

SCHEDULES

SCHEDULE 12

TRANSITIONAL PROVISIONS AND SAVINGS

Early release: general

- 8 (1) In this paragraph and paragraphs 9 to 11 below—
- “existing licensee” means any person who, before the commencement of Part II of this Act, has been released on licence under section 60 of the 1967 Act and whose licence under that section is in force at that commencement;
- “existing prisoner” means any person who, at that commencement, is serving a custodial sentence;
- and sub-paragraphs (2) to (7) below shall have effect subject to those paragraphs.
- (2) Subject to sub-paragraphs (3) to (7) below, Part II of this Act shall apply in relation to an existing licensee as it applies in relation to a person who is released on licence under that Part; and in its application to an existing prisoner, or to an existing licensee who is recalled under section 39 of this Act, that Part shall apply with the modifications made by those sub-paragraphs.
- (3) Section 40 of this Act shall not apply in relation to an existing prisoner or licensee.
- (4) In relation to an existing prisoner whose sentence is for a term of twelve months, section 33(1) of this Act shall apply as if that sentence were for a term of less than twelve months.
- (5) In relation to an existing prisoner or licensee whose sentence is for a term of—
- more than twelve months; and
 - less than four years or, as the case may require, such other period as may for the time being be referred to in section 33(5) of this Act,
- Part II of this Act shall apply as if he were or had been a long-term rather than a short-term prisoner.
- (6) In relation to an existing prisoner or licensee whose sentence is for a term of more than twelve months—
- section 35(1) of this Act shall apply as if the reference to one half of his sentence were a reference to one-third of that sentence or six months, whichever is the longer; and
 - sections 33(3) and 37(1) of this Act shall apply as if the reference to three-quarters of his sentence were a reference to two-thirds of that sentence.
- (7) In relation to an existing prisoner or licensee—
- whose sentence is for a term of more than twelve months; and
 - whose case falls within such class of cases as the Secretary of State may determine after consultation with the Parole Board,

Status: This is the original version (as it was originally enacted).

section 35(1) of this Act shall apply as if the reference to a recommendation by the Board included a reference to a recommendation by a local review committee established under section 59(6) of the 1967 Act.

- (8) In this paragraph “custodial sentence” means—
- (a) a sentence of imprisonment;
 - (b) a sentence of detention in a young offender institution;
 - (c) a sentence of detention (whether during Her Majesty’s pleasure, for life or for a determinate term) under section 53 of the 1933 Act; or
 - (d) a sentence of custody for life under section 8 of the 1982 Act.
- 9 (1) This paragraph applies where, in the case of an existing life prisoner, the Secretary of State certifies his opinion that, if—
- (a) section 34 of this Act had been in force at the time when he was sentenced; and
 - (b) the reference in subsection (1)(a) of that section to a violent or sexual offence the sentence for which is not fixed by law were a reference to any offence the sentence for which is not so fixed,
- the court by which he was sentenced would have ordered that that section should apply to him as soon as he had served a part of his sentence specified in the certificate.
- (2) In a case to which this paragraph applies, Part II of this Act except section 35(2) shall apply as if—
- (a) the existing life prisoner were a discretionary life prisoner for the purposes of that Part; and
 - (b) the relevant part of his sentence within the meaning of section 34 of this Act were the part specified in the certificate.
- (3) In this paragraph “existing life prisoner” means a person who, at the commencement of Part II of this Act, is serving one or more of the following sentences, namely—
- (a) a sentence of life imprisonment;
 - (b) a sentence of detention during her Majesty’s pleasure or for life under section 53 of the 1933 Act; or
 - (c) a sentence of custody for life under section 8 of the 1982 Act.
- (4) A person serving two or more such sentences shall not be treated as a discretionary life prisoner for the purposes of Part II of this Act unless the requirements of subparagraph (1) above are satisfied as respects each of those sentences; and subsections (3) and (5) of section 34 of this Act shall not apply in relation to such a person until after he has served the relevant part of each of those sentences.
- 10 Prison rules made by virtue of section 42 of this Act may include provision for applying any provisions of Part II of this Act, in relation to any existing prisoner or licensee who has forfeited any remission of his sentence, as if he had been awarded such number of additional days as may be determined by or under the rules.