

LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

EXPLANATORY NOTES

COMMENTARY

Part 3: Sentencing and punishment of offenders

Chapter 4: Release on licence etc

Calculation of days to be served

Section 108: Crediting of periods of remand in custody

535. **Section 108** replaces section 240 of the 1991 Act with a new section 240ZA, dealing with the crediting of time spent on remand in custody against any subsequent sentence of imprisonment or detention. Under section 240 the court directs the amount of remand time to be counted towards a prisoner's sentence. The insertion of section 240ZA provides for such time, instead, to be calculated and applied administratively. All time that meets the criteria of the provision will be counted to reduce a subsequent sentence. There is no longer discretion to disapply any such time.
536. *Subsection (4)* of new section 240ZA prevents time spent on remand from counting if the prisoner is also serving another sentence or is otherwise detained in connection with another matter (*subsection (10)* lists the types of detention which count for this purpose).
537. *Subsection (5)* of new section 240ZA prevents the same remand time counting several times against two or more sentences (whether or not they are served consecutively or concurrently).
538. *Subsection (6)* of new section 240ZA prevents remand time shortening any recall under section 255B where the maximum length of the recall is 28 days. (The possibility of a 28 day fixed recall period was introduced by the 2008 Act which provides that lower risk prisoners who are suitable for such a recall must be released automatically at the end of that period.)
539. *Subsection (9)* of new section 240ZA makes it clear that consecutive and concurrent sentences, where a prisoner has not been released between serving such sentences, are counted as one sentence for the purposes of deducting remand time. Together with *subsection (5)* of new section 240ZA, this prevents the same remand time counting several times against the overall sentence envelope created by the consecutive or concurrent sentences.