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SCHEDULES

[^{F1}SCHEDULE 20B

MODIFICATIONS OF CHAPTER 6 OF PART 12 IN CERTAIN TRANSITIONAL CASES

Textual Amendments

- F1** Sch. 20B inserted (3.12.2012) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\)](#), s. 151(1), [Sch. 17 para. 10](#); S.I. 2012/2906, art. 2(o)

Modifications etc. (not altering text)

- C1** Schs. 20A, 20B applied by 1997 c. 43, Sch. 1 para. 9(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 3\(3\)\(b\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))
- C1** Schs. 20A, 20B applied by 1997 c. 43, Sch. 1 para. 9(2)(a)(4)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 5\(2\)\(3\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))
- C1** Schs. 20A, 20B applied by 1997 c. 43, Sch. 1 para. 8(2)(a) (as amended (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), s. 22(1), [Sch. 3 para. 3\(2\)\(b\)](#) (with [Sch. 7 para. 2](#)); S.I. 2015/40, art. 2(u))

PART 2

PRISONERS SERVING 1991 ACT SENTENCES ETC

- 3 (1) This Part applies to certain persons serving a 1991 Act sentence.
- (2) This Part also applies to a person serving a 2003 Act sentence which is—
- a section 85 extended sentence, or
 - an extended sentence imposed under section 227 or 228 before 14 July 2008.
- (3) But this Part does not apply to a person who—
- has been released on licence under Part 2 of the 1991 Act,
 - has been recalled to prison, and
 - (whether or not having returned to custody in consequence of that recall) is unlawfully at large on the commencement date.

Duty to release on licence at two-thirds of sentence

- 4 (1) This paragraph applies to a person in relation to whom—
- all the conditions in sub-paragraph (2) are met, and
 - the condition in any one or more of sub-paragraphs (3) to (5) is met.
- (2) The conditions in this sub-paragraph are that—
- the person has been convicted of an offence committed before 4 April 2005,
 - the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992 but before the commencement date,

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- (c) the sentence or (in the case of a section 85 extended sentence) the custodial term is for a term of 4 years or more, and
 - (d) the person has not previously been released from prison on licence in respect of that sentence.
- (3) The condition in this sub-paragraph is that the offence (or one of the offences) in respect of which the sentence was imposed is—
- (a) an offence specified in Schedule 15 (specified violent offences and specified sexual offences) as it had effect on 4 April 2005,
 - (b) an offence under any of sections 11, 12, 15 to 18, 54 and 56 to 63 of the Terrorism Act 2000,
 - (c) an offence under any of sections 47, 50 and 113 of the Anti-terrorism, Crime and Security Act 2001,
 - (d) an offence under section 12 of the Sexual Offences Act 1956,
 - (e) an offence of aiding, abetting counselling, procuring or inciting the commission of an offence listed in any of paragraphs (b) to (d), or
 - (f) an offence of conspiring or attempting to commit an offence listed in any of paragraphs (b) to (d).
- (4) The condition in this sub-paragraph is that the person has served one-half of the sentence or (in the case of a section 85 extended sentence) of the custodial term before 9 June 2008.
- (5) The condition in this sub-paragraph is that—
- (a) the person is serving the sentence by virtue of having been transferred to the United Kingdom in pursuance of a warrant under section 1 of the Repatriation of Prisoners Act 1984,
 - (b) the warrant was issued before 9 June 2008, and
 - (c) the offence (or one of the offences) for which the person is serving the sentence corresponds to murder or to any offence specified in Schedule 15 as it had effect on 4 April 2005.
- 5 (1) As soon as a person to whom paragraph 4 applies has served two-thirds of the sentence, it is the duty of the Secretary of State to release the person on licence under this paragraph.
- (2) If the person is serving a section 85 extended sentence, the reference in sub-paragraph (1) to two-thirds of the sentence is a reference to two-thirds of the custodial term.
- (3) Sub-paragraphs (1) and (2) apply in place of section 244 (release on licence of prisoners serving 12 months or more).

Duty to release on direction of Parole Board

- 6 (1) After a person to whom paragraph 4 applies has served one-half of the sentence, the Secretary of State must, if directed to do so by the Board, release the person on licence under this paragraph.
- (2) The Board must not give a direction under sub-paragraph (1) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.

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- (3) If the person is serving a section 85 extended sentence, the reference in sub-paragraph (1) to one-half of the sentence is a reference to one-half of the custodial term.
- (4) Sub-paragraphs (1) to (3) apply in place of section 244 (release on licence of prisoners serving 12 months or more).

Release on licence at one-half of sentence: section 85 extended sentence prisoners

- 7 (1) This paragraph applies to a person if—
 - (a) the person has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
 - (b) the person is serving a section 85 extended sentence in respect of that offence,
 - (c) the person has not previously been released from prison on licence in respect of that sentence, and
 - (d) paragraph 4 does not apply to the person.
- 8 (1) As soon as a person to whom paragraph 7 applies has served one-half of the custodial term, it is the duty of the Secretary of State to release the person on licence under this paragraph.
- (2) Sub-paragraph (1) applies in place of section 243A or 244, as the case may be (release of prisoners serving less than 12 months, or serving 12 months or more).

Duty to release unconditionally at three-quarters of sentence

- 9 (1) This paragraph applies to a person if—
 - (a) the person has been convicted of an offence committed before 30 September 1998,
 - (b) the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992,
 - (c) the sentence is for a term of 12 months or more,
 - (d) the person has been released on licence under Part 2 of the 1991 Act, and
 - (e) the person has been recalled before 14 July 2008 (and has not been recalled after that date).
- (2) But this paragraph does not apply if the court by which the person was sentenced ordered that section 86 of the Sentencing Act (extension of periods in custody and on licence in the case of certain sexual offences) should apply.
- 10 As soon as a person to whom paragraph 9 applies would (but for the earlier release) have served three-quarters of the sentence, it is the duty of the Secretary of State to release the person unconditionally.

Duty to release on licence at three-quarters of sentence

- 11 (1) This paragraph applies to a person who—
 - (a) has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
 - (b) is serving a sentence of imprisonment for a term of 12 months or more imposed in respect of that offence,

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- (c) has been released on licence under Part 2 of the 1991 Act, and
 - (d) has been recalled before 14 July 2008 (and has not been recalled after that date).
- (2) But this paragraph does not apply if the person has been released and recalled more than once.
- (3) Nor does this paragraph apply if the sentence is a section 85 extended sentence (paragraph 13 applying to such a case instead).
- 12 As soon as a person to whom paragraph 11 applies would (but for the earlier release) have served three-quarters of the sentence, it is the duty of the Secretary of State to release the person on licence.

Release on licence: re-release of section 85 extended sentence prisoners

- 13 (1) This paragraph applies to a person who—
- (a) has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
 - (b) is serving a section 85 extended sentence imposed in respect of that offence,
 - (c) has been released on licence under Part 2 of the 1991 Act, and
 - (d) has been recalled before 14 July 2008 (and has not been recalled after that date).
- (2) But this paragraph does not apply if the person has been released and recalled more than once.
- 14 (1) If a person to whom paragraph 13 applies is serving a sentence with a custodial term of less than 12 months, it is the duty of the Secretary of State to release the person on licence as soon as the person would (but for the earlier release) have served the period found by adding—
- (a) one-half of the custodial term, and
 - (b) the extension period.
- (2) If a person to whom paragraph 13 applies is serving a sentence with a custodial term of 12 months or more, it is the duty of the Secretary of State to release the person on licence as soon as the person would (but for the earlier release) have served the period found by adding—
- (a) three-quarters of the custodial term, and
 - (b) the extension period.

Release of section 227 or 228 extended sentence prisoners: Parole Board direction

- 15 (1) This paragraph applies to a person (“P”) who is serving an extended sentence imposed under section 227 or 228 before 14 July 2008.
- (2) Section 247 (release of prisoner on licence) applies to P with the following modifications.
- (3) The Secretary of State must not release P under subsection (2) of that section unless the Board has directed P's release under that subsection.

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- (4) The Board must not give a direction under sub-paragraph (3) unless the Board is satisfied that it is no longer necessary for the protection of the public that the person should be confined.
- (5) As soon as P has served the appropriate custodial term, the Secretary of State must release P on licence, unless P has previously been recalled under section 254.

Licence to remain in force to three-quarters of sentence

- 16 (1) This paragraph applies to a person to whom paragraph 4 applies.
- (2) This paragraph also applies to a person if—
 - (a) the person has been convicted of an offence committed before 4 April 2005,
 - (b) the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992 but before the commencement date,
 - (c) that sentence is for a term of 12 months or more but less than 4 years, and
 - (d) the person has not previously been released from prison on licence in respect of that sentence.
- (3) This paragraph also applies to a person if—
 - (a) the person has been convicted of an offence committed before 4 April 2005,
 - (b) the person is serving a sentence of imprisonment imposed in respect of that offence on or after 1 October 1992,
 - (c) that sentence is for a term of 12 months or more,
 - (d) the person has been released on licence under Part 2 of the 1991 Act, and
 - (e) the person has been recalled before 14 July 2008 (and has not been recalled after that date).
- (4) But this paragraph does not apply if the person has been released and recalled more than once.
- (5) Nor does this paragraph apply if—
 - (a) the person is serving a section 85 extended sentence, or
 - (b) the court by which the person was sentenced ordered that section 86 of the Sentencing Act (extension of periods in custody and on licence in the case of certain sexual offences) should apply.
- (6) If a person has been—
 - (a) released under section 34A of the 1991 Act or section 246 (home detention curfew), and
 - (b) recalled under section 38A(1)(b) of the 1991 Act or section 255(1)(b) (no longer possible to monitor curfew),the release and recall are to be disregarded for the purposes of this paragraph.
- 17 (1) Where a person to whom paragraph 16 applies is released on licence under section 244 or paragraph 5 or 6, the licence shall remain in force until the date on which the person would (but for the release) have served three-quarters of the sentence.
- (2) Sub-paragraph (1) is subject to any revocation under section 254.
- (3) Sub-paragraphs (1) and (2) apply in place of section 249 (duration of licence).

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Period for which licence to remain in force: section 85 extended sentence prisoners

- 18 This paragraph applies to a person who—
- (a) has been convicted of an offence committed on or after 30 September 1998 but before 4 April 2005,
 - (b) is serving a section 85 extended sentence imposed in respect of that offence, and
 - (c) has not previously been released from prison on licence in respect of that sentence.
- 19 (1) Where a person to whom paragraph 18 applies is released on licence and the custodial term is less than 12 months, the licence shall remain in force until the end of the period found by adding—
- (a) one-half of the custodial term, and
 - (b) the extension period.
- (2) Where a person to whom paragraph 18 applies is released on licence and the custodial term is 12 months or more, the licence shall remain in force until the end of the period found by adding—
- (a) three-quarters of the custodial term, and
 - (b) the extension period.
- (3) Sub-paragraphs (1) and (2) are subject to any revocation under section 254.
- (4) Sub-paragraphs (1) to (3) apply in place of section 249 (duration of licence).

Concurrent or consecutive terms

- 20 Paragraphs 21 and 22 apply where a person (“P”) is serving two or more sentences of imprisonment imposed on or after 1 October 1992 and—
- (a) the sentences were passed on the same occasion, or
 - (b) where they were passed on different occasions, the person has not been released under Part 2 of the 1991 Act or under this Chapter at any time during the period beginning with the first and ending with the last of those occasions.
- 21 (1) This paragraph applies if each of the sentences is a 1991 Act sentence.
- (2) Sections 263 and 264 (consecutive and concurrent terms) do not apply in relation to the sentences.
- (3) For the purposes of any reference in this Chapter, however expressed, to the term of imprisonment to which P has been sentenced or which, or part of which, P has served, the terms are to be treated as a single term.
- (4) If one or more of the sentences is a section 85 extended sentence—
- (a) for the purpose of determining the single term mentioned in sub-paragraph (3), the extension period or periods is or are to be disregarded, and
 - (b) the period for which P is to be on licence in respect of the single term is to be increased in accordance with sub-paragraph (5).
- (5) That period is to be increased—
- (a) if only one of the sentences is a section 85 extended sentence, by the extension period;

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- (b) if there is more than one such sentence and they are wholly or partly concurrent, by the longest of the extension periods;
 - (c) if there is more than one such sentence and they are consecutive, by the aggregate of the extension periods.
- 22 (1) This paragraph applies where two or more sentences are to be served consecutively on each other and—
- (a) one or more of those sentences is a 1991 Act sentence, and
 - (b) one or more of them is a 2003 Act sentence.
- (2) Section 264 does not affect the length of the period which P must serve in prison in respect of the 1991 Act sentence or sentences.
- (3) Nothing in this Chapter requires the Secretary of State to release P until P has served a period equal in length to the aggregate of the length of the periods which P must serve in relation to each of the sentences mentioned in sub-paragraph (1).
- [If P is subject to supervision requirements under section 256AA (by virtue of ^{F2}(3A) section 264(3C)(b)), section 256AA(4)(b) (end of supervision period) applies in relation to P as if the reference to the requisite custodial period were to the period described in sub-paragraph (3) of this paragraph.]
- (4) If P is also serving one or more 1967 Act sentences, paragraphs 32 and 33 apply instead of this paragraph.]

Textual Amendments

- F2** Sch. 20B para. 22(3A) inserted (1.2.2015) by [Offender Rehabilitation Act 2014 \(c. 11\)](#), [ss. 5\(7\), 22\(1\)](#) (with [Sch. 7 para. 2](#)); [S.I. 2015/40](#), [art. 2\(e\)](#)

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