



Police, Crime, Sentencing and Courts Act 2022

2022 CHAPTER 32

PART 7

SENTENCING AND RELEASE

CHAPTER 1

CUSTODIAL SENTENCES

Minor amendments

144 Calculation of period before release or Parole Board referral where multiple sentences being served

- (1) In the Crime (Sentences) Act 1997—
 - (a) in section 28(7) (time of Parole Board referral), omit paragraph (c) (and the “and” immediately before it);
 - (b) before section 34 insert—

“33A Life prisoners also serving fixed-term sentence

- (1) This section applies where a life prisoner is also serving one or more sentences by virtue of which the fixed-term provisions apply to the offender.
- (2) Nothing in this Chapter requires the Secretary of State to release the prisoner unless the Secretary of State is also required by the fixed-term provisions to release the prisoner.

Status: This is the original version (as it was originally enacted).

- (3) Nothing in this Chapter requires the Secretary of State to refer the prisoner’s case to the Parole Board unless the Secretary of State is also required by the fixed-term provisions to—
- (a) refer the prisoner’s case to the Board, or
 - (b) release the prisoner.
- (4) Subsection (3) does not apply to a reference by the Secretary of State under section 31A(3).
- (5) The fact that the prisoner is serving a life sentence is to be ignored in determining, for the purposes of subsections (2) and (3), what the fixed-term provisions require.
- (6) In this section “the fixed-term provisions” means Chapter 6 of Part 12 of the Criminal Justice Act 2003.”;
- (c) in section 34 (interpretation), omit subsection (4).
- (2) The Criminal Justice Act 2003 is amended in accordance with subsections (3) to (11).
- (3) In section 243A(3) (requisite custodial period before release in short sentence), for “264(2)” substitute “264(2B) or (2E)”.
- (4) In section 244(3)(d) (usual requisite custodial period before release), for “264(2)” substitute “264(2B) or (2E)”.
- (5) In section 244A(6) (periods before release or referral in sentences for offenders of particular concern), in paragraph (b) of the definition of “requisite custodial period”, for “264(2)” substitute “264(2D)”.
- (6) In section 246A(8) (periods before release or referral in extended sentences), in paragraph (b) of the definition of “requisite custodial period”, for “264(2)” substitute “264(2B), (2D) or (2E)”.
- (7) In section 247(7) (periods before release in old extended sentences), in paragraph (b) of the definition of “requisite custodial period”, for “264(2)” substitute “264(2B) or (2E)”.
- (8) In section 247A(8) (release of terrorist prisoners: definitions), in paragraph (c) of the definition of “requisite custodial period”, for “264(2)” substitute “264(2B), (2D) or (2E)”.
- (9) In section 263 (release in case of concurrent sentences), in subsection (2), after paragraph (a) insert—
- “(aza) nothing in this Chapter requires the Secretary of State to refer the offender’s case to the Board in respect of any of the terms unless and until the Secretary of State is required either—
 - (i) to refer the offender’s case to the Board, or
 - (ii) to release the offender,
 in respect of each of the others.”.
- (10) In section 264 (release in case of consecutive sentences)—
- (a) for subsection (2) substitute—

“(2A) Subsection (2B) applies if each of the terms of imprisonment is subject to initial automatic release.

- (2B) Nothing in this Chapter requires the Secretary of State to release the offender until the offender has served a period equal to the aggregate of the length of the minimum custodial periods in each of the terms.
- (2C) Subsections (2D) and (2E) apply if at least one of the terms of imprisonment is subject to initial Parole Board referral.
- (2D) Nothing in this Chapter requires the Secretary of State to refer the offender’s case to the Board until the offender has served a period equal to the aggregate length of the minimum custodial periods in each of the terms.
- (2E) Nothing in this Chapter requires the Secretary of State to release the offender until—
- (a) the Board has directed the release of the offender, or
 - (b) the offender has served a period equal to the aggregate length of—
 - (i) the minimum custodial periods in each of the terms (if any) that is subject to initial automatic release, and
 - (ii) the maximum custodial periods in each of the terms that is subject to initial Parole Board referral.
- (2F) For the purposes of subsections (2A) to (2E)—
- (a) a term of imprisonment is “subject to initial automatic release” if it is a sentence in respect of which—
 - (i) section 243A(1), 244(1), 244ZA(1), 246A(2) or 247 applies to the offender, or
 - (ii) section 247A applies, but subsections (3) to (5) of that section do not apply, to the offender;
 - (b) a term of imprisonment is “subject to initial Parole Board referral” if it is a sentence in respect of which—
 - (i) section 244ZC, 244A, 246A(3) to (7) or 247A(3) to (5) applies to the offender, or
 - (ii) a notice under section 244ZB(4) is in force.”;
 - (b) in subsections (6) and (6A), in the words before paragraph (a), before “custodial” insert “minimum”;
 - (c) after subsection (6A) insert—

“(6B) In this section “maximum custodial period” means—

 - (a) in relation to a sentence imposed under section 226A, 226B, 227, 228 or 236A of this Act or section 252A, 254, 265, 266, 278 or 279 of the Sentencing Code, the “appropriate custodial term” determined by the court under that section;
 - (b) in relation to any other sentence, the term of the sentence.”
- (11) After section 267B insert—

“267C Fixed-term prisoners also serving life sentence

- (1) This section applies where a fixed-term prisoner is also serving one or more sentences by virtue of which the life sentence provisions apply to the offender.

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

- (2) Nothing in this Chapter requires the Secretary of State to release the prisoner unless the Secretary of State is also required by the life sentence provisions to release the prisoner.
 - (3) Nothing in this Chapter requires the Secretary of State to refer the prisoner's case to the Board unless the Secretary of State is also required by the life sentence provisions to—
 - (a) refer the prisoner's case to the Board, or
 - (b) release the prisoner.
 - (4) The reference in subsection (3)(a) to a requirement of the Secretary of State to refer a prisoner's case to the Board does not include a requirement to do so under section 31A(3) of the 1997 Act.
 - (5) The fact that the prisoner is also serving a fixed-term sentence is to be ignored in determining, for the purposes of subsections (2) and (3), what the life sentence provisions require.
 - (6) In this section “the life sentence provisions” means Chapter 2 of Part 2 of the 1997 Act.”
- (12) In section 11 of the Criminal Justice and Courts Act 2015 (release on licence of life prisoners), omit subsections (1) and (4).

145 Application of release provisions to repatriated prisoners

- (1) In the Schedule to the Repatriation of Prisoners Act 1984, in paragraph 2 (application of early release provisions) as it applies in relation to prisoners repatriated to England and Wales—
 - (a) omit sub-paragraphs (3) and (3A);
 - (b) for sub-paragraphs (3B) to (3F) (inserted by the Counter-Terrorism and Sentencing Act 2021) substitute—
 - “(3ZA) The Secretary of State may specify in the warrant that the prisoner is to be treated for the purposes of the enactments relating to release on licence as if the sentence to be served by the prisoner was imposed in respect of—
 - (a) a particular offence under the law of England and Wales,
 - (b) such an offence carried out in a certain manner or in certain circumstances, or
 - (c) such an offence in relation to which certain findings were made by the court before which the prisoner was convicted or sentenced for the offence;
 and if that is done those enactments have effect accordingly.
 - (3ZB) An offence may be specified under sub-paragraph (3ZA) only if it corresponds to the offence in respect of which the prisoner is required to be detained in the country or territory from which the prisoner is transferred (“the overseas offence”).
 - (3ZC) A specification under sub-paragraph (3ZA)(b) may be made only if, in the opinion of the Secretary of State, findings made by the court before which the prisoner was convicted or sentenced for the

overseas offence show that the overseas offence was committed in the manner or circumstances to be specified (or in a corresponding manner or corresponding circumstances).

(3ZD) A finding may be specified under sub-paragraph (3ZA)(c) only if, in the opinion of the Secretary of State, findings made by the court before which the prisoner was convicted or sentenced for the overseas offence show that the finding to be specified could properly have been made by a court in England and Wales dealing with the prisoner.

(3ZE) Sub-paragraph (3ZA) does not result in the enactments relating to release on licence applying in a way in which they could not apply in relation to a sentence imposed in respect of the offence specified under that sub-paragraph—

- (a) that was committed at the same time as the overseas offence was committed, or
- (b) in respect of which a conviction was made, or sentence passed, at the same time as occurred in respect of the overseas offence.

(3ZF) The Secretary of State may amend a warrant (whether issued before or after sub-paragraph (3ZA) comes into force and whether or not the transfer it authorised has taken place) so as to specify the matters there referred to.”;

- (c) in sub-paragraph (4), in the definition of “the enactments relating to release on licence”, for “and Chapter 6 of Part 12 of the Criminal Justice Act 2003” substitute “, Chapter 6 of Part 12 of the Criminal Justice Act 2003 and section 28 of the Offender Management Act 2007”.

(2) The repeal by subsection (1)(b) of sub-paragraphs (3B) to (3F) of the amended paragraph does not affect the continued operation of the enactments relating to release on licence (within the meaning of that paragraph as amended by subsection (1)) in relation to a warrant issued or amended in accordance with those sub-paragraphs before their repeal.

(3) In Schedule 26 to the Criminal Justice and Immigration Act 2008, the following provisions (which contain superseded amendments of or in connection with the paragraph amended by subsection (1)) are repealed—

- (a) paragraph 19(4) and (5), and
- (b) paragraph 33(2) and (3).

146 Sentences and offences in respect of which polygraph condition may be imposed

In section 28 of the Offender Management Act 2007 (application of polygraph condition)—

- (a) in subsection (3), for paragraphs (a) to (g) substitute—
 - “(a) a life sentence within the meaning of Chapter 2 of Part 2 of the Crime (Sentences) Act 1997 (see section 34(2) of that Act), or
 - (b) a fixed-term sentence within the meaning of Chapter 6 of Part 12 of the Criminal Justice Act 2003 (see section 237 of that Act) of a term of 12 months or more.”;

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

- (b) in subsection (4), for the words from “means—” to the end substitute “means an offence specified in any one or more of—
- (a) Schedule 3 to the Sexual Offences Act 2003 (sexual offences attracting notification requirements),
 - (b) Part 2 of Schedule 15 to the Criminal Justice Act 2003 (sexual offences under the law of England and Wales specified for certain purposes),
 - (c) paragraphs 1 to 21 of Schedule 16 to that Act (sexual offences under the law of Scotland specified for certain purposes), as that Schedule had effect immediately before its repeal on 14 July 2008, and
 - (d) Part 2 of Schedule 17 to that Act (sexual offences under the law of Northern Ireland specified for certain purposes), as that Schedule had effect immediately before its repeal on 14 July 2008.”;
- (c) after subsection (4) insert—
- “(4ZA) In determining for the purposes of subsection (4) whether an offence is specified in Schedule 3 to the Sexual Offences Act 2003, any limitation in that Schedule referring to the circumstances of a particular case (including the sentence imposed) is to be disregarded.”;
- (d) in subsection (4A) (inserted by the Counter-Terrorism and Sentencing Act 2021), omit paragraph (b) (but not the final “or”);
- (e) in subsection (4B) (also so inserted), omit paragraph (a);
- (f) after subsection (4B) insert—
- “(4C) A sentence in respect of a service offence is to be treated for the purposes of this section as if it were a sentence in respect of the corresponding offence.
- (4D) In subsection (4C)—
- (a) “service offence” means an offence under—
 - (i) section 42 of the Armed Forces Act 2006,
 - (ii) section 70 of the Army Act 1955 or the Air Force Act 1955, or
 - (iii) section 42 of the Naval Discipline Act 1957;
 - (b) “corresponding offence” means—
 - (i) in relation to an offence under section 42 of the Armed Forces Act 2006, the corresponding offence under the law of England and Wales within the meaning of that section;
 - (ii) in relation to an offence under section 70 of the Army Act 1955 or the Air Force Act 1955, the corresponding civil offence within the meaning of that Act;
 - (iii) in relation to an offence under section 42 of the Naval Discipline Act 1957, the civil offence within the meaning of that section.

(4E) Section 48 of the Armed Forces Act 2006 (supplementary provisions relating to ancillary service offences) applies for the purposes of subsection (4D)(b)(i) above as it applies for the purposes of the provisions of that Act referred to in subsection (3)(b) of that section.”

147 Minor amendments to do with weapons-related offences

(1) In Schedule 15 to the Criminal Justice Act 2003 (specified offences for certain purposes to do with release of offenders)—

(a) after paragraph 60 insert—

“60A An offence under section 47 of the Anti-Terrorism, Crime and Security Act 2001 (use etc of nuclear weapons).

60B An offence under section 50 of that Act (assisting or inducing certain weapons-related acts overseas).”;

(b) omit paragraphs 163 and 164;

(c) in paragraph 165, for “that Act” substitute “the Anti-Terrorism, Crime and Security Act 2001”.

(2) In Schedule 18 to the Sentencing Code (specified offences for certain sentencing purposes)—

(a) after paragraph 23 insert—

“Anti-Terrorism, Crime and Security Act 2001

23A An offence under either of the following provisions of the Anti-Terrorism, Crime and Security Act 2001—

(a) section 47 (use etc of nuclear weapons);

(b) section 50 (assisting or inducing certain weapons-related acts overseas).”;

(b) for paragraph 42 substitute—

“42 An offence under section 113 of the Anti-Terrorism, Crime and Security Act 2001 (use of noxious substance or thing to cause harm or intimidate).”

148 Application of provision about minimum terms to service offences

In section 261A of the Armed Forces Act 2006 (life sentences imposed by Court Martial), at the end insert—

“(5) Schedule 21, as it applies in relation to a sentence passed by the Court Martial, has effect as if a reference to murder included reference to an offence under section 42 as respects which the corresponding offence under the law of England and Wales is murder.”