5

DANGEROUS OFFENDERS

128 Power to change test for release on licence of certain prisoners

- (1) The Secretary of State may by order provide that, following a referral by the Secretary of State of the case of a discretionary release prisoner, the Parole Board—
 - (a) must direct the prisoner's release if it is satisfied that conditions specified in the order are met, or
 - (b) must do so unless it is satisfied that conditions specified in the order are met.
- (2) "Discretionary release prisoner" means—
 - (a) an IPP prisoner,
 - (b) an extended sentence prisoner, or
 - (c) a person to whom paragraph 4, 15, 24 or 27 of Schedule 20B to the Criminal Justice Act 2003 (determinate sentence prisoners subject to transitional provisions) applies.
- (3) An order under this section may—
 - (a) amend section 28 of the Crime (Sentences) Act 1997 (duty to release IPP prisoners and others),
 - (b) amend section 246A of the Criminal Justice Act 2003 (release on licence of extended sentence prisoners),

Status: This is the original version (as it was originally enacted).

- (c) amend paragraph 6, 15, 25 or 28 of Schedule 20B to the Criminal Justice Act 2003 (release on licence of determinate sentence prisoners subject to transitional provisions),
 - (d) make provision in relation to any person whose case is disposed of by the Parole Board on or after the day on which the regulations come into force (even if the Secretary of State referred that person’s case to the Board before that day),
 - (e) make different provision in relation to each of the categories of discretionary release prisoner mentioned in subsection (2), and
 - (f) include consequential provision.
- (4) An order under this section is to be made by statutory instrument.
- (5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (6) In this section—
- “extended sentence prisoner” means a prisoner who is serving a sentence under section 226A or 226B of the Criminal Justice Act 2003 (including one imposed as a result of section 219A or 221A of the Armed Forces Act 2006);
 - “IPP prisoner” means a prisoner who is serving one or more of the following sentences and is not serving any other life sentence—
 - (a) a sentence of imprisonment for public protection or detention in a young offender institution for public protection under section 225 of the Criminal Justice Act 2003 (including one imposed as a result of section 219 of the Armed Forces Act 2006);
 - (b) a sentence of detention for public protection under section 226 of the Criminal Justice Act 2003 (including one imposed as a result of section 221 of the Armed Forces Act 2006);
 - “life sentence” has the same meaning as in section 34 of the Crime (Sentences) Act 1997.