

CRIMINAL JUSTICE AND COURTS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Criminal Justice

Release on licence to be directed by the Parole Board

147. *Paragraph 5* amends section 244(1) of the Criminal Justice Act 2003 to exempt the Secretary of State from the general duty to release a fixed-term prisoner on licence once they have served the requisite custodial period, in a case where the prisoner will be released in accordance with new section 244A of the Criminal Justice Act 2003.
148. *Paragraph 6* inserts new section 244A (“Release on licence of prisoners serving sentence under section 236A”) into the Criminal Justice Act 2003. Section 244A provides for the release arrangements which apply to any offender sentenced under new section 236A.
149. Under subsection (2) of section 244A such offenders must be referred to the Parole Board once they have served the requisite custodial period, which is defined in section 244A(6) as half of the appropriate custodial period imposed by the court (or where a prisoner is serving consecutive or concurrent sentences the requisite custodial period calculated in accordance with the aggregation of the sentences under sections 263(2) and 264(2)). Section 244A(6) defines ‘the appropriate custodial term’ as that determined by the court as such under section 236A. If an offender is referred to the Parole Board and is not released at that time, they are entitled to be referred to the Parole Board again at least every two years (see section 244A(2)(b)).
150. In accordance with subsections (3) and (4) of section 244A, if the Parole Board believes it is not necessary for the protection of the public for the offender to be detained they may direct the offender’s release and the Secretary of State must release a prisoner if the Parole Board so directs.
151. Subsection (5) of section 244A obliges the Secretary of State to release a prisoner at the end of the appropriate custodial term imposed by the court, unless the prisoner has already been released on licence and recalled under section 254 of the Criminal Justice Act 2003 within that time.
152. *Paragraph 7* amends section 246 of the Criminal Justice Act 2003 to provide that release on Home Detention Curfew is not available to these offenders.
153. *Part 2* of Schedule 1 inserts provision in the Armed Forces Act 2006 that is equivalent to the new sentencing arrangements in new section 236A of the Criminal Justice Act 2003.
154. *Part 3* of Schedule 1 makes transitional and transitory provision in relation to the new sentencing arrangements set out in section 236A of the Criminal Justice Act 2003 (and corresponding provision in the Armed Forces Act 2006). *Paragraph 9* provides that the new sentencing arrangements apply to anyone sentenced on or after the date of the commencement of these provisions, even if that person was convicted prior to that date.

*These notes refer to the Criminal Justice and Courts Act 2015
(c.2) which received Royal Assent on 12 February 2015*

Paragraph 10 contains a transitory provision to convert references to imprisonment in the new provisions, as they apply to persons aged 18-20, into references to detention in young offender institutions. Such a sentence is still possible, pending the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (which will abolish a sentence of detention in a young offender institution).

155. *Part 4* of Schedule 1 makes provision consequential on the creation of the new sentencing arrangements set out in new section 236A of the Criminal Justice Act 2003, the release arrangements in new section 244A of that Act and the corresponding provisions in the Armed Forces Act 2006.